

RECOMMENDATION REPORT

Rawlings Road Development, Deebling Heights, Ipswich, Queensland (EPBC 2016/7723)

Recommendation

In accordance with section 95C of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) it is recommended that the proposed action, to construct a residential development consisting of 295 new lots with 332 dwellings, with a development footprint of 25.37 ha, located in Ripley Valley, Ipswich Queensland, be approved subject to the conditions specified below.

Conditions	Relevant paragraph in report
1. The approval holder must not clear more than 15 hectares of koala habitat within the project site .	2.14
2. To compensate for the loss of 29.7 hectares of koala habitat within, and adjacent to the project site , the approval holder must:	2.22
a. Prior to commencement of the action , legally secure for the life of the approval a minimum of 53.6 hectares of koala habitat at the offset site .	2.22
b. Within 10 business days of legally securing the offset site , provide the Department with evidence of when and how it was legally secured , what mechanism was used, and appropriate coordinates to enable the Department to map the offset site .	2.22
c. Within one year of commencement of the action complete a baseline koala density survey over the entire offset site .	2.23
d. Within nine years, commencing from the date condition 2.c is completed, demonstrate achievement of a statistically significant increase, maintained for two consecutive years, in koala density over the entire offset site compared to the results of the baseline koala density survey required by condition 2.c .	2.24
e. Within one year of commencement of the action complete a baseline koala food trees survey over the entire offset site .	2.23
f. Within seven years, commencing from the date condition 2.e is completed, demonstrate achievement of ongoing recruitment of koala food trees over the entire offset site , compared to the results of the baseline koala food trees survey required by condition 2.e .	2.25

g. Within one year of commencement of the action complete a baseline survey of non-native koala predators over the entire offset site .	2.23
h. Demonstrate achievement of a reduction, maintained for 10 consecutive years, in the number of non-native koala predators over the entire offset site , compared to the results of the baseline survey of non-native koala predators established by condition 2.g.	2.26
i. For the life of the approval , ensure there is no net loss in the extent of koala habitat over the entire offset site that is legally secured under condition 2.a	2.22
3. Within 20 business days after the commencement of the action , the approval holder must advise the Department of the actual date of commencement of the action .	Standard administrative condition
4. 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 management plans or monitoring programs 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 on the Department's website. The results of audits may also be publicised through the general media.	Standard administrative condition
5. Within 60 business days of every 12 month anniversary of the 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 management plans or monitoring programs 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. The Minister may provide written consent to the approval holder to cease reporting under this condition if satisfied additional reports are not warranted.	Standard administrative condition
6. The approval holder must report any potential or actual contravention of the conditions of this approval to the Department in writing within 5 business days of the approval holder becoming aware of the potential or actual contravention.	Standard administrative condition
7. Upon the 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 criteria must be approved by the Minister prior to the commencement of the audit. The	Standard administrative condition

audit report must address the criteria to the satisfaction of the Minister .	
8. If, at any time after 5 years from the date of this approval, the approval holder has not commenced the action , then the approval holder must not commence the action without the written agreement of the Minister .	Standard administrative condition

Definitions:

1. In these conditions, except where contrary intention is expressed, the following definitions are used:
 - a. **Approval holder** means the name of the person to whom the approval is granted, or any person acting on their behalf, or to whom the approval is transferred under section 145B of the **EPBC Act**.
 - b. **Baseline koala density survey** means a field survey measuring the number of **koalas** per unit area, undertaken by a **suitably qualified person** using a scientifically robust and repeatable methodology and completed prior to the **commencement of the action**.
 - c. **Baseline koala food trees survey** means a field survey measuring the number of **koala food trees**, undertaken by a **suitably qualified person** using a scientifically robust and repeatable methodology and completed prior to the **commencement of the action**.
 - d. **Baseline survey of non-native koala predators** means a field survey measuring the number of **non-native koala predators**, undertaken by a **suitably qualified person** using a scientifically robust and repeatable methodology and completed prior to the **commencement of the action**.
 - e. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in the location of the **action**.
 - f. **Clear/ clearing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of 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).
 - g. **Commencement of the action** means the point at which any **clearing** for the purposes of the action occurs.
 - h. **Department** means the Commonwealth Department of Environment and Energy or any other agency that administers the **EPBC Act** from time to time and includes, where the context permits, the officers, delegates, employees and successors of the **Department**.
 - i. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
 - j. **Koala** means *Phascolarctos cinereus*.
 - k. **Koala density** means the number of koalas per unit area.
 - l. **Koala food tree** means any tree known to be part of the normal diet for **koalas**.
 - m. **Koala habitat** means any vegetation that scores five or more using the Koala habitat assessment tool from the EPBC Act referral guidelines for the vulnerable koala.

- n. **Legally secure / secured / securing:** means long-term protection under a voluntary declaration as provided for in the *Vegetation Management Act 1999* (Qld), or establishing a Nature Refuge under the *Nature Conservation Act 1992* (Qld).
- o. **Life of the approval** means the period for which the approval has effect.
- p. **Minister** means the Minister administering the **EPBC Act** including any delegate of the Minister.
- q. **Non-native koala predators** means any animal not native to Australia that is known to predate on **koalas** of any age.
- r. **Offset site** means the area designated as *EPBC 2016_7723 DHA offset* on the map at **Attachment B**.
- s. **Project site** means the areas defined as *Project Site DCDB* on the map, and by the coordinates, at **Attachment A**.
- t. **Records** means all documentation or other material in whatever form, including without limitation any correspondence, reports, assessments, methodologies, operations manuals, specifications, training materials and instructions or data.
- u. **Recruitment** means new individuals added to an existing population.
- v. **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.
- w. **Statistically significant** means a result that's not attributed to chance, as determined using methodologies and statistical analysis appropriate to the data being analysed.

1. **Background**

Description of the project and location

- 1.1. Defence Housing Australia (person proposing to take the action and the proponent) proposes to construct the Rawlings Road residential development in Ipswich, Queensland (the proposed action).
- 1.2. The proposed action is for a residential development with a footprint of 25.37 ha, involving the construction of residential lots and open space.

Controlling provisions, assessment approach and public consultation

- 1.3. On 2 August 2016, a delegate of the Minister determined the proposed action to be a controlled action due to likely significant impacts on listed threatened species and communities (section 18 and section 18A of the EPBC Act), and a Commonwealth action (section 28 of the EPBC Act). On the same day, the delegate of the Minister decided that the proposed action would be assessed by preliminary documentation under Part 8 of the EPBC Act.
- 1.4. On 29 March 2017, a delegate of the Minister requested the proponent to provide specified information relevant to assessing the impacts of the proposed action (the further information request), including the expected loss of habitat critical to the survival of the koala, measures proposed to mitigate impacts, and an offset proposal.

- 1.5. On 16 May 2017, and 7 July 2017, the proponent submitted documentation in response to the further information request. In both instances, the Department reviewed the documentation and considered it did not adequately meet the requirements of the further information request.
- 1.6. On 24 August 2017, the proponent again submitted documentation in response to the further information request. The Department reviewed the documentation and considered that while the environmental offsets proposal did not meet the requirements of the *EPBC Act environmental offsets policy* (the offsets policy), the documentation was adequate to allow the public to comment on the proposed action.
- 1.7. On 6 September 2017, a delegate of the Minister directed the proponent to publish the referral along with the response to the further information request (together being the draft preliminary documentation), inviting public comments relating to the proposed action. In the direction to publish, the delegate noted that an adequate environmental offset would be required to finalise the assessment of the proposed action.
- 1.8. On 12 September 2017, the proponent published a notice advertising the draft preliminary documentation and inviting comments from 13 September 2017 to 26 September 2017. The proponent received two comments during this period (**Attachment C1** of the proposed decision brief).
- 1.9. On 17 November 2017, the Department received the final preliminary documentation, addressing public comments and including an environmental offset that the Department recommends accepting (**Attachment C** of the proposed decision brief). This triggered the 40 business day approval period, as the stage four assessment fees were paid on 12 October 2017.
- 1.10. On 4 December 2017, the proponent published the documents referred to in paragraph 1.7 and paragraph 1.9 (the preliminary documentation) for information in accordance with subsection 95B(2) of the EPBC Act.
- 1.11. The Queensland Government has not assessed the proposed action.
- 1.12. The Ipswich City Council has assessed, and in June 2017 approved, a development application for the proposed action. This assessment included consideration of the proposed action's impacts on koalas. The Council's approval includes conditions to control impacts to the koala (**Attachment C2** of the proposed decision brief).

2. Assessment

Mandatory Considerations – section 136(1)(a) Part 3 controlling provisions

- 2.1. The proposal was determined a controlled action under the following controlling provisions of the EPBC Act:
 - a) Listed threatened species and communities (sections 18 and 18A of the EPBC Act);
 - b) Commonwealth action (section 28 of the EPBC Act).
- 2.2. These controlling provisions are discussed below.

Listed threatened species and ecological communities (sections 18 and 18A of the EPBC Act)

2.3. The following listed threatened species were considered likely to incur a significant impact from the proposed action.

- a) Koala (combined populations of Queensland, New South Wales, and the Australian Capital Territory) (*Phascolarctos cinereus* (combined populations of Qld, NSW and the ACT) – vulnerable (hereafter referred to as the koala).

2.4. No other listed species or communities were considered likely to incur a significant impact from the proposed action.

Koala

2.5. The proponent undertook surveys at the proposed action site in January, February, and December 2016 to assess the presence of koalas and quality of koala habitat. The methods used during the survey were in accordance with the *EPBC Act referral guidelines for the vulnerable koala* (koala referral guidelines).

2.6. Evidence of koalas in the form of scats was found across the proposed action site, as well as the adjacent lot to the south and parts of the road reserve bordering the Centenary Highway. Field surveys also confirmed the presence of several koala food tree species.

2.7. The proposed action will result in the loss of 29.7 ha of habitat critical to the survival of the koala, determined using the habitat assessment tool in the koala referral guidelines.

2.8. The 29.7 ha of habitat loss is comprised of 15 ha due to clearing on the proposed action site, and 14.7 ha through indirect edge effect impacts to, and isolation of, koala habitat in the adjacent lots to the south. Habitat loss is identified as one of the main threats to the koala in the *Approved Conservation Advice for Phascolarctos cinereus* (combined populations in Queensland, New South Wales and the Australian Capital Territory) (approved conservation advice, **Attachment D** of the proposed decision brief).

2.9. The proponent has proposed measures to mitigate the mortality related impacts, specifically, the use of qualified fauna spotter catchers to identify and remove any koalas present onsite prior to clearing.

2.10. The use of fauna spotter catchers during habitat clearing is required by Ipswich City Council (Council) approval conditions for the proposed action. The Department considers the use of fauna spotter catchers, in accordance with the imposed Council conditions, will effectively mitigate the risk of koala mortality from habitat clearing.

2.11. As the Council requires the use of fauna spotter catchers, the Department considers it is not necessary to impose a condition requiring their use during habitat clearing.

2.12. As such, the Department considers the proposed action is not likely to result in a residual significant impact from koala mortality, and no environmental offset is required to compensate for koala mortality related impacts.

2.13. The Department considers that the loss of 29.7 ha of habitat critical to the survival of the koala is not able to be avoided or mitigated.

2.14. Considering the approved conservation advice identifies habitat loss as one of the main threats to the koala, the Department recommends a condition to limit the loss of habitat critical to the survival of the koala; condition 1, **Attachment B** of the proposed decision brief.

- 2.15. The Department considers that the loss of 29.7 ha of habitat critical to the survival of the koala constitutes a residual significant impact. In accordance with the offsets policy, an environmental offset is required to compensate for the proposed action's residual significant impact to the koala.
- 2.16. The proponent has proposed a 53.6 ha environmental offset near Peak Crossing, Queensland, approximately 5 km east of Peak Crossing and 20 km south of Ipswich. The proposed offset area is part of a larger property owned by a third party—Queensland Trust For Nature (QTFN)—which is an environmental offsets provider. The broader QTFN property contains three environmental offsets already approved under the EPBC Act (EPBC 2013/7074, 2014/7190, and 2015/7513). Koala habitat is contiguous over these offset areas and the koala habitat quality and proposed management actions for all offsets are largely the same.
- 2.17. QTFN undertook surveys across the broader QTFN property area, including the proposed offset site, in July 2014, to assess the presence of koalas the quality of koala habitat. Evidence of koalas, in the form of scats, was found across the offset site.
- 2.18. Field surveys confirmed the presence of habitat critical to the survival of the koala at the offset site. The proponent scored the quality of habitat at the offset site as 6 (out of 10), using the habitat assessment tool from the referral guidelines.
- 2.19. The Department considers certain matters associated with the proposed offset lack consistency with the offsets policy:
- a) The Department's *How to use the offsets assessment guide* requires that habitat quality be assessed consistently on both the impact and offset site. The proponent has scored habitat quality using different methodologies at the impact and offsets sites. To accurately assess the value of an offset, the same methodology needs to be used at both sites.
 - b) Habitat quality scores were adopted from the 2014 study undertaken across the entire property area, parts of which do not appear to be reflective of the quality at the proposed offset site. Assessment of habitat quality, particularly the offset site 'condition' and 'species stocking rate' aspects of the habitat quality score, should be limited to the proposed offset site to ensure the value to the offset is accurately measured.
- 2.20. As noted in paragraph 2.16, koala habitat is contiguous across both the proposed, and three previously approved, offset sites. Further, the koala habitat quality and proposed management actions for all offsets are largely the same. As such, it is the Department's view that the offsets should be considered consistently.
- 2.21. Therefore, despite the matters outlined above, the Department recommends the offset be approved in this instance, in order to maintain consistency in decision making with the three previously approved offsets. It is the Department's view that the offset area will deliver a conservation outcome for the koala.
- 2.22. The Department considers conditions are necessary to ensure the proposed offset compensates for the proposed action's residual significant impact on koalas, specifically condition 2.a through 2.i; **Attachment B** to the proposed decision brief. These conditions require an increase in the density of koalas on the offset site, ongoing recruitment of koala food trees, and a reduction in koala predators.

2.23. In order to measure whether these outcomes have been achieved, the Department has recommended conditions requiring the proponent to complete baseline surveys for koala density, koala food trees, and non-native koala predators. The Department recommends requiring baseline surveys be completed within one year of commencing the action.

2.24. Recommended condition 2.d requires that within nine years, a statistically significant increase in koala density, compared to the baseline koala density, be achieved and maintained for two years across the offset site. The rationale for this condition is:

- a) A statistically significant increase in koala density is needed to ensure the increase represents a true improvement in the quality, and consequently carrying capacity, of the koala habitat;
- b) Maintaining the increase in koala density for two years demonstrates the increase is sustainable and not a random event; and
- c) The timeframe of nine years is based on the offset's 'time until ecological benefit' of seven years, and includes two years of maintaining the increase in koala density.

2.25. Recommended condition 2.f requires that within seven years, the ongoing recruitment of koala food trees must be demonstrated across the offset site. The rationale for this condition is:

- a) Ongoing recruitment of koala food trees demonstrates the koala habitat is improving by providing more food and shelter for koalas; and
- b) The timeframe of seven years is based on the offset's 'time until ecological benefit' of seven years.

2.26. Recommended condition 2.h requires a reduction in the number of non-native koala predators across the offset site, compared to the baseline, and that the reduction be maintained for 10 years. The rationale for this condition is:

- a) The proponent proposed to reduce the abundance of wild dogs, feral cats, and foxes within the offset site. The Department's recommended reduction in 'non-native koala predators' captures all introduced species causing ongoing mortality of koalas; and
- b) The timeframe of 10 years is based on the proponent's offset proposal, which states active management of non-native koala predators will occur for 10 years.

2.27. The Department considers that if approved subject to the recommended conditions, the proposed action will not have an unacceptable impact on the koala. In recommending this decision, the Department has had regard to the approved conservation advice.

Commonwealth action (section 28 of the EPBC Act)

2.28. The proponent is Defence Housing Australia, an Australian Government business enterprise. For the purposes of the EPBC Act, the proposed action is a Commonwealth action, requiring consideration of impacts to the environment, as defined in the EPBC Act.

2.29. For the purposes of the EPBC Act, the Department considers the proposed Commonwealth action's impact on the environment is confined to its impact to the koala. As such, the Department's consideration of the impacts to the koala, detailed in paragraphs 2.5 to 2.26, addresses the Department's consideration of the proposed Commonwealth action's impact to the environment.

2.30. The Department considers the proposed conditions discussed in paragraphs 2.14, and 2.22 to 2.26 will effectively limit the proposed action's impact to the environment, and compensate for its residual significant impact to a matter of national environmental significance.

2.31. On the basis of the above information, the Department considers that if approved subject to the recommended conditions, the proposed Commonwealth action will not have an unacceptable impact on the environment.

3. Considerations for Approval and Conditions

Mandatory considerations – section 136(1)(b) Economic and social matters

3.1. The Department has considered economic and social matters in recommending the approval of the proposed action.

3.2. The preliminary documentation states economic benefits of the project include investment of over \$60 million in direct costs of the residential development, over approximately 4 years, by the proponent.

3.3. The proponent also states that other indicative economic benefits for the Ipswich region (based on a similar scale project) that are expected to be realised, include the provision of 70 direct and indirect full time equivalent (FTE) jobs during development, a contribution of \$26 million to gross regional product (GRP), 27 FTE direct and indirect ongoing jobs per annum, and a direct employment contribution of \$1.2 million in GRP per annum.

3.4. While the proponent did not consider the social impacts of the proposed action, the Department considers it is unlikely any social impacts will be negative because the proposed action is a residential development for Defence force staff and their families, within an area of new residential developments.

Factors to be taken into account – section 136(2)(a) Principles of ecologically sustainable development

3.5. The principles of ecologically sustainable development, as defined in Part 1, section 3A of the EPBC Act, are:

- a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- e) improved valuation, pricing and incentive mechanisms should be promoted.

3.6. In recommending approval of the proposed action, the Department has taken into account the principles of ecologically sustainable development in accordance with paragraph 136(2)(a) of the EPBC Act. In particular, the Department considers:

- a) that the likely impacts on the environment as a result of the proposed action are satisfactory in terms of their long-term and short-term economic, environmental, social and equitable impacts;
- b) that there is sufficient scientific information to conclude that the proposed action will be unlikely to result in unacceptable impacts to listed threatened species and communities. The recommended conditions of approval include measures to ensure that no more than the amount of habitat assessed as part of the proposed action is cleared and offsets are provided for residual significant impacts.
- c) the recommended approval conditions allow for the proposed action to be delivered and operated in a sustainable way to protect listed threatened species and communities and the environment more broadly for future generations.
- d) the recommended approval conditions will avoid, mitigate and manage impacts to the koala, thereby conserving biological diversity and maintain ecological integrity; and
- e) the preliminary documentation and the Department's advice in this recommendation report, include reference to, and consideration of, a range of information on the economic costs, benefits and impacts of the proposed action.

Factors to be taken into account – section 136(2)(bc) – preliminary documentation

3.7. In accordance with section 136(2)(bc)(i), the documents given to the Minister under section 95B(1) are at **Attachment C** of the proposed approval decision brief.

3.8. In accordance with section 136(2)(bc)(ii), this document forms the recommendation report relating to the action given to the Minister under section 95C.

Person's environmental history – section 136(4)

3.9. In deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, the Minister may consider whether the person is a suitable person to be granted an approval, having regard to:

- a) the person's history in relation to environmental matters; and
- b) if the person is a body corporate—the history of its executive officers in relation to environmental matters; and
- c) if the person is a body corporate that is a subsidiary of another body or company (the parent body)— the history in relation to environmental matters of the parent body and its executive officers.

3.10. Defence Housing Australia advised in the referral that it has never been the subject of proceedings under a Commonwealth, State or Territory environmental law.

3.11. The Department is not aware of any adverse environmental history associated with Defence Housing Australia and therefore has no reasons to believe that it would not be a suitable person to be granted an approval.

Considerations in deciding on condition – section 134

3.12. In accordance with section 134(1), the Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

- a) protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
 - b) repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).
- 3.13. The Department has recommended conditions necessary or convenient to protect, repair and/or mitigate damage that may or will be, or has been, caused by the action to any matter protected by a provision of Part 3 for which the approval has effect.
- 3.14. In accordance with section 134(2), the Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:
- a) protecting from the action any matter protected by a provision of Part 3 for which the approval has effect; or
 - b) repairing or mitigating damage that may or will be, or has been, caused by the action to any matter protected by a provision of Part 3 for which the approval has effect.
- This subsection does not limit section 134(1).
- 3.15. The Department has recommended conditions necessary or convenient to protect, repair and/or mitigate impacts on a matter protected by Part 3 of the EPBC Act for which the approval has effect.
- 3.16. Section 134(2) provides examples of the kinds of conditions that may be attached to an approval. The Department has recommended a number of conditions consistent with this section.
- 3.17. In accordance with section 134(4), in deciding whether to attach a condition to an approval the Minister must consider:
- a) any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a State or self-governing Territory or another law of the Commonwealth on the taking of the action;
 - aa) information provided by the person proposing to take the action or by the designated proponent of the action;
 - b) the desirability of ensuring as far as practicable that the condition is a cost effective means for the Commonwealth and a person taking the action to achieve the object of the condition
- 3.18. In proposing the conditions attached to the approval, the Department has considered conditions likely to be imposed by other jurisdictions (**Attachment C2** of the proposed decision brief) and the information provided by the proponent. The Department considers that the recommended conditions of approval will be cost effective and will ensure that matters of national environmental significance are protected over time. The proponent will be given up to 10 business days to comment on the recommended decision and conditions of approval.

Consideration of Condition-setting Policy

- 3.19. The Department has considered the likely scope and severity of the impacts to MNES, and the proposed avoidance and mitigation measures, and determined that it is likely the proposed action will result in a significant residual adverse impact on koalas. The Department has also considered the conditions imposed or likely to be imposed by Ipswich City Council, as described in (paragraph 2.10 above).
- 3.20. The Department considers that the conditions imposed by the Council are not suitable to manage all the residual impacts to matters of national environmental significance, resulting from the proposed action. Specifically, the Department considers that additional conditions are required to limit the extent of habitat loss, and to ensure the proposed offset adequately compensates for the proposed action's residual significant impacts to the koala.
- 3.21. Accordingly, the Department considers that it is necessary and convenient to apply approval conditions to this project. In applying this analysis, the Department has had regard to the *EPBC Act Condition-setting Policy* (2015).

Requirements for decisions about listed threatened species and communities – section 139

- 3.22. In accordance with section 139(1), in deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

- a) Australia's obligations under:
 - i the Biodiversity Convention; or
 - ii the Apia Convention; or
 - iii CITES; or
- b) a recovery plan or threat abatement plan.

- 3.23. In accordance with section 139(2), if:

- a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and
- b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community;

the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.

The Biodiversity Convention

- 3.24. The Biodiversity Convention is available at:
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1993/32.html>
- 3.25. The objectives of the Biodiversity Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

- 3.26. The Biodiversity Convention promotes environmental impact assessment to avoid and minimise adverse impacts on biological diversity. The Department has undertaken an environmental impact assessment which identified the likely impacts of the proposed action on listed threatened species and communities and has recommended measures to manage these impacts.
- 3.27. The Department also considered the Biodiversity Convention's ultimate aim of conservation of listed threatened species and endangered communities in the wild when recommending conditions requiring avoidance, mitigation and management for the koala, and the recommended approval decision is therefore not considered to be inconsistent with the Biodiversity Convention.

Convention on the Conservation of Nature in the South Pacific (Apia Convention)

- 3.28. The Apia Convention is available at:
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1990/41.html>
- 3.29. The Apia Convention was suspended with effect from 13 September 2006. While this Convention has been suspended, Australia's obligations under the Convention were taken into consideration when recommending the proposed conditions of approval. The proposed action is considered to not be inconsistent with the Convention which has the general aims of conservation of biodiversity.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

- 3.30. CITES is available at: <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1976/29.html>
- 3.31. CITES is an international agreement between Government's. Its aim is to ensure that international trade in specimens of wild plants and animals does not threaten their survival.
- 3.32. The proposed action is not inconsistent with CITES as it does not involve international trade in fauna or flora.

Conclusion

- 3.33. The Department considers that likely impacts from the proposed action on listed threatened species and communities will be avoided and mitigated by the proponent to a reasonable degree, and residual significant impacts will be appropriately offset. Approving the proposed action subject to the recommended conditions would therefore not be inconsistent with the Biodiversity Convention, the Apia Convention or CITES.

Recovery Plans and Threat Abatement Plans

- 3.34. The Department considers that the only species likely to incur a significant impact as a result of the proposed action is the koala.
- 3.35. There are no recovery plans or threat abatement plans relevant to the koala. Therefore, approving the proposed action subject to the recommended conditions would not be inconsistent with a recovery plan or threat abatement plan.

Conservation Advice

- 3.36. The approved conservation advice relevant to the koala is:
- Threatened Species Scientific Committee (2012). *Approved Conservation Advice for Phascolarctos cinereus (combined populations of Queensland, New South*

Wales and the Australian Capital Territory) (koala Northern Designatable Unit).
Commonwealth of Australia, Canberra. Available at:
<http://www.environment.gov.au/biodiversity/threatened/species/pubs/197-conservation-advice.pdf>.

- 3.37. This approved conservation advice is at **Attachment D** of the proposed decision brief. You are required to have regard to the above approved conservation advice in deciding whether or not to approve the proposed action.
- 3.38. The Department has had regard to the approved conservation advice relevant to the koala.

Bioregional Plans section 176(5)

- 3.39. In accordance with section 176(5), the Minister is required to have regard to a bioregional plan in making any decision under the Act to which the plan is relevant. The Department does not consider there to be any relevant bioregional plan for the purposes of the Minister's decision-making.

Period for which the approval has effect

- 3.40. The Department recommends approving the action for 14 years, until 17 January 2031. This timeframe is recommended to accommodate any delay between approval and commencement of the proposed action, allow the proponent sufficient time to complete baseline surveys, and achieve the outcomes required for their offset—increase the density of koalas, ongoing recruitment of koala food trees, and reduce koala predators.

4. Conclusion

- 4.1. The Department considers the likely impacts of the proposed action on matters of national environmental significance will not be unacceptable, provided the action is undertaken in accordance with the recommended conditions of approval.
- 4.2. Having considered all matters required to be considered under the EPBC Act, the Department recommends to proposed action be approved, subject to the recommended conditions.

5. Material used to prepare Recommendation Report

- 5.47. All relevant information used to prepare the recommendation report is referred to in this document.