

GHFF listing advice identifies the main and ongoing threat to the species as habitat loss. Habitat loss has resulted in a decrease in the variety of flowering and fruiting tree species, particularly those that usually have a high nectar output. Over 70 per cent of melaleuca forests have been cleared since European settlement.

78. There is no National Recovery Plan, relevant Threat Abatement Plan or Conservation advice available for the species. The *Draft National Recovery Plan for the Critical habitat for the Grey-headed Flying-fox (Pteropus poliocephalus)* (the draft recovery plan) notes that habitat critical to survival of the species is natural foraging habitat that is:
- 1) productive during winter and spring, when food bottlenecks have been identified, or
 - 2) known to support populations of more than 30,000 individuals within an area of 50 km radius (the maximum foraging distance of an adult). The recovery plan defines important winter and spring habitat for the species as vegetation communities that contain *Eucalyptus tereticornis*, *E. albens*, *E. crebra*, *E. fibrosa*, *E. melliodora*, *E. paniculata*, *E. pilularis*, *E. robusta*, *E. siderophloia*, *Banksia integrifolia*, *Castanospermum australe*, *Corymbia citriodora citriodora*, *C. eximia*, *C. maculata*, *Grevillea robusta* or *Melaleuca quinquenervia*.

Onsite occurrence

79. The preliminary documentation states that the GHFF was not recorded utilising habitat within the study area during field surveys but acknowledges that habitat in the proposed action area represents habitat critical to the survival of the species, in the form of CPW, SSTF and River-flat eucalypt forest, totalling 31.99 ha. These vegetation communities include winter flowering species for the GHFF including Forest Red Gum (*Eucalyptus tereticornis*), Narrow Leafed Iron Bark (*E. crebra*) and Spotted Gum (*Corymbia maculata*).
80. The preliminary documentation also acknowledged several large GHFF camps within the 50 km of the site, including: Macquarie Fields National GHFF camp, (30 km from the site); Karleea, (47 km from the site); Wollie Creek, (47 km from the site); Parramatta Park, (34 km from the site) and Gordon, (50 km from the site).
81. Advice from the Threatened Species section of the Wildlife Heritage and Marine Division of the Department (Attachment G), is that vegetation communities in the proposed action area contain tree species known to provide important winter and spring habitat for the species. The Department considers that as this area is winter and spring foraging habitat and within 50 km of populations of more than 30,000 GHFF it satisfies both of the possible criteria for being habitat critical to the survival of the species.

Potential impacts and avoidance and mitigation measures

82. The action proposes to clear 10.85 ha of winter/spring flowering foraging habitat critical to the survival of the GHFF.
83. The preliminary documentation states that there is unlikely to be a significant impact on the local population of GHFF because the habitat to be cleared is foraging habitat of which there is suitable larger areas within the locality and no roosting habitat would be impacted.
84. However, as discussed above, the Department considers the area expected to be impacted to be habitat critical to the survival of the species, and therefore does not accept this conclusion.

85. Avoidance and mitigation measures discussed in paragraph 40 in relation to SSTF and CPW are also relevant to the GHFF.

Offsets

86. The Department considers that despite the effect of the avoidance and mitigation measures discussed above, the impact of the proposed action on foraging habitat for GHFF constitutes a residual significant impact that requires compensation in accordance with the EPBC offsets policy and guide or other endorsed offset policy.
87. The proponent proposes to offset all direct impacts to the foraging habitat for GHFF through land-based offsets. These offsets would be implemented as a subset of SSTF and CPW offsets previously discussed.

Additional offset requirements

88. Given that the proposed action will result in permanent removal of habitat critical to the survival of an EPBC Act listed vulnerable species, the Department recommends the following measures:
- To compensate for impacts on Koala and the Grey-headed Flying fox the Department recommends proposed condition 7 requiring the approval holder to submit, for the Minister's approval, an offset strategy in accordance with the EPBC Act environmental offsets policy. The offset strategy must outline how impacts to the Koala and the Grey-headed Flying fox will be offset in perpetuity. The offset strategy should be submitted at least three months prior to the commencement of the action. The approval holder must not commence the action unless the offset strategy has been approved by the Minister.
 - Proposed condition 8 requiring the approval holder to provide the Department with evidence of when the offset was secured and what mechanism was used to secure the offset within 10 business days of securing the relevant offset specified in Condition 7.

Recommendations

89. The Department recommends that you decide that the proposed action would not have an unacceptable impact on GHFF, provided that it is undertaken in accordance with the measures discussed in this recommendation report and reflected in the conditions of approval recommended by the Department.

Swift Parrot (*Lathamus discolor*) – endangered

90. On 5 May 2016, the swift parrot was uplisted to critically endangered, however, the listing status for the purposes of this assessment is endangered (as this was the listing status when the controlled action decision was made). The population size of the species is thought to be considerably less than 2000 individuals.
91. The swift parrot is a small fast-flying parrot which occurs in eucalypt forests in south eastern Australia. The swift parrot breeds in Tasmania during the summer and the entire population migrates north to mainland Australia for the winter. While on the mainland the swift parrot disperses widely to forage on flowers and psyllid lerps in Eucalyptus species and preferentially in the largest trees available. The majority of swift parrots are found in Victoria and New South Wales, and during periods of drought in central Victoria, swift

parrots may concentrate in coastal drought refuge habitats in New South Wales. Habitat critical to the survival of the species includes those areas of priority habitat for which swift parrots have a level of site fidelity or possess phenological characteristics likely to be of importance to the species or are otherwise identified by the recovery team. The threats to the species on the mainland include: habitat loss and alteration; collision mortality; increased competition for resources from large, aggressive honeyeaters within altered habitats and from introduced birds and bees; and psittacine beak and feather disease.

92. The preliminary documentation states that a total of 31.99 ha of potential habitat for the species is present on site including favoured feed trees species, the forest red gum and acknowledges that the species is likely to use the area from time to time coinciding with migration and flowering of forage species.
93. The preliminary documentation states that swift parrots were not recorded during field surveys but acknowledges that the species is highly nomadic and an irregular visitor the Western Sydney. The preliminary documentation acknowledges the existence of a number of historical swift parrot records from the Camden area (approximately 14 km from the proposed action area) and states that "public submissions during the public consultation stage also identified reports of foraging birds in the Beulah homestead property to the south of the proposed action area from 30 or so years ago". NSW Bionet records a number of historical records south of the proposed action area from Appin and the Dharawal National Park from the 1990s and 2015.
94. The proposed action will result in the loss of 10.85 ha of potential foraging habitat for the swift parrot. The preliminary documentation notes that habitat to be cleared is already fragmented, consisting largely of scattered paddock trees and a thin strip of vegetation along Appin Road. The preliminary documentation further states that there is unlikely to be a significant impact on the local population of swift parrot as the potential foraging habitat to be impacted does not support a large proportion of the overwintering population of the species and there is no evidence to suggest that the species use the site on a regular basis. The Department accepts this conclusion.

Large-eared Pied Bat (*Chalinolobus dwyeri*) – vulnerable

95. The large-eared pied bat is a medium-sized, relatively slow-flying manoeuvrable insectivorous bat that forages predominantly below the canopy. The known distribution of the species is largely restricted to NSW with the largest concentration of populations in the sandstone escarpments of the Sydney basin and northwest slopes. Within its range, the species appears to roost predominantly in caves and overhangs in sandstone cliffs and forage in nearby high-fertility forest or woodland near watercourses. Almost all records of the species are within several kilometres of cliffines or rocky terrain. The national recovery plan for the large-eared pied bat states that sandstone cliffs and fertile wooded valley habitat within close proximity of each other should be considered habitat critical to the survival of the species.
96. Field surveys carried out in 2016 recorded the species foraging in the study area and the preliminary documentation acknowledges that 31.99 ha of potential foraging habitat for the species exists in the proposed action area. Much of this habitat is described as heavily fragmented and modified by past agricultural land use and therefore represents marginal foraging habitat for the species. The preliminary documentation states that while the proposed action area does contain hollow-bearing trees which may be utilised by the species for roosting, the species tends to use caves, sandstone overhangs, tunnels and

culverts for roosting and breeding, none of which have been recorded within the proposed action area.

97. The action proposes to clear 10.85 ha of potential foraging habitat for the large-eared pied bat. The preliminary documentation states that there is unlikely to be a significant impact on the local population of the species because the habitat to be cleared is marginal foraging habitat of which there is suitable larger areas within the locality and no roosting habitat would be impacted. The preliminary documentation further states that within a regional context, the loss of marginal foraging habitat comprises a very small proportion of the potential foraging habitat available for the species, particularly when considering the large expanses of woodland surrounding the site and to the east. The Department accepts this conclusion.

Considerations for Approval and Conditions

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

98. The proponent anticipated the proposed action will have the following economic and social impacts:
- The proposed action area has been identified as 'developable land' in the Greater Macarthur Growth Area, with the expectation that 21,000 new jobs will be created in the area over the next 20-30 years. NSW Department of Planning and Environment intend to release the Greater Macarthur Land Use and Infrastructure Implementation Plan in 2018.
 - The proponent reports that the Campbelltown Local Government Area has higher unemployment and public housing than the Sydney average and a much lower proportion of white collar occupations. They state that '...limitation in housing choice has been identified as a limiting factor to the attractiveness of the Campbelltown area as a place to live for professional and business people. The proposed development and average lot size at Mt Gilead will strategically address this issue, so contributing to the required growth of Campbelltown – Macarthur as a Major Centre'.

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

99. The principles of ESD, 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.

100. In making its recommendations, the Department has considered the principles of ecologically sustainable development. In particular:
- a. This report and the assessment documentation provided contain information on the long-term and short-term economic, environmental, social and equitable considerations that are relevant to the decision and are presented for your consideration.
 - b. Any lack of certainty related to the potential impacts of the projects is addressed by conditions that restrict environmental impacts, impose strict monitoring and adopt environmental standards which, if not achieved, require the application of response mechanisms in a timely manner to avoid adverse impacts.
 - c. The proposed conditions will ensure protection and management of EPBC listed species and communities. Those conditions allow for the project to be delivered and operated in a sustainable way to protect the environment for future generations and preserve EPBC listed species and communities to in perpetuity.
 - d. The Department has considered the importance of conserving biological diversity and ecological integrity in relation to all of the controlling provisions for this project, and the advice provided within this document reflects that consideration.
 - e. The Department's advice includes reference to and consideration of a range of information on the economic costs, benefits and impacts of the project.

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

101. In accordance with section 136(2)(bc)(i), the documents given to the Minister under section 95B(1) are at Attachment C.
102. In accordance with section 136(2)(bc)(ii), this document is the recommendation report relating to the action given to the Minister in accordance with section 95C.

Person's environmental history – section 136(4)

103. The Minister may consider whether the person proposing to take the action is a suitable person to be granted an approval. The Minister can give consideration to a person's history in relation to environmental matters, and if the person is a body corporate, the history of the executive officers, and if relevant, the history of the parent company and its executive officers in relation to environmental matters.
104. The preliminary documentation states that the proponent does not have any past or present proceedings against it in relation to environmental laws and there is no record in the Department's databases of any compliance action against the proponent. The Department therefore considers the proponent is a fit and proper person to be granted an approval.

Considerations in deciding on condition – section 134

105. 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).

As detailed in the Assessment section above, all recommended conditions attached to the proposed approval are necessary or convenient to protect, repair and/or mitigate impacts on a matter protected by provision of Part 3 for which this proposed approval has effect.

106. 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
 - The preliminary documentation states that the application for Biocertification of the proposed action was submitted to the NSW Minister for the Environment for final determination in July 2018 and has not yet been finalised. The proposed action has not yet received development approval from the City of Campbelltown council.
 - b. information provided by the person proposing to take the action or by the designated proponent of the action
 - The information provided by the person proposing to take the action has been considered. Documentation provided by the person taking the action is at Attachment C.
 - c. 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
 - The Department considers that the conditions proposed are a cost-effective means of achieving their purpose. The conditions are based on the material provided by the person proposing to take the action that was prepared in consultation with the Department.

Consideration of Condition-setting Policy

107. The Department has considered the likely scope and severity of the impacts to EPBC Act protected matters, 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 EPBC Act listed SSTF, CPW, the Koala and the GHFF.
108. 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 and the EPBC Act Outcomes-based Conditions Guidance.

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

109. 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.
- and, 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

110. The Biodiversity Convention is available at:
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1993/32.html>
111. 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.
112. The Biodiversity Convention has been considered in, and is not inconsistent with, the recommended approval which requires avoidance, mitigation and management measures for listed threatened species and communities. The recommended approval requires information related to the proposed action to be publicly available to ensure equitable sharing of information and improved knowledge relating to biodiversity.

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

113. CITES is available at: <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1976/29.html>
114. CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.
115. The recommendations are not inconsistent with CITES as the proposed action does not involve international trade.

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

116. The APIA Convention is available at:
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1990/41.html>
117. The APIA Convention encourages the creation of protected areas which together with existing protected areas will safeguard representative samples of the natural ecosystems occurring therein (particular attention being given to endangered species), as well as superlative scenery, striking geological formations, and regions and objects of aesthetic interest or historic, cultural or scientific value.
118. The APIA Convention was suspended with effect from 13 September 2006. While this Convention has been suspended, Australia's obligations under the Convention have been taken into consideration. The recommendations are not inconsistent with the Convention which has the general aims of conservation of biodiversity.

Recovery Plans and Threat Abatement Plans

119. The Recovery Plans relevant to the proposed action and assessment are: Nil
120. The Threat Abatement Plan relevant to this action is:
- a. Department of the Environment (2014). *Threat abatement plan for disease in natural ecosystems caused by Phytophthora cinnamomi*. Canberra, ACT: Commonwealth of Australia. Available from: <http://www.environment.gov.au/resource/threat-abatement-plan-disease-natural-ecosystems-caused-phytophthora-cinnamomi>. In effect under the EPBC Act from 31-Jan-2014.
121. This Threat Abatement Plan is provided as Attachment E2. This Recommendation Report discusses the Threat Abatement Plan in respect of each listed threatened species and community to which it is relevant.
122. The Department has considered all relevant Recovery Plans and Threat Abatement Plans and is of the view that approval of this action would not be inconsistent with the above obligations.

Conservation Advice

123. The approved conservation advices relevant to the proposed action are:
- a. Department of the Environment (2014). *Approved Conservation Advice (including listing advice) for Shale Sandstone Transition Forest of the Sydney Basin Bioregion (EC25R)*. Canberra: Department of the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/146-conservation-advice.pdf>. In effect under the EPBC Act from 16-Dec-2014.
 - b. Department of the Environment, Water, Heritage and the Arts (2009). *Approved Conservation Advice for Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community*. Canberra, ACT: Department of the Environment, Water, Heritage and the Arts. Available from: <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/112-conservation-advice.pdf>. In effect under the EPBC Act from 09-Dec-2009.
 - c. Department of Sustainability, Environment, Water, Population and Communities (2012). *Approved Conservation Advice for Phascolarctos cinereus (combined populations in Queensland, New South Wales and the Australian Capital Territory)*.

Canberra: Department of Sustainability, Environment, Water, Population and Communities. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/197-conservation-advice.pdf>. In effect under the EPBC Act from 02-May-2012.

124. The approved conservation advices are provided in Attachment E1.
125. As discussed above at each relevant section, the Department has had regard to the approved conservation advices relevant to the proposed action and has given consideration to the likely impacts of the proposed action on listed threatened species and endangered ecological communities.

Bioregional Plans section 176(5)

126. 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.
127. The proposed action is not located within or near an area designated by a bioregional plan. The Department considers that there are no bioregional plans relevant to the proposed action.

Conclusion

128. The proposed action is likely to impact on important habitat for EPBC listed ecological communities and threatened species. The Department considers that the likely impacts of the proposed action on listed ecological communities and threatened species will be acceptable, provided the action is undertaken in accordance with the proposed conditions and consistent with the mitigation and offset measures proposed by the proponent. Having considered all matters required to be considered under the EPBC Act, the Department recommends the proposed action be approved, subject to the recommended conditions.

Duration of approval

129. The Department recommends that the approval remain valid for a period of 20 years to allow sufficient time to construct the project, secure offsets and manage offset areas.

Material used to prepare Recommendation Report

- Recovery Plans
- Threat Abatement Plans
- Conservation and listing Advice
- Department of the Environment (2016), EPBC Act 1999 Condition-setting Policy, Commonwealth of Australia, Canberra.
- Department of the Sustainability, Environment, Water, Population and Communities (2012), EPBC Act 1999 Offsets Policy and Guide, Commonwealth of Australia, Canberra.



PROPOSED APPROVAL

Mt Gilead residential development, NSW (EPBC 2015/7599)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. 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)	Lendlease Communities (Mt Gilead) Pty Ltd
ACN of approval holder	605 278 331
Action	Construction of a residential development including water and sewerage infrastructure, a community centre, a small kiosk / store, internal roads and two open space and recreation reserves on Lot 3 DP 1218887 and Lot 61 DP 752042 at Gilead, approximately 7 km south of Campbelltown city centre, New South Wales (as described in EPBC Act Referral 2015/7599 received 2 November 2015, and subject to the variations of the action accepted by the Minister under section 156B on Monday, 29 May 2017 and Thursday, 12 April 2018).

Proposed Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 30 November 2038

Decision-maker

Name and position	Kim Farrant Assistant Secretary of Assessments and Waste Branch Department of the Environment and Energy
Signature	PROPOSED DECISION - DO NOT SIGN
Date of decision	PROPOSED DECISION - DO NOT DATE

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

Impacts

1. The approval holder must ensure that clearing of **protected matters** within the **proposed action area** is limited to the area marked as ‘development area’ in **Attachment 1**.

Compensation measures

2. To offset the **impacts** on 3.3 ha of **SSTF** and 0.37 ha of **CPW**, the approval holder must ensure that 8 ha of **SSTF** and 0.8 ha of **CPW** is **secured** within **onsite offset areas** prior to the **commencement of the action**.
3. To offset the **impacts** on 1.79 ha of **SSTF**, the approval holder must **secure** a minimum of 4 ha of **SSTF** at the Fernhill Central West biobanking site prior to the **commencement of the action**.
4. To compensate for **impacts** on 0.85 ha of **SSTF**, and 0.17 ha of **CPW**, not compensated through offsetting through Conditions 2 and Condition 3, the approval holder must submit, for the **Minister’s** approval, an offset strategy in accordance with the **EPBC Act environmental offsets policy**. The offset strategy must outline how these impacts will be offset in perpetuity. The offset strategy should be submitted at least three months prior to the intended **commencement date**. The approval holder must not **commence the action** unless the offset strategy has been approved by the **Minister**.
5. To compensate for **impacts** on **Koala** and the **GHFF** the approval holder must submit, for the **Minister’s** approval, an offset strategy in accordance with the **EPBC Act environmental offsets policy**. The offset strategy must outline how these impacts will be offset in perpetuity. The offset strategy should be submitted at least three months prior to the intended **commencement date**. The approval holder must not **commence the action** unless the offset strategy has been approved by the **Minister**.

Note: Koala and GHFF strategies may be prepared and submitted separately.

6. Within 10 **business days** of **securing** the relevant offsets specified in Condition 2 - 5, the approval holder must provide the **Department** with **evidence** of when the offsets were **secured** and what mechanism was used to **secure** the offsets.
7. Prior to the **commencement of the action**, the approval holder must prepare and implement a Koala Management Plan for the proposed action area to the satisfaction of the **Minister**. This must include provisions for the approval holder to contribute at least \$100,000 each year for five years to fund activities outlined in the plan. The approval holder must provide the **Department** with **evidence** of the Koala Recovery Team’s endorsement of the Koala Management Plan prior to the **commencement of the action**.

Construction environmental management plan

8. At least three months prior to the **commencement of the action**, the approval holder must submit a construction environmental management plan (CEMP) for the **Minister’s** approval to avoid and mitigate potential indirect **impacts** on **protected matters** in the **onsite offset areas**



and the **Council Reserve** as a result of **construction**. If the **Minister** approves the CEMP, then the approved CEMP must be implemented.

9. The approval holder must not **commence the action** unless the **Minister** has approved the CEMP in writing.
10. The CEMP must be consistent with the **Department's Environmental Management Plan Guidelines**, and must include:
 - a. The CEMP environmental objectives, relevant to **protected matters** and a reference to **EPBC Act** approval conditions to which the CEMP refers;
 - b. A table of commitments made in the CEMP to achieve the objectives, and a reference to where the commitments are detailed in the CEMP;
 - c. Details of the parties responsible for undertaking management actions;
 - d. A description of management actions that will be implemented pre, during and post construction, including for stormwater discharge and road runoff, sediment and erosion control, invasion by exotic species and weeds, and fencing and access;
 - e. Hygiene protocols to minimise the risk of spread of *Phytophthora cinnamomi*;
 - f. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the CEMP;
 - g. An assessment of risks to achieving the CEMP environmental objectives and risk management strategies that will be applied;
 - h. **Impact** avoidance, mitigation and/or repair measures, and their timing; and
 - i. A monitoring program, which must include:
 - i. measurable performance indicators;
 - ii. trigger values for corrective actions;
 - iii. the timing and frequency of monitoring to detect changes in the performance indicators and timely detection of trigger values; and
 - iv. proposed corrective actions, if trigger values are reached.

Vegetation management plan

11. At least three months prior to the **commencement of the action**, the approval holder must submit a vegetation management plan for the protection of **protected matters** in the **Council Reserve**, for the **Minister's** approval. If the **Minister** approves the vegetation management plan, then the approved vegetation management plan must be implemented.
12. The approval holder must not **commence the action** unless the **Minister** has approved the vegetation management plan in writing.



13. The vegetation management plan must be consistent with the **Department's Environmental Management Plan Guidelines**, and must include:
- a. The vegetation management plan environmental objectives, relevant to **protected matters** and a reference to **EPBC Act** approval conditions;
 - b. A table of commitments made in the vegetation management plan to achieve the objectives, and a reference to where the commitments are detailed in the vegetation management plan;
 - c. Details of the parties responsible for undertaking management actions;
 - d. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the vegetation management plan;
 - e. An assessment of risks to achieving the vegetation management plan environmental objectives and risk management strategies that will be applied;
 - f. **Impact** avoidance, mitigation and/or repair measures, and their timing; and
 - g. A monitoring program, which must include:
 - i. measurable performance indicators;
 - ii. trigger values for corrective actions;
 - iii. the timing and frequency of monitoring to detect changes in the performance indicators and trigger values; and
 - iv. proposed corrective actions, if trigger values are reached.

Part B – Standard administrative conditions

Notification of date of commencement of the action

14. The approval holder must notify the **Department** in writing of the date of **commencement of the action** and the date of commencement of each stage of the action within 10 **business days** after the date of **commencement of the action** or the relevant stage of the action.
15. 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

16. The approval holder must maintain accurate and complete **compliance records**.
17. 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.



Preparation and publication of plans

18. The approval holder must:

- a. submit **plans** electronically to the **Department** for approval by the **Minister**;
- b. publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister**, unless otherwise agreed to in writing by the **Minister**;
- c. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
- d. keep **plans** published on the **website** until the end date of this approval.

Annual compliance reporting

19. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed to 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** within five **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**; and
- 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

20. 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 two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:

- a. the condition which is or may be in breach; and
- b. a short description of the **incident** and/or non-compliance.

21. 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; and
- c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

22. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
23. 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**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
24. 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.

Revision of action management plans

25. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** under condition 9 or condition 12, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
26. The approval holder may choose to revise an action management plan approved by the **Minister** under condition 9 or condition 12, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the RAMP would not be likely to have a **new or increased impact**.
27. If the approval holder makes the choice under condition 26 to revise an action management plan without submitting it for approval, the approval holder must:
 - a. notify the **Department** in writing that the approved action management plan has been revised and provide the **Department** with:
 - i. an electronic copy of the RAMP;



- ii. an electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP;
 - iii. an explanation of the differences between the approved action management plan and the RAMP;
 - iv. the reasons the approval holder considers that taking the action in accordance with the RAMP would not be likely to have a **new or increased impact**; and
 - v. written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least 20 **business days** after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the **Department**.
 - b. subject to condition 29, implement the RAMP from the RAMP implementation date.
28. The approval holder may revoke its choice to implement a RAMP under condition 26 at any time by giving written notice to the **Department**. If the **approval holder** revokes the choice under condition 26, the **approval holder** must implement the previous action management plan approved by the **Minister**.
29. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the RAMP would be likely to have a **new or increased impact**, then:
 - a. condition 26 does not apply, or ceases to apply, in relation to the RAMP; and
 - b. the approval holder must implement the action management plan specified by the **Minister** in the notice.
30. At the time of giving the notice under condition 29, the **Minister** may also notify that for a specified period of time, condition 26 does not apply for one or more specified action management plans.

Note: conditions 28, 29, 30 and 31 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

Completion of the action

31. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

32. In these conditions, except where contrary intention is expressed, the following definitions are used:
 - a. **BioBanking** – the New South Wales Government’s biodiversity credit and offset scheme of that name created under the *Threatened Species Conservation Act 1995* (NSW), as amended and repealed or an equivalent scheme under a successor mechanism under the Biodiversity Conservation Act 2016 (NSW).



- b. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in New South Wales.
- c. **Cleared** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of **SSTF** or **CPW**.
- d. **Commencement of the action** means the first instance of any specified activity associated with the action including clearance of vegetation and **construction** of any infrastructure. Commencement 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 **proposed action area**; and
 - iii. protect environmental and property assets from fire, weeds and pests, including erection or **construction** of fencing and signage, and maintenance or use of existing surface access tracks, if agreed in writing by the **Department**.
- e. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is ESRI shapefile, including containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference and a '.prj' file or specification of the projection/geographic coordinate system used.
- f. **Completion of the action** means the time at which all approved conditions (except condition 31) have been fully met.
- g. **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;
- h. **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; and
 - iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
- i. **Construction** means the creation and development of services (sewerage, electricity, water, stormwater), the use of heavy equipment for the purposes of breaking ground for buildings or infrastructure, and the building of infrastructure associated with the action. This does not include preparatory works such as the erection of signage or temporary fencing.



- j. **Council reserve** means the area designated as ‘**Council Reserve (Proposed Biobanking Site)**’ on the map at **Attachment 4**.
- k. **CPW** means the Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community listed as critically endangered under the EPBC Act and shown on the map at **Attachment 2**.
- l. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
- m. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- n. **EPBC Act environmental offset policy** means the document: Department of Sustainability, Environment, Water, Population and Communities (2012). *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offset Policy*. Commonwealth of Australia, Canberra.
- o. **Evidence** means documentation from the relevant authority showing that the offset has been **secured**.
- p. **Fernhill Central West biobanking site** means the area designated as ‘Offset (4 ha)’ in the map at **Attachment 5**.
- q. **Grey-headed Flying-fox** means *Pteropus poliocephalus* listed as vulnerable under the **EPBC Act**, within habitat shown on the map at **Attachment 3**
- r. **Impact/ Impacted** means any measureable direct or indirect disturbance/change that occurs as a result of any activity associated with the proposed action.
- s. **Incident** means any event which has the potential to, or does, **impact on protected matters**.
- t. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
- u. **like-for-like credits** has the meaning given under the *Threatened Species Conservation Act 1995* (NSW) (now repealed), or an equivalent biodiversity offsetting mechanism under the *Biodiversity Conservation Act 2016* (NSW) and includes the **retirement** of credits from the following plant community types:

SSTF (Shale Sandstone Transition Forest in the Sydney Basin Bioregion)

- i. *Narrow-leaved Ironbark – Broad-leaved Ironbark – Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion*
- ii. *Broad-leaved Ironbark – Melaleuca decora shrubby open forest on clay soils of the Cumberland Plain, Sydney Basin Bioregion*
- iii. *Turpentine – Grey Ironbark open forest on shale in the lower Blue Mountains, Sydney Basin Bioregion.*



CPW (Cumberland Plain Woodland)

- i. *Shale Hills Woodland*
- ii. *Cumberland Shale Hills Woodland*
- iii. *Grey Box-Forest Red Gum grassy woodland on shale of the southern Cumberland Plain, Sydney Basin*
- v. **Koala** means the combined populations of Queensland, New South Wales and the Australian Capital Territory) (*Phascolarctos cinereus (combined populations of Qld, NSW and the ACT)*) listed as vulnerable under the **EPBC Act** within habitat shown on the map at **Attachment 3**.
- w. **Minister** means the Australian Government Minister administering the EPBC Act including any delegate thereof.
- x. **New or increased impact** means a new or increased environmental **impact** or risk relating to any **protected matter**, when compared to the likely **impact** of implementing the action management plan that has been approved by the **Minister** under condition 9 or condition 12, including any subsequent revisions approved by the **Minister**, as outlined in the *Guidance on 'New or Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals (2017)*.
- y. **Offset attributes** – mean an '.xls' file capturing relevant attributes of the offset site, including the **EPBC Act** reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the **EPBC Act protected matters** that the offset compensates for, any additional **EPBC Act protected matters** that are benefiting from the offset, and the size of the offset in hectares.
- z. **Onsite offset areas** means the area designated 'Proposed BioBank Sites (Applications Submitted)' at **Attachment 4**.
- aa. **Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).
- bb. **Proposed action area** means the area designated as 'Study Area' on the map at **Attachment 1**.
- cc. **Protected matter(s)** means **protected fauna** and other matters protected by Part 3 of the EPBC Act, including **SSTF** and **CPW**.
- dd. **Retirement** means a change in the status of a credit such that the credit can no longer be bought or sold.
- ee. **Shapefiles** – means an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the offset site, including the shape, EPBC Act reference ID number and **protected matters** present at the relevant site. **Shapefile** files must also include either a '.prj' file or specification of the projection/geographic coordinate system used.
 - i. Attributes should also be captured in '.xls' format.



- ff. **Secure/secured** means long-term protection under a legal mechanism that is either:
- i. **retirement** of sufficient **like-for-like credits** in accordance with the New South Wales Government's **BioBanking Scheme** created under the *Threatened Species Conservation Act 1995* (NSW), as amended and repealed or an equivalent biodiversity offsetting mechanism under the *Biodiversity Conservation Act 2016* (NSW); OR
 - ii. another legal mechanism that has been endorsed in writing by the **Minister**.
- gg. **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.
- hh. **Successor mechanism** - any biodiversity offsetting mechanism legislated and implemented by the New South Wales Government to replace, or as a successor to, BioBanking. Such a mechanism is only acceptable for the purposes of this approval if it:
- i. is included in a bilateral agreement under the EPBC Act (either referenced directly in the agreement, or as part of a wider process that is adopted in a bilateral agreement) OR
 - ii. has been agreed by the Department in writing to the approval holder or the title holder as being an appropriate successor mechanism.
- ii. **SSTF** means the Shale Sandstone Transition Forest of the Sydney Basin Bioregion ecological community listed as critically endangered under the **EPBC Act** and Act and shown on the map at **Attachment 2**.
- jj. **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.
- kk. **website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

ATTACHMENTS

Attachment 1 – Map showing proposed action area

Attachment 2 – Map showing the extent of SSTF (Dark green) and CPW (Dark orange) within the proposed action area. Impacted areas are those areas outside the green lines.

Attachment 3 – Map showing the extent of Koala and Grey-headed Flying Fox habitat within the proposed action area

Attachment 4 – Map showing onsite offset areas and Council Reserve (Proposed BioBank site)

Attachment 5 – Map of Fernhill Central West biobanking site



ATTACHMENTS

Attachment 1 – Map showing proposed action area



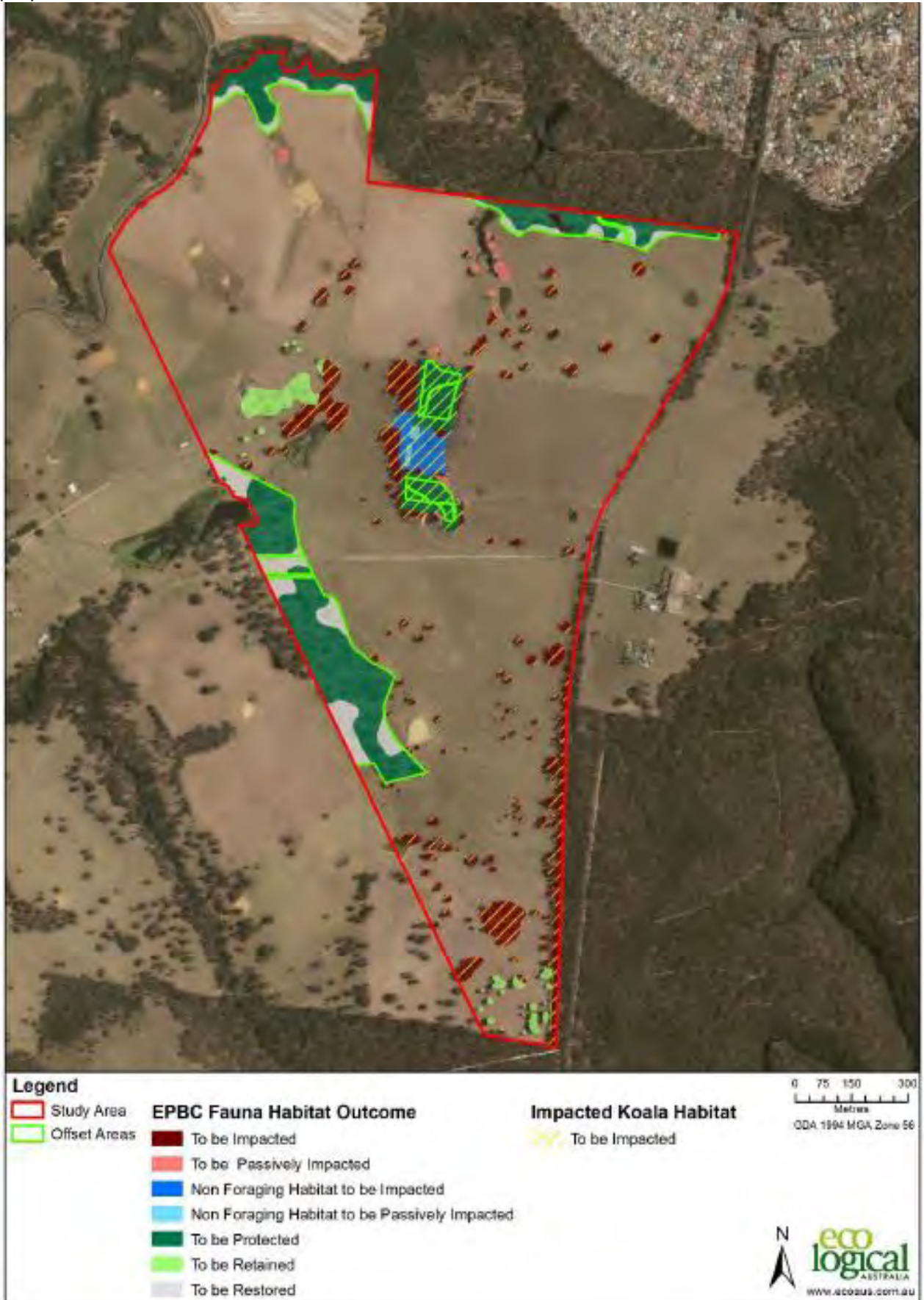


Attachment 2 – Map showing the extent of SSTF (Dark green) and CPW (Dark orange) within the proposed action area. Impacted areas are those areas outside the green lines.



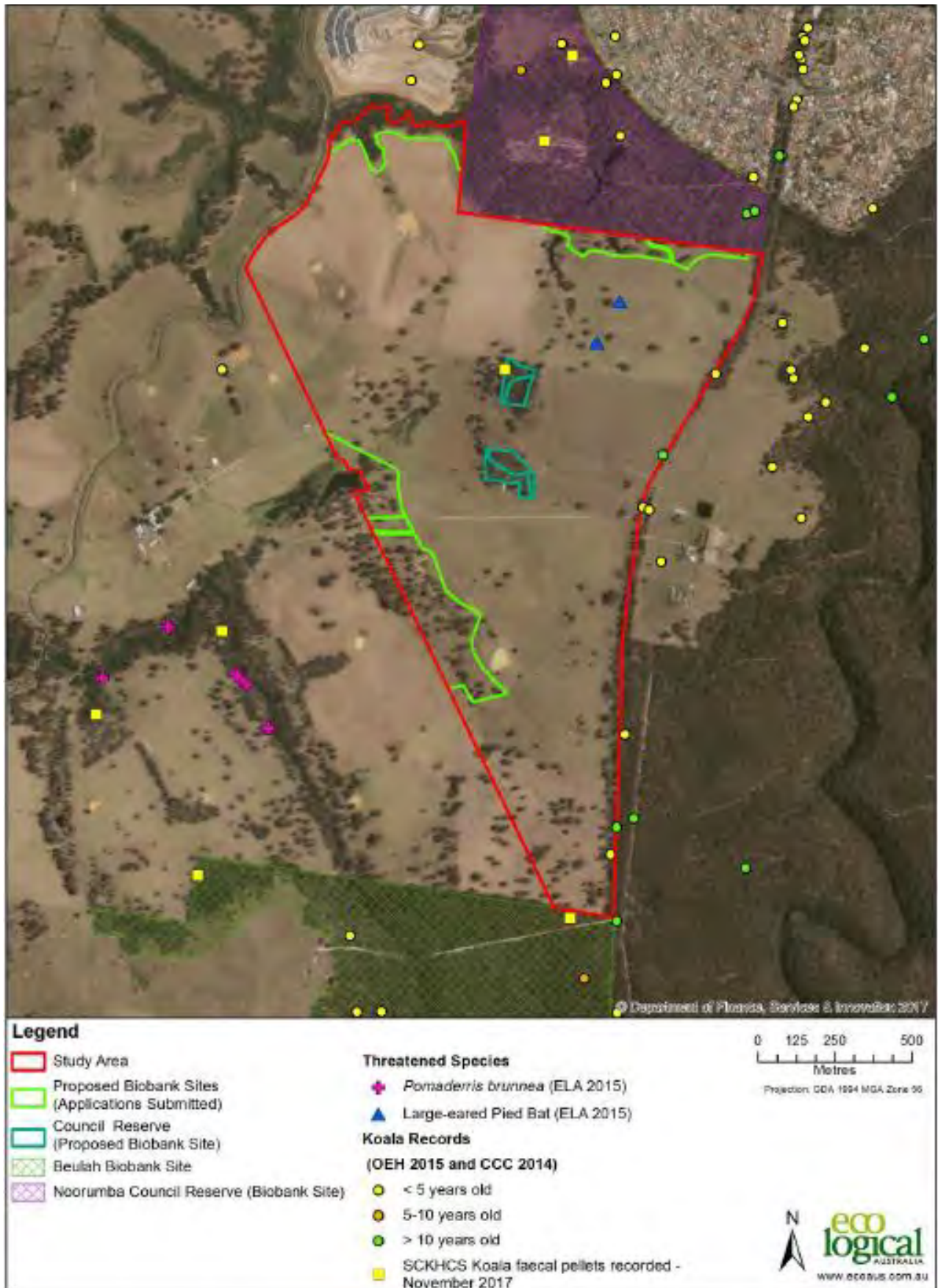


Attachment 3 – Map showing the Extent of Koala and Grey-headed Flying Fox habitat within the proposed action area.



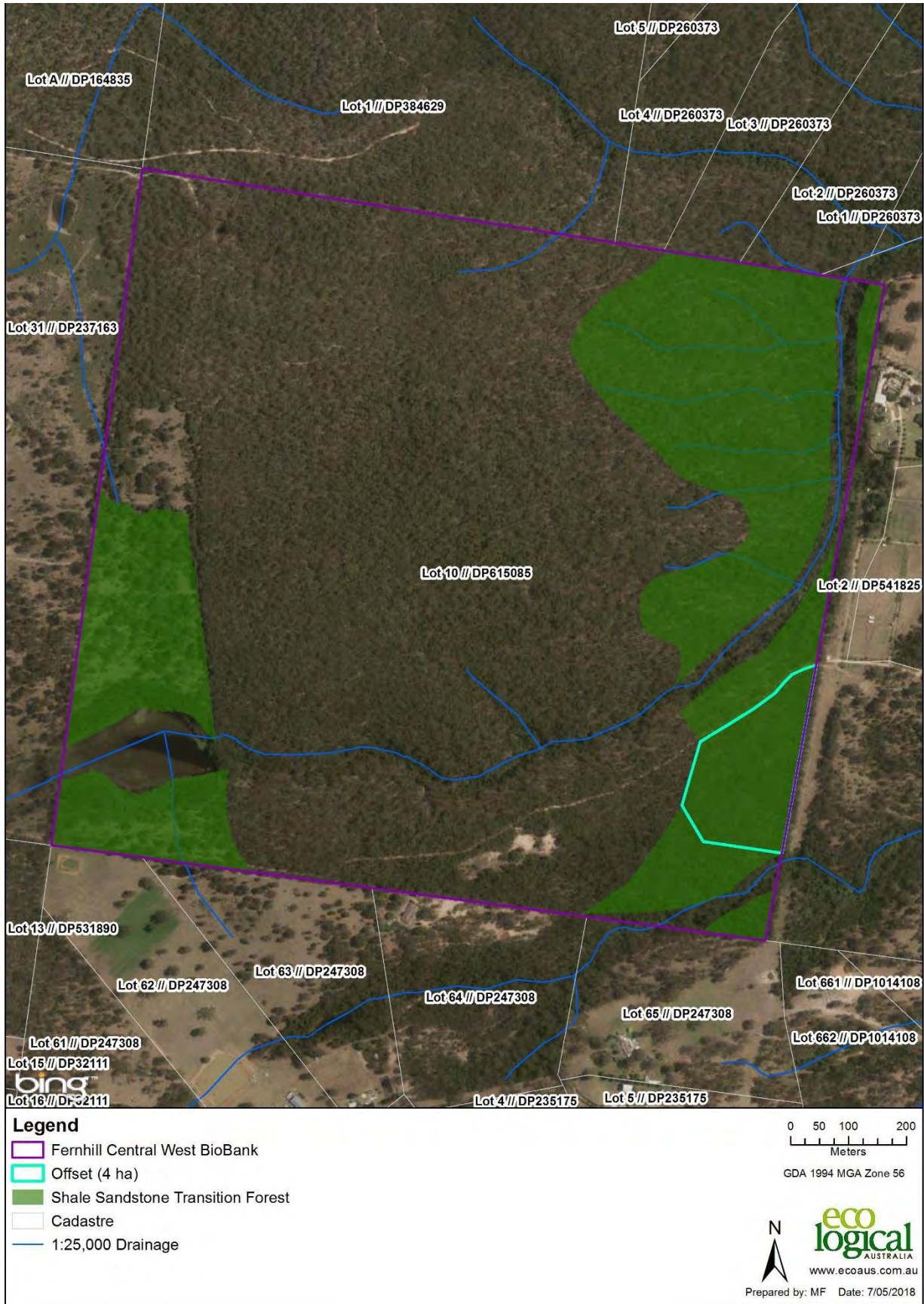


Attachment 4 – Map showing onsite offset areas and Council Reserve (Proposed BioBank site)





Attachment 5 – Map of Fernhill Central West biobanking site



s22

From: Humphries, Robert <RobertH@ecoaus.com.au>
Sent: Thursday, 30 August 2018 11:47 AM
To: s22 ; s22
Cc: Anderson, Mark (Australia); Darryl Kite s47F
Subject: EPBC 2015/7599 Mt Gilead Revised TEC impacts and Buffers
Attachments: Mt Gilead TEC Buffers _20180820.jpg; Patches.jpg; Revised EPBC Buffer Impacts_270818.xlsx

s22 /s22

Further to our meeting in Canberra on 15th August where you advised that your line management advice was that the 30m TEC buffers could not include any portion of a road, we have revised the buffers and associated impacts as per the attached figure.

Specify, the buffers now do not include any part of a perimeter road/footpath/cycleway or any of the landscaped detention basins. Where "Passive" open space adjoins proposed offset areas, we have provided 50% (15m) of the buffer in the open space as per previous agreement and conservation listing advice . As indicated previously, the open space will be subject to 'landscape' plantings of CPW/SSTF canopy species.

The attached figure shows an outer and inner buffer area of 15m each and in places you will note that in addition to these buffers, there are many places where there will be landscaped detention basins and open space adjacent to the proposed offset areas further separating these areas from perimeter roads and urban development.

The revised impact figures have included all EPBC Act condition vegetation in development areas, roads, detention basins and open space as 100% impacted/lost as per previous calculations and 'partial' impacts to any EPBC vegetation in buffer areas at 20% and 5% in outer and inner buffer areas respectively (i.e. any impacts to EPBC Act vegetation in buffer areas will be fully mitigated by the requirement, as registered BioBank sites, to actively manage and restore these areas to benchmark condition and maintain in perpetuity (management is fully funded as per Standard biobank requirements with funds held in Trust).

It was intended (Commitment in Biocert and PD reports) that the Biobank sites would be registered at the same time as biodiversity certification was conferred and prior to any development commencing as is standard practice. In order to justify 'partial' (mitigated) impacts in these EPBC TEC buffer areas, we are now aiming to have these offset areas registered as biobank sites ASAP and likely prior to the delegates final determination of the Controlled Action (We will provide copies of the registered Biobank Agreements to DoTEE as soon as they are available).

In terms of providing you with new impact areas so that you may draft up conditions requiring EPBC Act offsets to be met by the retirement of a specific number of BioBanking credits, attached and copied below are the impact areas as exhibited in V7 of the PD report (December 2017) and the revised impacts associated with the new buffers. In order to provide you with the relevant number of BioBanking credits we have multiplied these impact areas by the number of credits required/ha for the corresponding Biocertification vegetation Zone for each of the EPBC Act Vegetation 'Patches'.

You will note that despite the changes to the buffers the final impact areas have only increased slightly, this is because the perimeter roads and detention basins were already largely avoiding any EPBC Act vegetation and the outer buffer areas of the proposed offset areas/biobank sites already had areas of non-EPBC Act vegetation within the boundaries to be restored.

- So for SSTF, the 'reduced' (mitigated within managed offset area) impact area increased from 5.76 ha to 5.96 ha requiring the equivalent of 98 SSTF Biobanking credits.

- for CPW, the 'reduced' (mitigated within managed offset areas) impact areas increased from 0.363 ha to 0.54 ha requiring the equivalent of 7 CPW Biobanking credits.

Please note that for Patch 7 impacts this is the average number of credits required from Biocertification Vegetation Zones 5, 6, 7 & 8 = 18.01 credits/ha of impact which includes all the intact SSTF remnants, however EPBC Act Patch 7 was extended to include the exotic grassland areas in between (see attached EPBC Vegetation Patches Figure) so this is an over estimate of the average EPBC Act condition of this vegetation. Similarly, the revised buffers include indirect impacts to CPW within the adjacent Noorumba Bushland Reserve (a registered Biobank site) which comprises some vegetation in better condition to Patches 1 and 8 and some areas in similar condition to Patch 8. As this Vegetation was not included in the Biocertification Assessment, we have used the average number of credits required from Biocertification Vegetation Zones 2 and 3 = 13.33 credits/ha to calculate the equivalent EPBC requirement.

You will note that the total number of credits required for the Biocertification impacts are higher (see Appendix J in PD report) as these impacts include additional areas of vegetation (ie scattered paddock trees) that do not meet the EPBC Act minimum condition thresholds.

The area of impacts to threatened fauna do not change as a result of the revised buffers, the area of direct impacts to all EPBC Controlled Action fauna species (Koala, Large-eared Pied Bat, Swift Parrot and Grey-headed Flying Fox) is 10.85 ha, however, if DoTEE propose to state offset requirements as the number of Biobanking credits to be retired, the BioBanking scheme only recognises species credits for Koala (284 Koala credits to be retired). Large-eared Pied Bat, Swift Parrot and Grey-headed Flying Fox are classified as Ecosystem species and thus their offset requirements are captured by the 104 SSTF and 28 CPW credits to be retired by the Biocertification requirements.

Happy to discuss/clarify any of the above.

(Tables 8
and 9 in PD
report)

PD Ver 7 - Exhibition December 2017

SSTF Condition	Direct Impacts (Clearing) (ha)	Indirect / Partial impacts to managed 30m buffer (ha)	Reduced impacts after mitigation measures*** (20%)	Total Impacts (direct and reduced / mitigated impacts for offset calculations (ha)	Biocert Veg Zone	Biocert Credit/ha	BB Credits
A – Patch 3	0.23	0.69	0.14	0.37	10	13.04	5
A – Patch 9	1.54	0	0	1.54	9	12.99	20
B – Patch 4	0	0	0	0	9	12.99	0
D – Patch 7	3.5	1.75	0.35	3.85	5,6,7,8	18.21	70
Total Impacted	5.27	2.44	0.49	5.76			95

CPW Condition	Direct Impacts (Clearing) (ha)	Indirect / Partial impacts to managed 30m buffer (ha)	Reduced impacts after mitigation*** (20%)	Total Impacts (direct and reduced / mitigated impacts for offset calculations (ha)	Biocert Veg Zone	Biocert Credit/ha	BB Credits
B – Patch 1	0.001	0.2	0.04	0.041	2	13.33	1
A – Patch 8	0.14	0.91	0.182	0.322	3	13.33	4
Total Impacted	0.141	1.11	0.222	0.363			5

Revised Buffers - all buffers in offset areas

SSTF Condition	Direct Impacts (Clearing) (ha)	Indirect / Partial impacts to outer managed 15m buffer (ha)	% Impact in Outer Buffer	Reduced impacts after mitigation measures*** (20%)	Indirect / Partial impacts to inner managed 15m buffer (ha)	% Impact in inner buffer	Reduced impacts after mitigation measures (20%)
A – Patch 3	0.23	1.3	20%	0.26	1.32	5%	0.066
A – Patch 9	1.54	0	20%	0	0	5%	0
B – Patch 4	0	0	20%	0	0	5%	0
D – Patch 7	3.59	1.09	20%	0.218	1.18	5%	0.059
Total Impacted	5.36	2.39		0.478	2.5		0.125

CPW Condition	Direct Impacts (Clearing) (ha)	Indirect / Partial impacts to outer managed 15m buffer (ha)	% Impact in Outer Buffer	Reduced impacts after mitigation measures*** (20%)	Indirect / Partial impacts to inner managed 15m buffer (ha)	% Impact in inner buffer	Reduced impacts after mitigation (20%)
A – Patch 8	0.15	0.37	20%	0.074	0.69	5%	0.0345
B – Patch 1	0	0.41	20%	0.082	0.85	5%	0.0425
Noorumba BB Site	0	0.59	20%	0.118	0.8	5%	0.04
Total Impacted	0.15	1.37		0.27	2.34		0.12

BIO BANK (Credits Generated)	SSTF Credit Generated		CPW Credits Generated	
Macarthur Onslow BB Site	120		0	
Noorumba / Mt Gilead Site	0		74	
Dzwonniks BB Site	20		0	
SUBTOTAL	140		74	
IMPACTS (Credits Required)	EPBC	Bio-Cert	EPBC	Bio-Cert
	98	104	7	28

Robert Humphries

Principal Consultant Biodiversity Offset Programs

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T +61 2 8536 8620 | M +61 947F

{ HYPERLINK "http://www.ecoaus.com.au/" }



EPBC Ref: 2015/7599

Mr Mark Anderson
Senior Development Manager
Lendlease Communities (Mt Gilead) Pty Ltd
Level 2, 88 Phillip Street
PARRAMATTA NSW 2150

Dear Mr Anderson

**Invitation to comment on proposed approval decision
Mount Gilead Residential Development, Gilead, New South Wales (EPBC 2015/7599)**

I am writing to you in relation to your proposal for the construction of a residential development including water and sewerage infrastructure, a community centre, a small kiosk / store, internal roads and two open space and recreation reserves on Lot 3 DP 1218887 and Lot 61 DP 752042 at Gilead, approximately 7 kilometres south of Campbelltown city centre, New South Wales.

The proposed action was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and ecological communities (section 18 & section 18A).

I am proposing to approve the proposed action subject to conditions.

My proposed decision of approval is attached. In accordance with the EPBC Act, I invite you to provide comments on my proposed decision of approval, including the conditions which I propose to attach, within 10 business days of the date of this letter.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can send comments to:

by letter: Southern NSW & ACT Assessments
Assessments and Waste Branch
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

by email [s22](mailto:s22@environment.gov.au)

If you have any questions about this decision, please contact the project manager, s22
[REDACTED], by email to s22 [REDACTED], or telephone 02 6274 s22 [REDACTED] and
quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



Kim Farrant
Assistant Secretary
Assessments and Waste Branch

12 November 2018



Mr Lloyd Woodford
Director Environmental Protection and
Assessments
Environment and Engineering Branch
Defence Support and Reform Group
Department of Defence
BP26-02-B001
PO Box 7925
CANBERRA BC ACT 2601

Dear Mr Woodford

**Invitation to comment on proposed approval decision
Mount Gilead Residential Development, Gilead, New South Wales (EPBC 2015/7599)**

I am writing to you in relation to a proposal for the construction of a residential development including water and sewerage infrastructure, a community centre, a small kiosk / store, internal roads and two open space and recreation reserves on Lot 3 DP 1218887 and Lot 61 DP 752042 at Gilead, approximately 7 kilometres south of Campbelltown city centre, New South Wales.

The above proposal was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and ecological communities. I am proposing to approve this proposal. My proposed decision is attached.

I understand that you may have administrative responsibilities relating to the action. I invite you to provide comments on my proposed decision within 10 business days of the date of this letter, including on any matters of economic or social concern that should be considered consistent with the principles of ecologically sustainable development.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can send information to us:

by letter Southern NSW and ACT Assessments
 Assessments and Waste Branch
 Department of the Environment and Energy
 GPO Box 787
 CANBERRA ACT 2601

by email: s22

If you have any questions about this decision, please contact the project manager, s22 s22, by email to s22, or telephone 02 6274 s22 and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



Kim Farrant
Assistant Secretary
Assessments and Waste Branch

12 November 2018

s22

From: s22
Sent: Friday, 15 June 2018 4:07 PM
To: s22
Cc: s22 ; s22 ; s22
Subject: RE: Location of infrastructure in TEC buffers - 2015-7599 Referral-Mt Gilead residential development, NSW [SEC=UNCLASSIFIED]

Hi s22

Here is some further advice on buffer zones, in addition to that provided on Wednesday.

Effective buffer zones should prevent impacts to patches of a TEC. That is, the main purpose of a buffer is to:

- provide for the continuing *in situ* existence of a remnant TEC patch, by,
- ensuring that adjacent pressures (e.g. from construction, development and changed land use) do not affect the TEC patch's condition and ecological processes and functions.

This is achieved in the first instance by not clearing or disturbing the buffer zone area, and having a buffer zone composition that filters out impacts and threats from adjacent areas into patches of the TEC. It is difficult for constructed areas, e.g. roads, to fulfil this purpose by their very nature. This is exacerbated by the engineering methods and processes employed to create them. Once in place, hardscape areas would be amongst the less desirable options for buffers – native vegetation, and areas with minimal human use would be preferable.

Regards,

s22

From: s22
Sent: Wednesday, 13 June 2018 3:56 PM
To: s22
Cc: s22 ; s22 ; s22
Subject: RE: Location of infrastructure in TEC buffers - 2015-7599 Referral-Mt Gilead residential development, NSW [SEC=UNCLASSIFIED]

Hi s22

We hope this advice is not too late for you for this assessment. The impacts to this ecological community from this development also apply to other ecological communities in the urban context.

The impacts to the proposed retained patches and adjacent patches are described as the key threats to the ecological community in the { [HYPERLINK "http://www.environment.gov.au/biodiversity/threatened/communities/pubs/146-conservation-advice.pdf"](http://www.environment.gov.au/biodiversity/threatened/communities/pubs/146-conservation-advice.pdf) }, and are also described in the assessment against listing criteria, demonstrating why the ecological community was listed.

Construction, excavation during construction, of the detention basin is an action in itself with impacts to adjacent areas, even if the basin has potential to act as a buffer from some impacts once established. However, even when in place the basin will concentrate flows of water into one area with potential for overflow into the remnant. It would only require a one-off flooding event to have long-lasting impacts to adjacent patches of the ecological community – for example nutrient enrichment, weed seeds, other pollutants.

The pressures to patches of SSTF within the site will be greatly increased during and following this development, from being in the rural context to being surrounded by suburbs. It seems highly likely that the condition of remnant patches will decline, given they are being surrounded by an urban environment, are being increasingly fragmented,

are not designated solely for conservation (land use), and will have limited management. In particular, likely impacts include:

- altered hydrology, eutrophication, and weed threats from development runoff (particularly) given some of the patches are adjacent to a storm water detention basin.
- “other” urbanisation impacts such as litter dumping; garden waste dumping (introducing weeds); use of buffer areas and remnants by people and their pets causing trampling/eutrophication/spreading weeds (e.g. from adjacent bbq areas); predation on fauna from pets such as cats and dogs or feral animals
- light and noise pollution, affecting some native flora and fauna (e.g. microbats) of the ecological community.
- decreased ecological function of the patches in the landscape due to loss of connectivity and introduction of hard barriers to native fauna and flora movement.

A fence that attempts to exclude entry from people, pets, and feral animals may mitigate some of these impacts, but nonetheless remaining pressures are likely to result in decline of the quality and function of patches. Exclusion fencing also has the potential to limit important movement of native fauna and also harm some fauna.

Therefore, in light of these issues, we would consider that these areas cannot be considered as offsets, as the likely trajectory of the patches of SSTF within the site is a decrease in quality and function.

For further reference, the Department has published information which discusses options for fencing for exclusion, along with impacts and mitigation. See:

{ HYPERLINK "<https://www.environment.gov.au/biodiversity/invasive-species/publications/cost-effective-feral-animal-exclusion-fencing>" }

Regards,

s22

From: s22

Sent: Tuesday, 15 May 2018 8:12 AM

To: s22

Cc: s22

Subject: RE: Location of infrastructure in TEC buffers - 2015-7599 Referral-Mt Gilead residential development, NSW [SEC=UNCLASSIFIED]

Cheers s22 That would be great.

I'm holding off the proponent submitting their final PD until I can discuss the impact/offset situation with s22 and have a position to put to the proponent on the way the Dept intends to brief the delegate on quantity of impacts.

I realise you are really under the pumps and greatly appreciate the assistance you give.

Regards

s22

s22

Senior Assessment Officer

Southern NSW and ACT Assessments / Environment Standards Division / Department of the Environment and Energy

51 Allara Street Canberra 2600 /GPO Box 787 Canberra 2601 / 02 6274 s22 / { HYPERLINK

s22 }

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

From: s22
Sent: Saturday, 12 May 2018 9:10 AM
To: s22
Cc: s22
Subject: RE: Location of infrastructure in TEC buffers - 2015-7599 Referral-Mt Gilead residential development, NSW [SEC=UNCLASSIFIED]

Hi s22

Sorry – it's still on our list to get back to you. We are particularly busy at the moment finalising papers for the next TSSC meeting. What's your timeframe? Hopefully we can get something to you by the end of the week.

Regards,
s22

From: s22
Sent: Friday, 11 May 2018 4:01 PM
To: s22
Subject: RE: Location of infrastructure in TEC buffers - 2015-7599 Referral-Mt Gilead residential development, NSW [SEC=UNCLASSIFIED]

Hi s22

Thought I'd better check in to make sure the IT didn't eat this email ☺

Regards
s22

From: s22
Sent: Tuesday, 1 May 2018 9:41 AM
To: s22
Cc: s22; s22
s22
Subject: Location of infrastructure in TEC buffers - 2015-7599 Referral-Mt Gilead residential development, NSW [SEC=UNCLASSIFIED]

Hi s22

Thanks for the discussion recently about buffering TECs.

I'd just like to put to you two questions for this development, as it's a bit more complex than most. The two questions are about the compatibility of stormwater detention basins with buffer areas and fencing of TEC.

Just to recap, the project is a ~ 200 ha residential development on the out skirts of Campbelltown (southern Sydney). Overview of proposed footprint:

{ INCLUDEPICTURE "cid:image001.png@01D404C2.79EC1AB0" * MERGEFORMATINET }

- The vegetated areas to the north and south are TECs and Biobank areas – independent of this project.
- The three light green areas on the boundary of the site will be Biobanked. The two on the northern boundary are CPW. The western one is SSTF.

- The two blue areas in the centre will be a council managed conservation reserves, and are SSTF.

Under the NSW offset system the council managed conservation reserves are recognised as being worth 90% of the value of Biobanking. In the figure below, the proponent has distinguished between the retained veg being Biobanked or managed by the council as a conservation reserve, but I don't think it makes any difference to the question of compatible use of a buffer zone.

Buffers

We have requested 30 m buffers to the TECs, but there is always the question of multiple uses of the buffers where they are compatible with the area's ability to function as a buffer to the TEC. There are several ways this development will interface with the retained TECs (Biobank/conservation reserve), and the proponent has provided the following diagrams of their proposed treatment of the buffer zones.

1. **Biobanked area - reveg – local street :**
{ INCLUDEPICTURE "cid:image002.png@01D404C2.79EC1AB0" * MERGEFORMATINET }
2. **Conservation area – reveg - fire trail:**
{ INCLUDEPICTURE "cid:image003.png@01D404C2.79EC1AB0" * MERGEFORMATINET }
3. **Biobank – reveg – stormwater management - collector road:**
{ INCLUDEPICTURE "cid:image004.png@01D404C2.79EC1AB0" * MERGEFORMATINET }
4. **Conservation area – reveg - public open space/recreation:**
{ INCLUDEPICTURE "cid:image005.png@01D404C2.79EC1AB0" * MERGEFORMATINET }
5. **Conservation area - stormwater detention basin - road :**
{ INCLUDEPICTURE "cid:image006.png@01D404C2.79EC1AB0" * MERGEFORMATINET }
6. **Conservation area - stormwater detention basin - public open space/recreation:**
{ INCLUDEPICTURE "cid:image007.png@01D404C2.79EC1AB0" * MERGEFORMATINET }

Further info on the proposed stormwater detention basins

- As you can see from drawings 5 and 6, the basins are immediately adjacent to the retained TECs.
- There are 5 basins that have this relationship with the TECs – see first figure. I've also **attached** more detailed close ups of these areas that include a scale on the buffers.
- The basins will have a water tight membrane lining that will stop water loss into the ground.
- The water release rate from the basins will be no faster than that already occurring.
- The plantings in the basins will be natives, and SSTF/CPW spp where they are suitable.
- These are pictures the proponents has provided of similar basins:
{ INCLUDEPICTURE "cid:image008.png@01D404C2.79EC1AB0" * MERGEFORMATINET }
- An **attached file** shows aerial images of a similar treatment as various phases. In the site development phase, the basin is used as a sediment trap, then vegetated after the sediment loads are reduced.

Fencing of the Biobank and conservation areas

We note that in each instance the proposed barrier to free movement of vehicle/people/animals is a 'post and rail' fence, though this is described in the assessment report as a 'post and cable' fence. My understanding is that the council has specified a post and cable fence to controlled vehicle access. I recall from our conversation that you have reservations about the proposed fencing and have an example of you thought was more suitable?

Would you mind advising on these things?

Thanks

s22

Senior Assessment Officer

Southern NSW and ACT Assessments / Environment Standards Division / Department of the Environment and Energy

51 Allara Street Canberra 2600 /GPO Box 787 Canberra 2601 / 02 6274 s22 / { HYPERLINK

s22 }

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.



Australian Government
Department of the Environment and Energy

PROPOSED APPROVAL

Mt Gilead residential development, NSW (EPBC 2015/7599)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. 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)	Lendlease Communities (Mt Gilead) Pty Limited
ACN of approval holder	605 278 331
Action	Construction of a residential development including water and sewerage infrastructure, a community centre, a small kiosk / store, internal roads and two open space and recreation reserves on Lot 3 DP 1218887 and Lot 61 DP 752042 at Gilead, approximately 7 km south of Campbelltown city centre, New South Wales- (as described in EPBC Act Referral 2014/7599, and subject to the variation of the action accepted by the Minister under section 156B on Monday, 29 May 2017 and Thursday, 12 April 2018 Thursday, 12 April 2018 <u>Thursday, 12 April 2018.</u>

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Proposed Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 1 November 2038

Decision-maker

Name and position	Kim Farrant Assistant Secretary of Assessments and Waste Branch Department of the Environment and Energy
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Signature **PROPOSED DECISION - DO NOT SIGN**

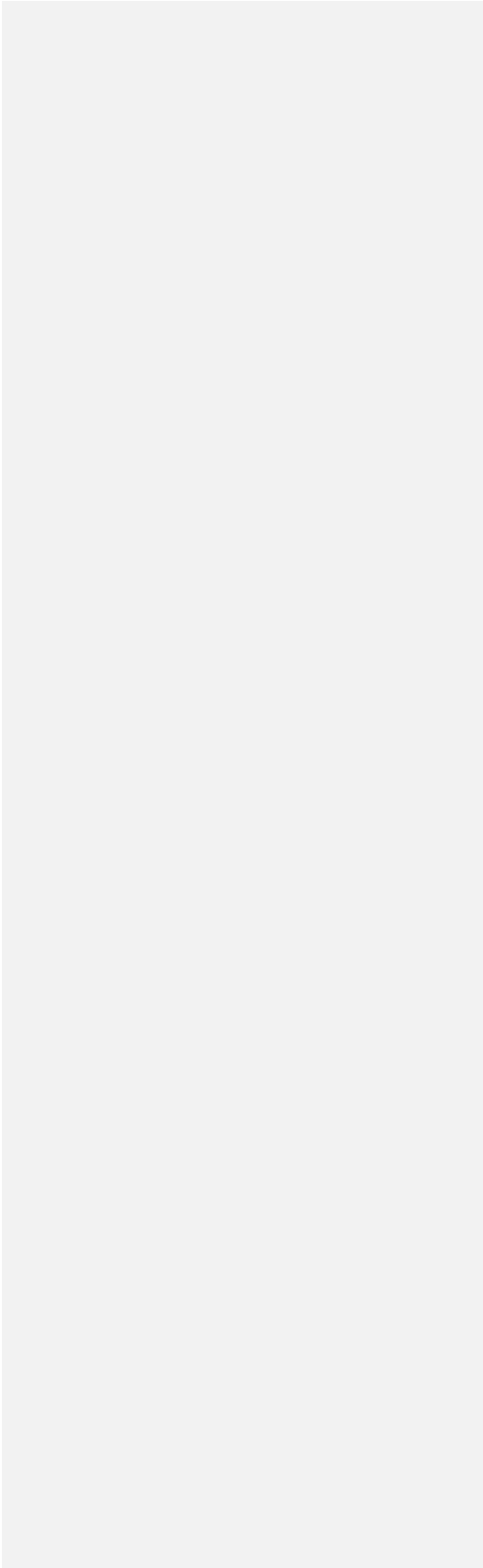
Date of decision **PROPOSED DECISION - DO NOT DATE**

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.



Australian Government
Department of the Environment and Energy





ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

Impacts

1. The approval holder must ensure that no more than 5.27 hectares of **SSTF** is **cleared** within the **proposed action area** and no more than 2.44 hectares of **SSTF** ~~the~~ within the **proposed action area** is **impacted**.
2. The approval holder must ensure that no more than 0.14 hectares of **CPW** is **cleared** within the **proposed action area** and no more than 1.11 hectares of **CPW** ~~in the~~ within the **proposed action area** is **impacted**.
3. The approval holder must ensure that **impacts on protected fauna** within the **proposed action area** do not exceed the following limits:

Protected matters	Impact limit
Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>)	removal of 10.85 ha hectares of foraging habitat
Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) (<i>Phascolarctos cinereus</i> (combined populations of Qld, NSW and the ACT)	removal of 10.85 ha and indirect impacts on a further 3.53 hectares

4. To minimise indirect impacts on **SSTF** in the **onsite offset areas** and the **Council Reserve** for the life of the approval, the approval holder must ensure that all **SSTF** and **CPW** within the **onsite offset areas** and the **Council Reserve** is surrounded by a buffer of at least 15 metres width, at the outer edge of which is a fence and signage regarding the purpose of restricting access. The design and location of fencing and signage must be specified in the CEMP required under conditions 12 – 14, and measures to maintain the fence and signage at least until the end date of this approval must be specified in the vegetation management plan required under conditions 15 – 17.

Compensation measures

5. Prior to the **commencement of the action**, to offset the **impacts on protected fauna**, and **impacts** on 3.33 hectares of **SSTF** and 0.37 ha of **CPW**, the approval holder must ensure that **habitat for protected matters** is **secured** within **onsite offset areas**.
6. Prior to the **commencement of the action**, to offset the **impacts** on 1.9 hectares of **SSTF**, the approval holder must **secure** a minimum of 4 hectares of **SSTF** at the Fernhill Central West biobanking site.
7. At least three months pPrior to the **commencement of the action**, the approval holder must submit for the Minister's approval an offset proposal in accordance with the EPBC Act environmental offsets policy, to offset the **impacts** on 2.5 hectares of **SSTF**, and 0.9 hectares of **CPW**, the approval holder must submit for the Minister's approval, an offset proposal in accordance with the EPBC Act environmental offsets policy. The approval holder must not commence the action unless the offset proposal ~~must~~has been approved by the Minister ~~prior to commencement of the action.~~
8. Where the offset **EPBC Act environmental offsets policy** includes BioBanking as its offset mechanism, the approval holder must ensure that the BioBanking Agreement(s) for the BioBanking site(s) include measures for the long term management of **protected matters** including but not limited to:
 - a. Specific reference to **SSTF**, **CPW** and **protected fauna** at the **proposed action area impacted** by the proposed action.

Commented [RN2]: Key issue is to ensure that plans are submitted in time for review and approval processes, if they have to be approved. Also important to ensure that Minister's approval has to be secured before action commences if that is the intent

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- b. A textual description of the offset sites, including **offset attributes, shapefiles**, and a map clearly defining the location and boundaries of the proposed offset sites.
 - c. Site survey and baseline data and documentation of key biodiversity threats and opportunities at each site.
 - d. A detailed description of management actions and responsibilities designed to protect and improve the ecological quality of habitat of the Koala and Grey-headed Flying Fox on the offset sites.
 - e. Key milestones, performance indicators and timeframes for each management action.
 - f. A monitoring program to determine the effectiveness of the management actions.
 - g. Corrective actions and contingency measures to be implemented where monitoring of the offset site shows that management actions are not effectively achieving key milestones or prescribed performance indicators are not being met or are unlikely to be met.
9. Prior to the **commencement of the action**, the approval holder must submit a copy of the BioBanking Agreement(s) to the **Minister**.
10. Within 10 business days of **securing** the relevant offset specified in Condition 5, Condition 6 and Condition 7, the approval holder must provide the **Department** with **evidence** of when the offset was **secured** and what mechanism was used to **secure** the offset.
11. ~~P~~**rior to the commencement of the action**, ~~the~~ approval holder must prepare and implement a Koala Management Plan for the proposed action area in consultation with the Koala Recovery Team. This must include provisions for the approval holder to ~~and~~ contribute at least \$100,000 each year for five years to fund activities outlined in the plan.

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Construction environmental management plan

12. At least prior to commencement of the action ~~t~~The approval holder must submit a construction environmental management plan (CEMP) for the **Minister's** approval ~~to avoid and mitigate~~ potential indirect **impacts** on **protected matters** in the **onsite offset areas** and the **Council Reserve** as a result of **construction**. If the **Minister** approves the CEMP, then the approved CEMP must be implemented.
13. The approval holder must not **commence the action** unless the **Minister** has approved the CEMP in writing.
14. The CEMP must be consistent with the **Department's Environmental Management Plan Guidelines**, and must include:
- a. The CEMP environmental objectives, relevant to **protected matters** and a reference to **EPBC Act** approval conditions, including condition 4, to which the CEMP refers;
 - b. A table of commitments made in the CEMP to achieve the objectives, and a reference to where the commitments are detailed in the CEMP;
 - c. Details of the parties responsible for undertaking management actions;
 - d. A description of management actions that will be implemented pre, during and post construction, including for stormwater discharge and road runoff, sediment and erosion control, invasion by exotic species and weeds, and fencing and access;
 - e. Hygiene protocols to minimise the risk of spread of *Phytophthora cinnamomi*;
 - f. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the CEMP;
 - g. An assessment of risks to achieving the CEMP environmental objectives and risk management strategies that will be applied;
 - h. **Impact** avoidance, mitigation and/or repair measures, and their timing; and



- i. A monitoring program, which must include:
 - i. measurable performance indicators;
 - ii. trigger values for corrective actions;
 - iii. the timing and frequency of monitoring to detect changes in the performance indicators and timely detection of trigger values; and
 - iv. proposed corrective actions, if trigger values are reached.

Vegetation management plan

15. ~~For the protection of protected matters in the Council Reserve, At least three months prior to commencement of the action~~ the approval holder must submit a vegetation management plan ~~for the protection of protected matters in the Council Reserve~~ for the Minister's approval. ~~for the Council Reserve.~~ If the Minister approves the vegetation management plan, then the approved vegetation management plan must be implemented.
16. The approval holder must not **commence the action** unless the **Minister** has approved the vegetation management plan in writing.
17. The vegetation management plan must be consistent with the **Department's Environmental Management Plan Guidelines**, and must include:
 - a. The vegetation management plan environmental objectives, relevant to **protected matters** and a reference to **EPBC Act** approval conditions, including condition 3, to which the vegetation management plan refers;
 - b. A table of commitments made in the vegetation management plan to achieve the objectives, and a reference to where the commitments are detailed in the vegetation management plan;
 - c. Details of the parties responsible for undertaking management actions;
 - d. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the vegetation management plan;
 - e. An assessment of risks to achieving the vegetation management plan environmental objectives and risk management strategies that will be applied;
 - f. **Impact** avoidance, mitigation and/or repair measures, and their timing; and
 - g. A monitoring program, which must include:
 - i. measurable performance indicators;
 - ii. trigger values for corrective actions;
 - iii. the timing and frequency of monitoring to detect changes in the performance indicators and trigger values; and
 - iv. proposed corrective actions, if trigger values are reached.

Part B – Standard administrative conditions

Notification of date of commencement of the action

18. The approval holder must notify the **Department** in writing of the date of **commencement of the action** and the date of commencement of each stage of the action within 10 **business days** after the date of **commencement of the action** or the relevant stage of the action.
19. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

20. The approval holder must maintain accurate and complete **compliance records**.



21. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or 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.

Preparation and publication of plans

22. The approval holder must:
- submit **plans** electronically to the **Department** for approval by the **Minister**;
 - publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister**, unless otherwise agreed to in writing by the **Minister**;
 - exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
 - keep **plans** published on the **website** until the end date of this approval.

Annual compliance reporting

23. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed to in writing by the **Minister**. The approval holder must:
- publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
 - notify the **Department** by email that a **compliance report** has been published on the **website** within five **business days** of the date of publication;
 - keep all **compliance reports** publicly available on the **website** until this approval expires;
 - exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
 - 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

24. 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 two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
- the condition which is or may be in breach; and
 - a short description of the **incident** and/or non-compliance.
25. 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:
- any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - the potential **impacts** of the **incident** or non-compliance; and
 - the method and timing of any remedial action that will be undertaken by the approval holder.



Independent audit

26. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
27. 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**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
28. 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.

Revision of action management plans

29. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** under condition 14~~2~~ or condition 17~~5~~, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
30. The approval holder may choose to revise an action management plan approved by the **Minister** under condition 12 or condition 15, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the RAMP would not be likely to have a **new or increased impact**.
31. If the approval holder makes the choice under condition 30 to revise an action management plan without submitting it for approval, the approval holder must:
 - a. notify the **Department** in writing that the approved action management plan has been revised and provide the **Department** with:
 - i. an electronic copy of the RAMP;
 - ii. an electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP;
 - iii. an explanation of the differences between the approved action management plan and the RAMP;
 - iv. the reasons the approval holder considers that taking the action in accordance with the RAMP would not be likely to have a **new or increased impact**; and
 - v. written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least **20 business days** after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the **Department**.
 - b. subject to condition 33, implement the RAMP from the RAMP implementation date.
32. The approval holder may revoke its choice to implement a RAMP under condition 30 at any time by giving written notice to the **Department**. If the **approval holder** revokes the choice under condition 30, the **approval holder** must implement the previous action management plan approved by the **Minister**.
33. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the RAMP would be likely to have a **new or increased impact**, then:

Commented [BP3]: The plans are required under 12 and 15 but would be approved as meeting 14 or 17



- a. condition 30 does not apply, or ceases to apply, in relation to the RAMP; and
- b. the approval holder must implement the action management plan specified by the **Minister** in the notice.

34. At the time of giving the notice under condition 33, the **Minister** may also notify that for a specified period of time, condition 30 does not apply for one or more specified action management plans.

Note: conditions 30, 31, 32 and 33 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

Completion of the action

35. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

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

- a. **BioBanking** – the New South Wales Government’s biodiversity credit and offset scheme of that name created under the Threatened Species Conservation Act 1995 (NSW), as amended and repealed or an equivalent scheme under a successor mechanism under the Biodiversity Conservation Act 2016 (NSW).
- b. **BioBanking Agreement** – has the meaning given under the under the Threatened Species Conservation Act 1995 (NSW), as amended and repealed, or an equivalent under a successor mechanism under the Biodiversity Conservation Act 2016 (NSW).
- c. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in New South Wales.
- d. **Cleared** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of **SSTF**.
- e. **Commencement of the action** means the first instance of any specified activity associated with the action including clearance of vegetation and **construction** of any infrastructure. Commencement 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 site**; and
 - iii. protect environmental and property assets from fire, weeds and pests, including erection or **construction** of fencing and signage, and maintenance or use of existing surface access tracks, if agreed in writing by the **Department**.
- f. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department’s** preferred spatial data format is ESRI shapefile, including containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference and a '.prj' file or specification of the projection/geographic coordinate system used.
- g. **Completion of the action** means the time at which all approved conditions (except condition 31) have been fully met.
- h. **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;
- i. **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; and
 - iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
- j. **Construction** means the creation and development of services (sewerage, electricity, water, stormwater), the use of heavy equipment for the purposes of breaking ground for buildings or infrastructure, and the building of infrastructure associated with the action. This does not include preparatory works such as the erection of signage or temporary fencing.
- k. **Council reserve** means the area designated as **'Council Reserve (Proposed Biobanking Site)'** on the map at **Attachment 1**.
- l. **CPW** means the Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community listed as critically endangered under the **EPBC Act**.
- m. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
- n. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- o. **EPBC Act environmental offset policy** means the document: Department of Sustainability, Environment, Water, Population and Communities (2012). *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offset Policy*. Commonwealth of Australia, Canberra
- p. **Evidence** means documentation from the relevant authority showing that the offset has been **secured**.
- q. **Fernhill Central West biobanking site** means the area designated as 'Offset (4ha)' in the map at **Attachment 2**.
- r. **Habitat for protected matters** means a minimum of:
 - i. 8 hectares of **SSTF**
 - ii. 0.8 hectares of **CPW**
 - iii. 14.38 hectares of Koala habitat
 - iv. 10.85 hectares of Grey-headed Flying-fox foraging habitat
- s. **Impact** means any measureable direct or indirect disturbance/change that occurs as a result of any activity associated with the proposed action.
- t. **Incident** means any event which has the potential to, or does, **impact on protected matters**.
- u. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2015)*.
- v. **like-for-like credits** has the meaning given under the *Threatened Species Conservation Act 1995* (NSW) (now repealed), or an equivalent biodiversity offsetting mechanism under the *Biodiversity Conservation Act 2016* (NSW) and includes the **retirement** of credits from the following plant community types:
SSTF (Shale Sandstone Transition Forest in the Sydney Basin Bioregion)
 - i. *Narrow-leaved Ironbark – Broad-leaved Ironbark – Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion*



- ii. *Broad-leaved Ironbark – Melaleuca decora shrubby open forest on clay soils of the Cumberland Plain, Sydney Basin Bioregion*
- iii. *Turpentine – Grey Ironbark open forest on shale in the lower Blue Mountains, Sydney Basin Bioregion.*

CPW (Cumberland Plain Woodland)

- i. *Shale Hills Woodland*
- ii. *Cumberland Shale Hills Woodland*
- iii. *Grey Box-Forest Red Gum grassy woodland on shale of the southern Cumberland Plain, Sydney Basin*

Minister means the Australian Government Minister administering the EPBC Act including any delegate thereof.

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W.

New or increased impact means a new or increased environmental **impact** or risk relating to any **protected matter**, when compared to the likely **impact** of implementing the action management plan that has been approved by the **Minister** under condition 148 or condition 173, including any subsequent revisions approved by the **Minister**, as outlined in the *Guidance on 'New or Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals (2017)*.

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X.

Offset attributes – mean an '.xls' file capturing relevant attributes of the offset site, including the **EPBC Act** reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the **EPBC Act protected matters** that the offset compensates for, any additional **EPBC Act protected matters** that are benefiting from the offset, and the size of the offset in hectares.

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Y.

Onsite offset areas means the area designated 'Proposed BioBank sites (Applications Submitted)' at **Attachment 1**.

Z.

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

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aa.

Proposed action area means the area designated as 'Study Area' on the map at **Attachment 1**.

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bb.

Protected fauna means:

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cc.

Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) (*Phascolarctos cinereus* (combined populations of Qld, NSW and the ACT) listed as vulnerable under the **EPBC Act**,

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i.

Grey-headed Flying-fox (*Pteropus poliocephalus*) listed as vulnerable under the **EPBC Act**.

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ii.

Protected matter(s) means protected fauna and other matters protected by Part 3 of the EPBC Act including SSTF and CPW.

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dd.

j. **Retirement** means a change in the status of a credit such that the credit can no longer be bought or sold.

ee.

Shapefiles – means an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the offset site, including the shape, EPBC Act reference ID number and protected matters present at the relevant site. Shapefile files must also include either a '.prj' file or specification of the projection/geographic coordinate system used.

k. Attributes should also be captured in '.xls' format.

ff.

gg. **Secure/secured** means long-term protection under a legal mechanism that is either:

i.

ii. retirement of sufficient like-for-like credits in accordance with the New South Wales Government's BioBanking Scheme created under the *Threatened Species Conservation Act 1995* (NSW), as amended and repealed or an equivalent biodiversity offsetting mechanism under the *Biodiversity Conservation Act 2016* (NSW); or

iii. another legal mechanism, if approved in writing by the **Minister**.

hh. **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*.

bb. **Successor mechanism** - any biodiversity offsetting mechanism legislated and implemented by the New South Wales Government to replace, or as a successor to, BioBanking. Such a mechanism is only acceptable for the purposes of this approval if it:

- i. is included in a bilateral agreement under the EPBC Act (either referenced directly in the agreement, or as part of a wider process that is adopted in a bilateral agreement) OR
- ii. has been agreed by the Department in writing to the approval holder or the title holder as being an appropriate successor mechanism.

c. **SSTF** means the Shale Sandstone Transition Forest of the Sydney Basin Bioregion ecological community listed as critically endangered under the EPBC Act.

dd. **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.

~~ee. SSTF means the Shale Sandstone Transition Forest of the Sydney Basin Bioregion ecological community listed as critically endangered under the EPBC Act.~~

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

ATTACHMENTS

1. **Attachment 1** – Map showing proposed action area, onsite offset areas and Council reserve
2. **Attachment 2** – Map of Fernhill Central West biobanking site

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Commented [BP4]: ERIN has asked that this be included

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Commented [BP5]: In this case is it valid?

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PROPOSED APPROVAL

Mt Gilead residential development, NSW (EPBC 2015/7599)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. 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)	Lendlease Communities (Mt Gilead) Pty Limited
ACN of approval holder	605 278 331
Action	Construction of a residential development including water and sewerage infrastructure, a community centre, a small kiosk / store, internal roads and two open space and recreation reserves on Lot 3 DP 1218887 and Lot 61 DP 752042 at Gilead, approximately 7 km south of Campbelltown city centre, New South Wales, (as described in EPBC Act Referral 2014/7599, and subject to the variation of the action accepted by the Minister under section 156B on Monday, 29 May 2017 and Thursday, 12 April 2018.

s47E(d)

Commented [NO2]: The attachments that were sent through do not indicate the footprint/location of the action area. As discussed, it is recommended that you use another appendix for the 'development layout'

Commented [MW3]: Any reason why this was changed from the referral decision? It's much safer legally speaking to use the same description unless there is a very good reason to change it. Obviously you should keep the bit about the action being varied.

Overall I always advise to keep the description of the action as simple as possible. Having too much detail can cause problems down the track. For example if they changed their plans slightly post approval and decided to build a moderately sized Kiosk then would it be the same action?

Proposed Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 1 November 2038

Decision-maker

Name and position	Kim Farrant Assistant Secretary of Assessments and Waste Branch Department of the Environment and Energy
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Signature **PROPOSED DECISION - DO NOT SIGN**

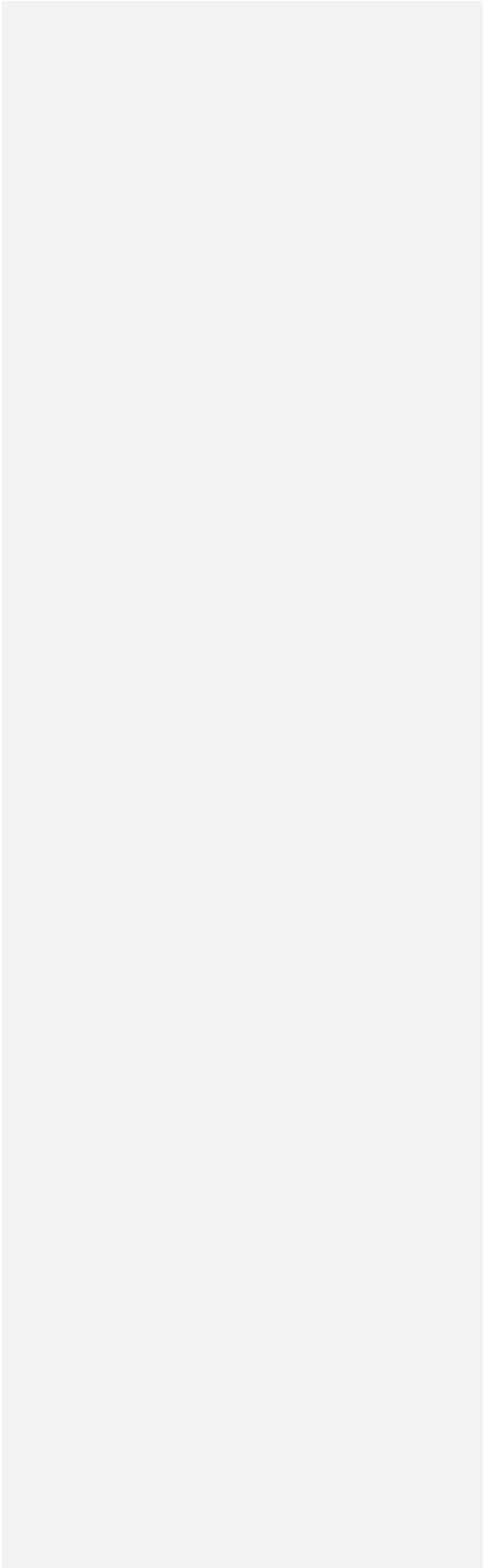
Date of decision **PROPOSED DECISION - DO NOT DATE**

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.



Australian Government
Department of the Environment and Energy





ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

Impacts

1. The approval holder must ensure no more than 5.27 hectares of SSTF is cleared within the **proposed action area** and no more than an additional 2.44 hectares of SSTF the within the **proposed action area** is impacted.
2. The approval holder must ensure no more than 0.14 hectares of CPW is cleared within the **proposed action area** and no more than an additional 1.11 hectares of CPW in the within the **proposed action area** is impacted.
3. The approval holder must ensure that **impacts on protected fauna** within the **proposed action area** do not exceed the following limits:

Protected matters	Impact limit
Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>)	removal/clearing of 10.85 ha hectares of foraging habitat
Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) (<i>Phascolarctos cinereus</i> (combined populations of Qld, NSW and the ACT))	removal/clearing of 10.85 ha and indirect impacts on a further 3.53 hectares

4. To minimise indirect impacts on SSTF in the **onsite offset areas** and the **Council Reserve** for the life of the approval, the approval holder must ensure that all SSTF and CPW within the **onsite offset areas** and the **Council Reserve** is surrounded by a buffer of at least 15 metres width, at the outer edge of which is a fence and signage regarding the purpose of restricting access. The design and location of fencing and signage must be specified in the CEMP required under conditions 12 – 14, and measures to maintain the fence and signage at least until the end date of this approval must be specified in the vegetation management plan required under conditions 15 – 17.

Compensation measures

5. Prior to the **commencement of the action**, to offset the **impacts on protected fauna**, and **impacts on 3.33 hectares of SSTF and 0.37 ha of CPW**, the approval holder must ensure that **habitat for protected matters is secured within onsite offset areas.**
6. Prior to the **commencement of the action**, to offset the **impacts on 1.9 hectares of SSTF**, the approval holder must **secure** a minimum of 4 hectares of SSTF at the Fernhill Central West biobanking site.
7. Prior to the **commencement of the action**, to offset the **impacts on 2.5 hectares of SSTF**, and 0.9 hectares of CPW the approval holder must submit for the **Minister's approval**, an offset proposal in accordance with the EPBC Act environmental offsets policy.
8. ~~Where~~ If the offset(s) ~~EPBC Act environmental offsets policy required under conditions 5-7 includes/uses~~ BioBanking as its ~~offset-securing~~ mechanism, the approval holder must ensure that the BioBanking Agreement(s) for the BioBanking site(s) include measures for the long term management of **protected matters** including but not limited to:
 - a. Specific reference to **SSTF, CPW and protected fauna** at the **proposed action area impacted** by the proposed action.
 - b. A textual description of the offset sites, including **offset attributes, shapefiles**, and a map clearly defining the location and boundaries of the proposed offset sites.

Commented [MW4]: Please add a map showing where SSTF, and the habitat for the various species occurs. Without it condition 1-4 will be very difficult to enforce.

Commented [NO5]: Is this the 'study area' in Attachment 1?

Does this basically mean they can have up to 2.44ha of indirect impacts – or in other words an additional limit of 'any measurable disturbance to 2.44ha? This could be tricky to enforce based on the definition. Is there any more guidance we can leverage off with the definitions? Compliance would take the current definition to mean that any change or reduction in habitat quality (beyond the cleared areas) would be non compliant. It may be difficult to put firm figures, or an amount of hectares on indirect impacts. Happy to discuss. Same applies to condition 2 and 3.

Commented [NO6]: Please include a separate appendix/diagram that clearly indicates the impact areas (as discussed).

Commented [MW7]: The way the definition is worded they could do anything including clearing completely. Is that the intent?

Consider changing the definition to a maximum level of damage/impact or the definition could include the kind of acceptable impacts.

Commented [MW8]: This is now getting confusing as you've added a new kind of impact. Consider using the same definition as 'impacted', or use a separate definition.

Commented [NO9]: Should the minimum buffer area say '15 metre width from the outer edge of the action/impact site? Just something to make it a bit clearer where the exact 15 metre area is located.

Commented [NO10]: This condition doesn't stipulate many hectares of GHFF and koala is to be secured within the onsite offset area. The amount/limit of hectares to be cleared is noted, but not what the offset amount is. Condition 6 stipulates the amount of hectares to be secured as an offset for SSTF (4ha of offset), however it's not mentioned in condition 5.

Commented [NO11]: Do you mean an offset strategy, or a management plan? I'm not sure what a proposal would consist of, therefore it may need some more explanation and some specific requirements within the condition 7. Obviously this would be ideal for the onsite offset component, given that the specific requirements for the offsite component at Fernhill is covered under the BioBanking Agreements.

Apologies for any confusion, but is this portion of offsets for the onsite location? May be good just to make that clear in the condition.



- c. Site survey and baseline data and documentation of key biodiversity threats and opportunities at each site.
 - d. A detailed description of management actions and responsibilities designed to protect and improve the ecological quality of habitat of the Koala and Grey-headed Flying Fox on the offset sites.
 - e. Key milestones, performance indicators and timeframes for each management action.
 - f. A monitoring program to determine the effectiveness of the management actions.
 - g. Corrective actions and contingency measures to be implemented where monitoring of the offset site shows that management actions are not effectively achieving key milestones or prescribed performance indicators are not being met or are unlikely to be met.
9. [If the offset\(s\) EPBC Act environmental offsets policy required under conditions 5-7 includes uses BioBanking as its offset securing mechanism](#) Prior to the commencement of the action, the approval holder must submit a copy of the BioBanking Agreement(s) to the Minister.

Commented [MW12]: This condition overlaps with condition 10 and is probably not necessary

10. Within 10 business days of securing the relevant offsets specified in Condition 5, Condition 6 and Condition 7, the approval holder must provide the Department with evidence of when the offset was secured and what mechanism was used to secure the offset.
11. Prior to the commencement of the action, approval holder must prepare and implement a Koala Management Plan for the proposed action area in consultation with the Koala Recovery Team and contribute at least \$100,000 each year for five years to fund activities outlined in the plan.

Commented [NO13]: Do we need to add an approval process into this condition for the securing mechanism for the onsite offset? The definition states that 'secure is another legal mechanism, if approved in writing by the Minister. Under condition 10, if the approval holder submits the evidence of the securing mechanisms – the horse has bolted and the Minister doesn't have any way of approving the securing mechanism (for at least the onsite component) Because the definition states that a mechanism must be approved by the Minister – I think this needs to be added into the condition as well

Construction environmental management plan

12. The approval holder must submit a construction environmental management plan (CEMP) for the Minister's approval for potential indirect impacts on protected matters in the onsite offset areas and the Council Reserve as a result of construction. If the Minister approves the CEMP, then the approved CEMP must be implemented.
13. The approval holder must not commence the action unless the Minister has approved the CEMP in writing.
14. The CEMP must be consistent with the Department's Environmental Management Plan Guidelines, and must include:
- a. The CEMP environmental objectives, relevant to protected matters and a reference to EPBC Act approval conditions, including condition 4, to which the CEMP refers;
 - b. A table of commitments made in the CEMP to achieve the objectives, and a reference to where the commitments are detailed in the CEMP;
 - c. Details of the parties responsible for undertaking management actions;
 - d. A description of management actions that will be implemented pre, during and post construction, including for stormwater discharge and road runoff, sediment and erosion control, invasion by exotic species and weeds, and fencing and access;
 - e. Hygiene protocols to minimise the risk of spread of *Phytophthora cinnamomi*;
 - f. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the CEMP;
 - g. An assessment of risks to achieving the CEMP environmental objectives and risk management strategies that will be applied;
 - h. Impact avoidance, mitigation and/or repair measures, and their timing; and
 - i. A monitoring program, which must include:
 - i. measurable performance indicators;

Commented [NO14]: Do Post Approvals need to have input or approve the plan? I would also add something in here that the plan needs to be prepared to the satisfaction of the koala recovery team or provide evidence of endorsement from the koala recovery team

Commented [MW15]: Starting in what year?



- ii. trigger values for corrective actions;
- iii. the timing and frequency of monitoring to detect changes in the performance indicators and timely detection of trigger values; and
- iv. proposed corrective actions, if trigger values are reached.

Vegetation management plan

15. For the protection of **protected matters** in the **Council Reserve**, the approval holder must submit a vegetation management plan for the **Minister's** approval for the **Council Reserve**. If the **Minister** approves the vegetation management plan, then the approved vegetation management plan must be implemented.
16. The approval holder must not **commence the action** unless the **Minister** has approved the vegetation management plan in writing.
17. The vegetation management plan must be consistent with the **Department's Environmental Management Plan Guidelines**, and must include:
- a. The vegetation management plan environmental objectives, relevant to **protected matters** and a reference to **EPBC Act** approval conditions, including condition 3, to which the vegetation management plan refers;
 - b. A table of commitments made in the vegetation management plan to achieve the objectives, and a reference to where the commitments are detailed in the vegetation management plan;
 - c. Details of the parties responsible for undertaking management actions;
 - d. Reporting and review mechanisms, and documentation standards to demonstrate compliance with the vegetation management plan;
 - e. An assessment of risks to achieving the vegetation management plan environmental objectives and risk management strategies that will be applied;
 - f. **Impact** avoidance, mitigation and/or repair measures, and their timing; and
 - g. A monitoring program, which must include:
 - i. measurable performance indicators;
 - ii. trigger values for corrective actions;
 - iii. the timing and frequency of monitoring to detect changes in the performance indicators and trigger values; and
 - iv. proposed corrective actions, if trigger values are reached.

Commented [MW16]: If it's going to be a council reserve, who is going to implement the plan? We can regulate third parties

Part B – Standard administrative conditions

Notification of date of commencement of the action

18. The approval holder must notify the **Department** in writing of the date of **commencement of the action** and the date of commencement of each stage of the action within 10 **business days** after the date of **commencement of the action** or the relevant stage of the action.
19. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

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



Note: **Compliance records** may be subject to audit by the **Department** or 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.

Preparation and publication of plans

22. The approval holder must:

- a. submit **plans** electronically to the **Department** for approval by the **Minister**;
- b. publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister**, unless otherwise agreed to in writing by the **Minister**;
- c. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
- d. keep **plans** published on the **website** until the end date of this approval.

Annual compliance reporting

23. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or as otherwise agreed to 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** within five **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**; and
- 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

24. 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 two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:

- a. the condition which is or may be in breach; and
- b. a short description of the **incident** and/or non-compliance.

25. 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; and
- c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

26. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.

27. 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**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
28. 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.

Revision of action management plans

29. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** under condition 12 or condition 15, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
30. The approval holder may choose to revise an action management plan approved by the **Minister** under condition 12 or condition 15, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the RAMP would not be likely to have a **new or increased impact**.
31. If the approval holder makes the choice under condition 30 to revise an action management plan without submitting it for approval, the approval holder must:
- a. notify the **Department** in writing that the approved action management plan has been revised and provide the **Department** with:
 - i. an electronic copy of the RAMP;
 - ii. an electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP;
 - iii. an explanation of the differences between the approved action management plan and the RAMP;
 - iv. the reasons the approval holder considers that taking the action in accordance with the RAMP would not be likely to have a **new or increased impact**; and
 - v. written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least 20 **business days** after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the **Department**.
 - b. subject to condition 33, implement the RAMP from the RAMP implementation date.
32. The approval holder may revoke its choice to implement a RAMP under condition 30 at any time by giving written notice to the **Department**. If the **approval holder** revokes the choice under condition 30, the **approval holder** must implement the previous action management plan approved by the **Minister**.
33. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the RAMP would be likely to have a **new or increased impact**, then:
- a. condition 30 does not apply, or ceases to apply, in relation to the RAMP; and
 - b. the approval holder must implement the action management plan specified by the **Minister** in the notice.



34. At the time of giving the notice under condition 33, the **Minister** may also notify that for a specified period of time, condition 30 does not apply for one or more specified action management plans.

Note: conditions 30, 31, 32 and 33 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

Completion of the action

35. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

36. In these conditions, except where contrary intention is expressed, the following definitions are used:
- a. **BioBanking** – the New South Wales Government’s biodiversity credit and offset scheme of that name created under the Threatened Species Conservation Act 1995 (NSW), as amended and repealed or an equivalent scheme under a successor mechanism under the Biodiversity Conservation Act 2016 (NSW).
 - b. **BioBanking Agreement** – has the meaning given under the Threatened Species Conservation Act 1995 (NSW), as amended and repealed, or an equivalent under a successor mechanism under the Biodiversity Conservation Act 2016 (NSW).
 - c. **Business days** means a day that is not a Saturday, a Sunday or a public holiday in New South Wales.
 - d. **Cleared** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of **SSTF**.
 - e. **Commencement of the action** means the first instance of any specified activity associated with the action including clearance of vegetation and **construction** of any infrastructure. Commencement 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 site**; and
 - iii. protect environmental and property assets from fire, weeds and pests, including erection or **construction** of fencing and signage, and maintenance or use of existing surface access tracks, if agreed in writing by the **Department**.
 - f. **Completion data** means an environmental report and spatial data information clearly detailing how the conditions of this approval have been met. The **Department’s** preferred spatial data format is ESRI shapefile, including containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference and a '.prj' file or specification of the projection/geographic coordinate system used.
 - g. **Completion of the action** means the time at which all approved conditions (except condition 31) have been fully met.
 - h. **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;
 - i. **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; and
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
- j. **Construction** means the creation and development of services (sewerage, electricity, water, stormwater), the use of heavy equipment for the purposes of breaking ground for buildings or infrastructure, and the building of infrastructure associated with the action. This does not include preparatory works such as the erection of signage or temporary fencing.
- k. **Council reserve** means the area designated as **Council reserve** on the map at **Attachment 1**.
- l. **CPW** means the Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community listed as critically endangered under the **EPBC Act**.
- m. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
- n. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- o. **EPBC Act environmental offset policy** means the document: Department of Sustainability, Environment, Water, Population and Communities (2012). *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offset Policy*. Commonwealth of Australia, Canberra
- p. **Evidence** means documentation from the relevant authority showing that the offset has been **secured**.
- q. **Fernhill Central West biobanking site** means the area designated as 'Offset (4ha)' in the map at **Attachment 2**.
- r. **Habitat for protected matters** means a minimum of:
 - i. 8 hectares of **SSTF**
 - ii. 0.8 hectares of **CPW**
 - iii. 14.38 hectares of Koala habitat
 - iv. 10.85 hectares of Grey-headed Flying-fox foraging habitat
- s. **Impact** means any measureable direct or indirect disturbance/change that occurs as a result of any activity associated with the proposed action.
- t. **Incident** means any event which has the potential to, or does, **impact** on **protected matters**.
- u. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
- v. **like-for-like credits** has the meaning given under the *Threatened Species Conservation Act 1995* (NSW) (now repealed), or an equivalent biodiversity offsetting mechanism under the *Biodiversity Conservation Act 2016* (NSW) and includes the **retirement** of credits from the following plant community types:
SSTF
 - i. *Narrow-leaved Ironbark – Broad-leaved Ironbark – Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion*
 - ii. *Broad-leaved Ironbark – Melaleuca decora shrubby open forest on clay soils of the Cumberland Plain, Sydney Basin Bioregion*
 - iii. *Turpentine – Grey Ironbark open forest on shale in the lower Blue Mountains, Sydney Basin Bioregion.*



CPW

- i. *Shale Hills Woodland*
 - ii. *Cumberland Shale Hills Woodland*
 - iii. *Grey Box-Forest Red Gum grassy woodland on shale of the southern Cumberland Plain, Sydney Basin*
- b. **Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.
- c. **New or increased impact** means a new or increased environmental **impact** or risk relating to any **protected matter**, when compared to the likely **impact** of implementing the action management plan that has been approved by the **Minister** under condition 8 or condition 11, including any subsequent revisions approved by the **Minister**, as outlined in the *Guidance on 'New or Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals (2017)*.
- d. **Offset attributes** – mean an '.xls' file capturing relevant attributes of the offset site, including the **EPBC Act** reference ID number, the physical address of the offset site, coordinates of the boundary points in decimal degrees, the **EPBC Act protected matters** that the offset compensates for, any additional **EPBC Act protected matters** that are benefiting from the offset, and the size of the offset in hectares.
- e. **Onsite offset areas** means the area designated Proposed BioBank sites at **Attachment 1**.
- f. **Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).
- g. **Proposed action area** means the area designated as 'study area' on the map at **Attachment 1**.
- h. **Protected fauna** means:
 - i. Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) (*Phascolarctos cinereus* (combined populations of Qld, NSW and the ACT) listed as vulnerable under the **EPBC Act**).
 - ii. Grey-headed Flying-fox (*Pteropus poliocephalus*) listed as vulnerable under the **EPBC Act**.
- i. **Protected matter(s)** means **protected fauna** and other matters protected by Part 3 of the **EPBC Act**, including **SSTF and CPW**.
- j. **Retirement** means a change in the status of a credit such that the credit can no longer be bought or sold.
- k. **Shapefiles** – means an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the offset site, including the shape, EPBC Act reference ID number and protected matters present at the relevant site. Attributes should also be captured in '.xls' format.
- l. **Secure/secured** means long-term protection under a legal mechanism that is either:
 - i. **retirement** of sufficient **like-for-like credits** in accordance with the New South Wales Government's BioBanking Scheme created under the *Threatened Species Conservation Act 1995* (NSW), as amended and repealed or an equivalent biodiversity offsetting mechanism under the *Biodiversity Conservation Act 2016* (NSW); or
 - ii. another legal mechanism, if approved in writing by the **Minister**.
- m. **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*.

Commented [MW17]: It could be interpreted that the legal mechanisms itself must be signed by the Minister, maybe 'another legal mechanism that has been endorsed in writing by the Minister' is better?



- n. **Successor mechanism** - any biodiversity offsetting mechanism legislated and implemented by the New South Wales Government to replace, or as a successor to, BioBanking. Such a mechanism is only acceptable for the purposes of this approval if it:
 - i. is included in a bilateral agreement under the EPBC Act (either referenced directly in the agreement, or as part of a wider process that is adopted in a bilateral agreement) OR
 - ii. has been agreed by the Department in writing to the approval holder or the title holder as being an appropriate successor mechanism.
- o. **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.
- p. **SSTF** means the Shale Sandstone Transition Forest of the Sydney Basin Bioregion ecological community listed as critically endangered under the **EPBC Act**.
- q. **website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

ATTACHMENTS

1. **Attachment 1** – Map showing proposed action area, onsite offset areas and Council reserve
2. **Attachment 2** – Map of Fernhill Central West biobanking site

Commented [NO18]: Add in appendix for the impact/development footprint

Commented [MW19]: This is really important in order to make conditions 1-4 enforceable

Formatted: Font color: Text 1

s22

From: s22
Sent: Wednesday, 24 October 2018 3:53 PM
To: s22
Cc: s22 (Protected)
Subject: MEM861P/RESULT/EHC/Lendlease Communities (Mt Gilead) Pty Limited [DLM=For-Official-Use-Only]
Attachments: MEM861P_-_EHC_ASICCurrentComp_LENDLEASE_COMMUNITIES_(MT_GILEAD)_PTY_LIMITED_-_ACN_605278331.pdf

Hi s22

Environmental History Check – Lendlease Communities (Mt Gilead) Pty Limited (ACN 605278331).

Please see attached – Company extract relating to:

Lendlease Communities (Mt Gilead) Pty Limited – registered 14 April 2015 listing three (3) current directors:

- Arthur ILIAS s47F
- Marcus RAU s47F
- Matthew WALLACE s47F

Ultimate Holding Company: Lendlease Corporation Limited (000226228).

s47E (d)

Forwarded for your information should you require additional information please do not hesitate to contact me.

s22

s22
Senior Intelligence Officer
Operational and Tactical Intelligence
Office of Compliance
Department of the Environment and Energy

Mail: GPO Box 787, Canberra ACT 2601

T: 02 6274-s22 Fax: 02 6274-1607

E: s22

E: { HYPERLINK "mailto:intelligence@environment.gov.au" }

Protected Enclave:

E: s22

E: { HYPERLINK "mailto:intelligence@protected.environment.gov.au" }

{ INCLUDEPICTURE "cid:image001.png@01D46BB1.A16BB180" * MERGEFORMATINET }

Current Company Extract for LENDLEASE COMMUNITIES (MT GILEAD) PTY LIMITED

FOI 190324
Document 1g(ii)

Extracted from ASIC database on 24 October 2018 12:58 PMAEST

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

Organisation Details

Name:	LENDLEASE COMMUNITIES (MT GILEAD) PTY LIMITED
A.C.N:	605278331
A.B.N:	88605278331
Status:	Registered
Registered In:	VIC
Registered on Date:	14/04/2015
Review Date:	31/07/2019
Ultimate Holding Company	LENDLEASE CORPORATION LIMITED
Name Start Date:	02/02/2016
Type:	Australian Proprietary Company
Organisation Number Type:	Australian Company Number
Details Start Date:	02/02/2016
Class:	Limited By Shares
Subclass:	Proprietary Company
Disclosing Entity:	No
Registered charity:	No
Document Number:	7E7664160

Organisation Address

Status	Address Type	Address	Start Date	Doc Number
Current	Registered Office	INTERNATIONAL TOWERS SYDNEY, EXCHANGE PL 'TOWER THREE' LEVEL 14 300 BARANGAROO AVENUE BARANGAROO NSW 2000	02/08/2016	2E4284523
Current	Principal Place of Business	INTERNATIONAL TOWERS SYDNEY, EXCHANGE PL 'TOWER THREE' LEVEL 14 300 BARANGAROO AVENUE BARANGAROO NSW 2000	25/07/2016	2E4284523

Organisation Officers

Role	Officer Details	Address	Appointment Date	Court Details	Doc Number
Director	ARTHUR ILIAS s47F	s47F	14/04/2015		2E1712015
Director	MARCUS ANTON RAU s47F	s47F	01/11/2017		3E9775526
Director	MATTHEW JAMES WALLACE s47F	s47F	18/05/2016		6E2797753
Secretary	SUSAN ANN WESTLAKE s47F	s47F	14/04/2015		2E1712015
Secretary	KATRINA BETH SMITH s47F	s47F	29/07/2015		2E2334738
Ultimate Holding Company	LENDLEASE CORPORATION LIMITED ACN: 000226228				2E1712015

Share Structure

Share Class	No. Issued	Amount Paid	Amount Unpaid	Doc Number
ORD ORDINARY SHARES	10	\$10.00	\$0.00	2E1712015

Note: For each class of shares issued by a proprietary company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

Shareholders

Class	No. Held	Beneficially Held	Fully Paid	Shareholder Details	Document Number
ORD	10	Yes	Yes	LENLEASE COMMUNITIES (AUSTRALIA) LIMITED 'TOWER THREE INTERNATIONAL TOWERS SYDNEY EXC' LVL 300 BARANGAROO AVENUE BARANGAROO NSW 2000 ACN: 000966085 ABN: 88000966085	7E8277459

Documents

Form Code	Description	# of pages	Received	Processed	Effective	Doc Number
484	484A1 Change to Company Details Change Off ceholder Name Or Address	2	17/01/2018	17/01/2018	16/01/2018	6E2797753
484	484E Change to Company Details Appo ntment or Cessat on of A Company Off ceholder	2	08/11/2017	08/11/2017	01/11/2017	3E9775526
484	484A1 Change to Company Details Change Off ceholder Name Or Address	2	24/08/2017	24/08/2017	23/08/2017	3E6597367
484	484E Change to Company Details Appo ntment or Cessat on of A Company Off ceholder	2	12/01/2017	12/01/2017	11/01/2017	2E7393044
484	484A2 Change to Company Details Change Member Name or Address	2	23/08/2016	23/08/2016	23/08/2016	7E8277459
484	484A1 Change to Company Details Change Off ceholder Name Or Address	2	22/08/2016	22/08/2016	17/08/2016	2E4454203
484	484 Change to Company Details 484B Change of Reg stered Address 484C Change of Pr nc pa P ace of Bus ness (Address)	2	26/07/2016	26/07/2016	25/07/2016	2E4284523
484	484E Change to Company Details Appo ntment or Cessat on of A Company Off ceholder	2	18/05/2016	18/05/2016	18/05/2016	2E3716254
205	205A Not f cat on of Reso ut on Chang ng Company Name	3	02/02/2016	02/02/2016	02/02/2016	7E7664160
488	488M App cat on to Change Rev ew Date of a Company or Scheme Synchron se Rev ew Date W th Ho d ng Company - No Fee	4	24/09/2015	07/10/2015	24/09/2015	028818446
484	484E Change to Company Details Appo ntment or Cessat on of A Company Off ceholder	2	24/08/2015	24/08/2015	29/07/2015	2E2334738
484	484E Change to Company Details Appo ntment or Cessat on of A Company Off ceholder	2	14/07/2015	14/07/2015	09/07/2015	2E2137441
201	201C App cat on For Reg strat on as a Proprietary Company	3	14/04/2015	14/04/2015	14/04/2015	2E1712015

Contact Address for ASIC use only

Note: The Address for ASIC Company Commun cat ons s for ASIC use on y to correspond w th the company. ASIC w forward not ces such as the company statement, nvo ce statements and other correspondence where requested to th s address.

Address	Start Date	Doc Number
---------	------------	------------

'INTERNATIONAL TOWERS SYDNEY
EXCHANGE PLACE' LVL 1
300 BARANGAROO AVENUE
BARANGAROO NSW 2000

15/04/2015

s22

From: Species Policy
Sent: Tuesday, 23 October 2018 5:29 PM
To: s22
Cc: s22 ; Environment Protection; s22 ; Species Policy
Subject: FW: Mt Gilead Residential development (EPBC 2015/7599) - statutory document check for proposed decision [SEC=UNCLASSIFIED]
Attachments: 2015-7599 - Mt Gilead residential development, NSW - 2018-10-23.pdf

Hi s22

On behalf of the Protected Species and Communities Branch, I confirm that we are not anticipating any changes to the documents relating to the threatened species and ecological communities identified by ESD in the Statutory Document Report provided by the email below in the coming six weeks.

Please note that PSCB has not re-checked whether the correct documents are present or that the citation information is correct.

Regards, s22

s22 | Assistant Director | Species Information and Policy Section | Department of the Environment and Energy
PO Box 787 | CANBERRA ACT 2600

s22

Ph: (02) 6274 s22

From: s22
Sent: Tuesday, 23 October 2018 4:35 PM
To: Species Policy
Cc: s22 ; Environment Protection
Subject: FW: Mt Gilead Residential development (EPBC 2015/7599) - statutory document check for proposed decision [SEC=UNCLASSIFIED]

Hi s22 and s22

I have reviewed the threatened species and ecological communities identified by EIAS in the Statutory Document Report provided by the assessment officer. The statutory report identified all statutory documents correctly. The report is attached for your reference.

Could you please provide advice as to whether or not there are any new, revised or imminent conservation advice or threat abatement plans that may be relevant to this project?

The assessment officer has requested confirmation by 26 October 2018. Thank you.

Best regards,

s22

From: s22
Sent: Tuesday, 23 October 2018 4:26 PM

To: s22

Subject: Mt Gilead Residential development (EPBC 2015/7599) - statutory document check for proposed decision [SEC=UNCLASSIFIED]

Hi QA Officer

The proposed decision for the Mt Gilead Residential development (EPBC 2015/7599) is likely to be signed by the delegate in the next 2 weeks.

The project is located at Gilead, NSW. Could you please provide advice as to whether or not there are any new, revised or imminent conservation advices, recovery plans or threat abatement plans that may be relevant to this project?

I have attached a Species and Communities Statutory Documents Report which was prepared for this project on 23/10/2018

Please let me know if you require any further information.

Are you able to provide this advice by 26/10/2018

Thanks

s22

Southern NSW/ACT Assessments Section

ESD

02 6275 s22

EPBC ACT LISTED THREATENED SPECIES AND ECOLOGICAL COMMUNITIES STATUTORY DOCUMENTS REPORT

EPBC 2015/7599 Mt Gilead residential development, NSW

Report generated: 23 Oct 2018, 04:21 PM

Assigned Officer: s22

This report has been generated in accordance with section 139 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). This report provides statutory documents for threatened species and ecological communities recorded in the Environmental Impact Assessment System (EIAS).

The Department considers that the proposed action will have, or is likely to have, a significant impact on the following listed threatened species and ecological communities:

Listed Threatened Species

Phascolarctos cinereus (combined populations of Qld, NSW and the ACT) — Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) [SPRAT [85104](#)]

Pteropus poliocephalus — Grey-headed Flying-fox [SPRAT [186](#)]

Listed Threatened Ecological Communities

Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest [SPRAT [112](#)]

Shale Sandstone Transition Forest of the Sydney Basin Bioregion [SPRAT [146](#)]

STATUTORY DOCUMENTS RELATED TO THE IDENTIFIED THREATENED SPECIES AND ECOLOGICAL COMMUNITIES

Note: Listing status is current at the date of this report. The date of effect of listing status has been included so changes in status since the controlled action decision can be identified for the purpose of section 158A.

The following statutory documents relate to the above listed threatened species and/or ecological communities and are considered relevant to the Department's recommendation:

Listed Threatened Species

Phascolarctos cinereus (combined populations of Qld, NSW and the ACT) — Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) [SPRAT [85104](#)]

Current EPBC Act Status: Vulnerable [effective from 02 May 2012]

Controlled Action Decision Status: [Awaiting Decision]

Conservation Advice

Department of Sustainability, Environment, Water, Population and Communities (2012). *Approved Conservation Advice for Phascolarctos cinereus (combined populations in Queensland, New South Wales and the Australian Capital Territory)*. Canberra: Department of Sustainability, Environment, Water, Population and Communities. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/197-conservation-advice.pdf>. In effect under the EPBC Act from 02 May 2012.

Recovery Plan(s):

Nil.

Threat Abatement Plan(s):

Nil.

Pteropus poliocephalus — Grey-headed Flying-fox [SPRAT [186](#)]

Current EPBC Act Status: Vulnerable [effective from 06 December 2001]

Controlled Action Decision Status: [Awaiting Decision]

Conservation Advice

Nil.

Recovery Plan(s):

Nil.

Threat Abatement Plan(s):

Nil.

Listed Threatened Ecological Communities

Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest [SPRAT [112](#)]

Current EPBC Act Status: Critically Endangered [effective from 09 December 2009]

Controlled Action Decision Status: [Awaiting Decision]

Conservation Advice

Department of the Environment, Water, Heritage and the Arts (2009). *Approved Conservation Advice for Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community*. Canberra, ACT: Department of the Environment, Water, Heritage and the Arts. Available from:

<http://www.environment.gov.au/biodiversity/threatened/communities/pubs/112-conservation-advice.pdf>. In effect under the EPBC Act from 09 December 2009.

Recovery Plan(s):

Nil.

Threat Abatement Plan(s):

Department of the Environment (2014). *Threat abatement plan for disease in natural ecosystems caused by Phytophthora cinnamomi*. Canberra, ACT: Commonwealth of Australia. Available from:

<http://www.environment.gov.au/resource/threat-abatement-plan-disease-natural-ecosystems-caused-phytophthora-cinnamomi>. In effect under the EPBC Act from 31 January 2014.

Shale Sandstone Transition Forest of the Sydney Basin Bioregion [SPRAT [146](#)]

Current EPBC Act Status: Critically Endangered [effective from 16 December 2014]

Controlled Action Decision Status: [Awaiting Decision]

Conservation Advice

Department of the Environment (2014). *Approved Conservation Advice (including listing advice) for Shale Sandstone Transition Forest of the Sydney Basin Bioregion (EC25R)*. Canberra: Department of the Environment. Available from:

<http://www.environment.gov.au/biodiversity/threatened/communities/pubs/146-conservation-advice.pdf>. In effect under the EPBC Act from 16 December 2014.

Recovery Plan(s):

Nil.

Threat Abatement Plan(s):

Department of the Environment (2014). *Threat abatement plan for disease in natural ecosystems caused by Phytophthora cinnamomi*. Canberra, ACT: Commonwealth of Australia. Available from:

<http://www.environment.gov.au/resource/threat-abatement-plan-disease-natural-ecosystems-caused-phytophthora-cinnamomi>. In effect under the EPBC Act from 31 January 2014.

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

To: Kim Farrant, Assistant Secretary, Assessments and Waste Branch (for decision)

Approval Decision Brief (recommendation report) – Mt Gilead residential development, NSW (EPBC 2015/7599)

Timing: 10 October 2018- Statutory timeframe (overdue).

Recommendations:

1. Consider the information in this brief and its attachments, including the proposed approval decision briefing package at Attachment E.
Considered / Please discuss
2. Consider the responses to the invitation for comment on the proposed decision at Attachment A.
Considered / Please discuss
3. Approve, for each controlling provision, the action as summarised in the table below.
Approved / Not approved
4. Agree to attach the conditions of approval as set out in Attachments C1 and C2.
Agreed / Not agreed
5. Sign the notice of your decision at Attachment C2.
Signed / Not signed
6. If you agree to 3 and 4, accept the reasoning in the Departmental briefing package as the reasons for your decision.
Accepted / Please discuss
7. Sign the letters at Attachment D advising the person proposing to take the action, and other relevant parties, of your decision.
Signed / Not signed

Summary of recommendations on each controlling provision:

Controlling Provisions for the action	Recommendation	
	Approve	Refuse to Approve
Listed threatened species and communities (ss 18, 18A)	Approve	

Kim Farrant, Assistant Secretary, Assessments and Waste Branch:

Date: 21-12-18



Comments:

Key Points:

Background

1. On 12 November 2018, as recommended in the Proposed Approval Decision Brief (Attachment E) you wrote to the proponent seeking comments on your proposed decision.

Issues/ Sensitivities

2. Except as discussed in this brief, the matters for consideration and factors to be taken into account for your decision remain as set out in the Proposed Approval Decision Brief. The proponent has requested some minor changes to conditions of approval to further align the approval with the Biodiversity Certification Agreement (between the proponent, Campbelltown City Council and the NSW Government) that is pending for the site. This information is discussed in more detail below.

Proposed changes to conditions

3. In their formal response to the invitation to comment (see Attachments A1 and A2), the proponent provided additional information about their ability to meet certain conditions. The Department has accepted the majority of the suggestions provided by the proponent as reasonable. The proponent's requested changes and the Department's response is summarised below. Actual recommended changes are tracked for comparison in Attachment C1.

Condition	Proponent requested change	Department response
Action	Request the description of the action be updated following subdivision of Lot 3 DP1218887 in May 2018 to create Lots 1-5 DP1240836.	Agreed (no material change)
1	Request modification to Appendix 1 to make it clear which areas are able to be cleared.	Agreed (no material change)
2	Provided additional explanation to substantiate use of a figure of 1.2 ha of CPW within the Noorumba-Mt Gilead BioBank as the offset for 0.55 ha of CPW in the proposed action area. This represents 102.7% of the offset requirements for CPW.	Agreed
4	Due to the requested change in Condition 4, <u>no additional offsets</u> are required for CPW.	Agreed
5	<i>GHFF</i> . The proponent carried out additional assessment of the adequacy of onsite offset areas and the Fernhill BioBank site as compensation for impacts to the GHFF, concluding that these areas represent 117.94% of the offset requirements for GHFF.	Agreed

Condition	Proponent requested change	Department response
5	<p><i>Koala</i> The proponent reiterated their opinion that onsite offsetting and the retirement of 151 Koala credits from the Noorumba Reserve Biobank site represent 199% of the offset requirements for the Koala.</p> <p>The proponent provided an additional offset proposal through which it proposes to purchase 150 Koala credits from a 21,13 ha of Koala Habitat from a registered biobank site located within an area mapped by NSW OEH as primary Koala corridor (Attachment A3).</p>	<p><u>Not agreed</u>. The Department does not consider that land-based offsets from within the onsite offset sites and the Noorumba BioBank site will remain viable as habitat for the Koala and therefore considers that these areas do not meet the requirements of the EPBC Act offset policy.</p> <p>Agreed</p>
7	<p>The proponent reiterated that they believe that the recent announcement by the NSW government of a commitment of a \$1m grant program to ensure Koala friendly planning occurs in the vicinity of the proposed action area provides a significant investment in the protection for the local Koala population. These funds will be used over the next two years to undertake koala research, tree planting, pest management, and build greater community awareness about Koalas and their habitat. The proponent stated that the existence of the NSW grant funds negates the need for the proponent to contribute additional funds through condition 7.</p> <p>In a follow up phone call on the 21 December 2018, the Department proposed to reduce the amount contributed to the Koala recovery fund to <u>\$50,000</u> per year. The proponent agreed to this amount.</p>	<p><u>Not agreed</u>. Discussions with RMS during the assessment phase made it clear that the proponent is contributing a significant proportion (>80%) of the funds for the proposed road upgrade. The Department considers that the road upgrade can be considered, to meet the definition of an "Indirect consequence of the action" as defined in s527E of the EPBC Act. The Review of Environmental Factors (REF) for the road upgrade does not address indirect impacts on the Koala or propose offsets for indirect impacts associated with loss of habitat connectivity for the Koala. The Department therefore considers that additional compensation for indirect impacts to the Koala is required (above the compensation provided for through land-based offsets as per condition 6) and that financial contribution to a Koala recovery fund remains an appropriate compensation mechanism.</p> <p>The \$1m grant program referred to by the proponent relates to offsetting for <u>undefined impacts</u> to Koala habitat across the whole Great Macarthur Growth Area (including three Local Government Areas (Campbelltown</p>

Condition	Proponent requested change	Department response
		City Council, Wollondilly Shire Council and Camden council and 12 precincts, of which Gilead is one). The Department <u>considers the scale of the potential indirect impacts arising from the proposed action justifies contributions to a separate fund targeting activities in the direct vicinity of the Mt Gilead site.</u>
11-13	The proponent requested removal of these conditions which were originally drafted to ensure the long-term management of the council reserve. As the Department has agreed that the Council reserve can be used as an offset if registered as a BioBank site, the Department considers that adequate protections for the reserve will be provided through a Construction Management Plan required under condition 8 – 10 of the Department's approval.	Agreed
Definitions	Proposed Action Area means the area designated as 'Urban area, Detention Basin (Landscaped), Open Space-Landscape and Open Space' on the map at <u>Attachment 1 of Attachment C2.</u>	Agreed

4. The Department considers these amendments to the conditions are necessary for the proponent to be able to meet the approval conditions. The Department considers the amendments still represent a convenient method of achieving strong environmental outcomes and managing key risks.
5. The Threatened Species section of the Department expressed support for offset conditions targeting land based offsets within primary Koala corridors and offered to facilitate administration of Koala recovery team funds.

Public comments and additional information received after the proposed approval decision

6. The Department received a number of submissions and Ministerial correspondence from concerned community groups after the proposed approval decision was made, including Oatley Flora and Fauna Conservation group, Environmental Defenders Office on behalf of the International Fund for Animal Welfare (IFAW) and the Georges River Environmental Alliance. The Department also met with representatives of the Total Environment Centre, IFAW and the EDO on the 22 November 2018. These groups expressed concern about the loss of Koala corridors in the Campbelltown area and cumulative impacts of the proposed action with nearby developments including the Appin Road upgrade, use of the Noorumba BioBanking site as an offset for the project and the outcomes of the NSW Biocertification process. Subsequent to the meeting with the Department, IFAW provided additional information to the Department on 27 November 2018 relating to Koala corridors in the

vicinity of Mt Gilead (Attachment B1). The Department has considered the above new information provided by the above parties and considers that it is consistent with the Department's assessment of impacts to protected matters included in the recommendation report (Attachment E) and material provided.

7. On the 23 November 2018, the Department informally consulted with officers from the NSW Department of Environment and Heritage (OEH) to better understand OEH's mapping and prioritisation of Koala corridors in the Campbelltown and Wollondilly Local Government Areas. OEH subsequently provided a report "Conserving Koalas in the Campbelltown and Wollondilly LGAs" (Attachment B2) which maps primary, secondary and tertiary Koala corridors in the vicinity of Mt Gilead (note that these are working documents and have not been formally endorsed by OEH). The Department considers that the proposed approval conditions are consistent with OEH's corridor prioritisation work and will contribute to conservation of Koala habitat in priority Koala corridors.
8. The Department met with representatives from NSW Roads and Maritime Services on the 1 November 2018 to discuss their proposed upgrade of Appin road. The Review of Environmental factors for the Appin road upgrade was subsequently released for public comment on the 21 November 2018 (Attachment B3). As mentioned above, as the REF does not address or propose offsets for indirect impacts on the Koala associated with loss of habitat connectivity for the Koala. The Department considers that additional compensation for the Koala is required and that financial contribution to a Koala recovery fund by the proponent remains an appropriate compensation mechanism.

Expiry date of approval

9. The Department recommends that the approval have effect until 30 November 2038, which should allow for the action to be completed and all conditions satisfied.

Consultation:

10. The outcome of the consultation is as follows and responses to your proposed decision are at Attachments A-B.

Stakeholder	Comment
Designated Proponent	As detailed in paragraph 3
Threatened species section of the Department	As detailed in paragraph 5
Community groups	As detailed in paragraph 6
NSW Office of Environment and Heritage (OEH)	As detailed in paragraph 7
NSW Roads and Maritime Services (RMS)	As detailed in paragraph 8

Environment Audit Section and
Post-Approvals Section

Flagged formatting and language consistency questions. These comments were incorporated into the final condition set. Additional advice was not sought on the final condition set as the changes represented minor amendments.

s22

Director
Southern NSW and ACT Assessments section
Assessments and Waste Branch
Ph: (02) 6274 **s22**

21 December 2018

s22

Southern NSW and ACT Assessments
section
Ph: (02) 6274 **s22**

ATTACHMENTS

- A: Responses from proponent to invitation for comment on proposed decision
 - A1: Comments received on 21 November 2018.
 - A2: Comments received on 27 November 2018.
 - A3: Additional information and figures showing location of the new proposed offset site for the Koala at the Lot 2 DP 225253, Douglas Park Drive BioBank site.
- B: Additional public comments and information received after the proposed approval decision
 - B1: Letter from IFAW to the Minister of the Environment (27 November 2018).
 - B1: BioLink 2018 Koala Corridor Project Campbelltown City Council & Wollondilly Local Government Areas: Greater Macarthur Growth Area. Report to NSW Office of Environment and Heritage.
 - B2: Email from OEH 23 November 2018.
 - B2: OEH 2018 Conserving Koalas in the Campbelltown and Wollondilly LGAs.
 - B2: Preliminary advice to Roundtable October 2018.
 - B3: Appin road upgrade Review of Environmental Factors.
- C: Notice of decision
 - C1: Tracked changes version.
 - C2: Publishing version.
- D: Letter to proponent and Commonwealth Department of Defence.
- E: Proposed Approval Decision Briefing Package.
- F: Statutory document report.



27 November 2018

Kim Farrant
Assistant Secretary
Assessment and Waste Branch
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601

Attention: s22
CC: s22

Dear s22

**Re: Invitation to comment on proposed approval decision
Mt Gilead residential development, NSW (EPBC 2015/7599)**

I am writing to you in relation to your invitation to provide comments on the approval decision for the Mt Gilead residential development, NSW (EPBC 2015/7599) dated 12 November 2018. We welcome the opportunity to collaborate with the Department of the Environment and Energy to secure appropriate environmental outcomes for the Mt Gilead development.

There are several proposed conditions which we bring to your attention namely;

- Condition 1 – Impacts
- Conditions 2, 4, 5 & 7 Compensation Measures
- Conditions 11 – 13 Vegetation management plan

We also advise that a portion of the subject site (Lot 3 DP 1218887) was subdivided in May 2018 to create Lots 1-5 DP 1240836. We request the description of the action be updated accordingly.

In preparing the following comments reference is made to the meeting held on 21 November 2018 between Lendlease Communities (Mt Gilead) Pty Limited (**Lendlease**), consultants acting on behalf of Lendlease (**ELA**), representatives for Mt Gilead Pty Limited (**Mt Gilead**) and officers for the Department of the Environment and Energy (**The Department**) held at the Department Offices.

Condition 1 – Impacts

The current wording of the condition does not provide absolute certainty to the areas which are able to be cleared of protected matters within the action area. Modifications are requested to the 'Map showing proposed action area' to clearly and without doubt provide certainty that clearing of protected matters is permissible in the following areas;

- Development Areas - Currently Shaded Red on the Map of proposed action area
- Detention Areas - Currently Shaded Turquoise on the Map of proposed action area
- Open Space Areas - Currently Shaded Light Green on the Map of proposed action area
- Opens Space – Passive Areas - Currently Shaded Dark Green on the Map of proposed action area

We understand that this request was accepted and agreed by The Department at the meeting of 21 November 2018.



Conditions 2 – 7 Compensation Measures

Condition 2

We have reviewed the quantum of offsets provided by the onsite offset areas and concluded that the impact on CPW is 0.54 Ha (combined impacts of proposed conditions 2 & 3) however we conclude that excluding the buffer zones the onsite offset areas provide 1.2 Ha of EPBC Act quality CPW. This is the equivalent to 102.70% of the offset targets being met with the onsite offset areas.

Condition 4

Per the point above, we conclude that 102.7% of impacts to CPW are provided in the onsite offset areas, accordingly we believe there is no requirement for further offsetting of CPW.

From our meeting, we understand that the Department is not willing to accept the Council Reserves as onsite offset site due to potential uncertainty regarding the registration of these sites as biobank sites.

I bring to your attention the legal requirement for Lendlease to apply to enter into a biobanking agreement over these areas within 12 months of the conferral of the Biodiversity Certification, which will be imposed by The Minister administering the Threatened Species Conservation Act 1995 (NSW) as part of the Biodiversity Certification Agreement for the site. While we agree this requirement does not provide the Department absolute certainty these sites will become registered biobank, it does however demonstrate these sites will ultimately become biobanks following the relevant process.

As discussed with the Department we put forward the proposal to redraft conditions requiring offsets which are not satisfied by the creation of the Noorumba/Mt Gilead and Macarthur-Onslow biobanks so the remaining offset must be secured prior to works commencing is Stage 2 of the development in accordance with the staging plan forming the Biodiversity Certification. (Refer Appendix 2)

As such we recommend the proposed condition 4 be replaced with the following.

4. To compensate for impacts on 0.8 ha of SSTF not compensated through offsetting through conditions 2 and conditions 3, the approval holder must secure that 0.8 ha of SSFT is secured prior to the commencement of actions within Stage 2.

Condition 5

Grey Headed Flying-Fox (GHFF)

At the request of the Department (21/11/18) ELA have assessed the impacts to GHFF through the EPBC offset calculator. Using a habitat scope of 5, representative of the low quality of the 10.85 ha of habitat being impacted, an offset of 15.09 Ha is required.

To provide suitable offsets the onsite offset areas contain 13.8 Ha of existing habitat with a further 4 Ha being restored under the biobank agreements, a total offset of 117.94% will be provided in the onsite and offsite offset areas.

Koala

When considering the impacts on the local Koala population it is important to determine what the direct impacts of the action is on the local Koala population, the proposed action has a direct impact on 10.85 ha combined with a 3.53 Ha indirect impact of Koala habitat, when these are subjected to the EPBC offset calculator an offset of 20 ha is required to offset the direct impact of the action.



The current proposal of a combination of onsite offsetting (18.69 ha) and the retirement of 151 Koala credits from The Noorumba Reserve Biobank site will result in a protected habitat area of 39.96 ha, which is equivalent to an offset of 199% of the direct impacts of the action.

In order to provide a superior environmental outcome Lendlease also proposes to also provide offsets for the potential indirect impacts to the local Koala population. Lendlease proposes to secure an additional 21.13 ha of Koala Habitat from a registered biobank site prior to the commencement of the action. This additional offset exceeds the equivalent quantum of the direct impacts, in combination with the onsite offset measures this secures 60.82 ha of Koala habitat, delivering a superior environmental outcome.

Condition 7

The NSW government recently announced a commitment of a \$1m grant program to ensure Koala friendly planning occurs in the area. The funding to be released over the next two years to undertake koala research, tree planting, pest management, and build greater community awareness about Koalas and their habitat.

This commitment, combined with Lendlease's commitment to provide 60.82 ha of protected habitat for the local Koala population provides a significant investment in the protection of the local Koala population. These commitments exceed the expectations proposed in clause 7, as such this clause should be removed from the approval in its entirety.

Conditions 11 - 13

The requirement for the provision of a Vegetation Management Plan was originally drafted to ensure the long-term management of the council reserves, however these sites are now going to be subject to biobanking applications as per the Biodiversity Certification Agreement. As these sites will be subject to an application for biobanking a broad range of management plans will be prepared and administrated to ensure the long-term management of the reserves.

In the interim period between the commencement of the action and the commencement of bushland management works within the reserves, adequate protections for the reserves will be provided through a Construction Management Plan required under Clauses 8 – 10 of the Department's approval.

As discussed with the Department this clause should be removed from the approval in its entirety.

I trust that the Department will consider our proposed revised commitments fair and reasonable which ultimately achieve our goal to deliver a superior environmental outcome.

Regards,

s47F

Mark Anderson
Lendlease Communities (Mt Gilead) Pty Limited

cc: Old Mill Properties Pty Limited

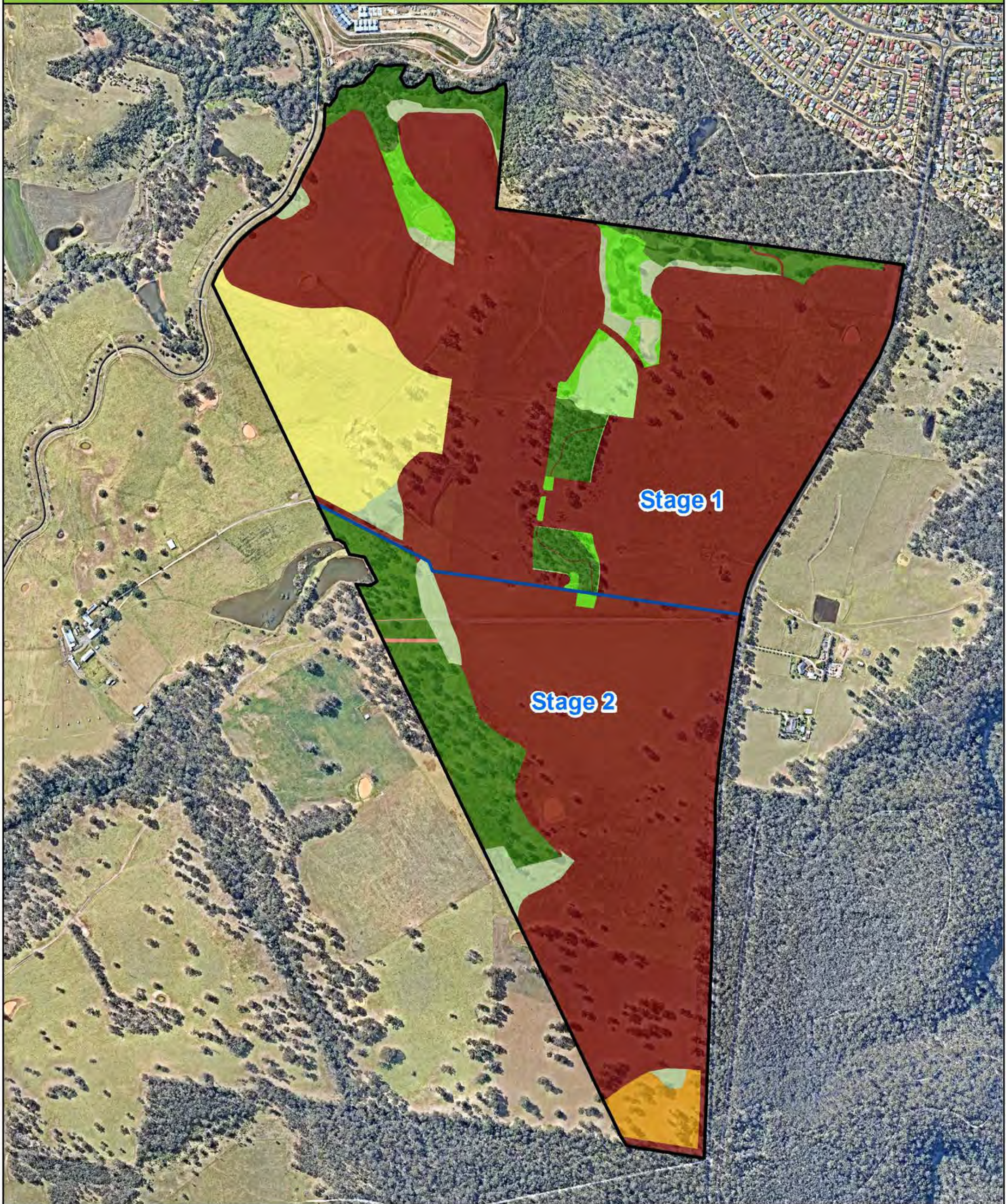
Appendix 1 – Revised Summary of Commitments

Mt Gilead Residential Development – Revised Commitment Register

Threatened Ecological Community / Threatened Fauna Species	Impact to be Offset	Stage 1 Offset		Stage 2 Offset
		Onsite	Offsite	
Sandstone Shale Transition Forest	5.97 Ha	8 Ha	4 Ha	0.8 Ha
Cumberland Plain Woodland	0.54 Ha	1.2 Ha		Nil
Koala (Direct)	10.85 Ha	18.7 Ha	21.27 Ha	Nil
Koala (In-Direct)	3.53 Ha			
Koala (Potential In-Direct)			21.13 Ha	Nil
Grey-Headed Flying Fox	10.85 Ha	13.8 Ha	4 Ha	Nil

Appendix 2 – Revised Map showing proposed action area

Development Layout



Legend

- Study Area
- Stages

Development Area

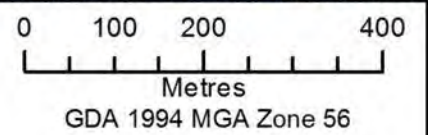
- Urban Area
- Detention Basin (Landscaped)
- Open Space - Landscaped
- Open Space

Retained Land

- Rural Land
- Open Space - Retained
- Existing Easements

Conservation (Offsets)

- Offset (Biobank Sites)



NOTES FOR MEETING – 21 NOVEMBER 2018

MT GILEAD RESIDENTIAL DEVELOPMENT (EPBC 2015/7599)

ADMINISTRATIVE

- i. Proposal to condition offsets in terms of Hectares Not Credits. Prior advise was these would be stated as credit requirements for ease of reference between the State and Commonwealth assessments & approvals.
- ii. Treatment of the managed lands with regards to the obligations under the Biodiversity Conservation Agreement (attached) to bio bank these sites
- iii. Methodology for calculation of offset requirements (We can't clearly index these back to the final report)

RESPONSES TO PROPOSED CONDITIONS OF APPROVAL

PART A – Conditions Specific to the action

Impacts

1. The approval holder must ensure that the clearing of **protected matters** within the proposed action area is limited to the area marked as 'development area' in **Attachment 1**.

Condition to be reworded to areas nominated for 'development' alternatively the clause should also nominate 'Detention Basins', 'Open Space' and 'Open Space – Passive' areas (per Attachment 1)

Compensation Measures

2. To offset the **impacts** on 3.3 ha of **SSTF** and 0.37 ha of **CPW**, the approval holder must ensure that 8 ha of **SSTF** and 0.8 ha of **CPW** is **secured** within **onsite offset areas** prior to the **commencement of the action**.

Department requested to confirm how these areas for impacts have been calculated?

3. To offset the **impacts** on 1.79 ha of **SSTF**, the approval holder must **secure** a minimum of 4 ha of **SSTF** at the Fernhill Central West Biobanking site prior to the **commencement of the action**.
4. To compensate for **impacts** on 0.8 ha of **SSTF**, and 0.17 ha of **CPW**, not compensated through offsetting through conditions 2 and Conditions 3, the approval holder must submit for the **Minister's** approval, an offset strategy in accordance with the **EPBC Act environmental offsets policy**. The offset strategy must outline how these impacts will be offset in perpetuity. The offset strategy should be submitted at least three months prior to the intended **commencement date**. The approval holder must not **commence the action** unless the offset strategy has been approved by the **Minister**.

An additional 2.96 ha of SSTF will be restored within 10 years through active management of the Macarthur Onslow BioBank. (PD Section 8.1.1)

An additional 0.81 ha of CPW will be restored within 10 years through active management of the Noorumba – Mt Gilead BioBank. (PD Section 8.1.1)

- a. These areas directly contribute to the ongoing viability of the protected matter and deliver an overall conservation that improves the viability of the protected matter as compared what is likely to happen if the action does not take place.

(S7.1 - EPBC Environmental Offset Policy 2012)

- b. Creates new similar habitat through revegetation works improving the quality of existing foraging habitat for the species, and /or protecting existing habitat through putting a conservation covenant on the title of the land (Biodiversity Certification & Bio banking)

(S7.1 - EPBC Environmental Offset Policy 2012)

Why are these areas be excluded from quantum of onsite offsets?

5. To compensate for **impacts to Koalas** and the **GHFF** the approved holder must submit, for the **Minister's** approval, an offset strategy in accordance with the **EPBC Act environmental offset policy**. The offset strategy must outline how these impacts will be offset in perpetuity. The offset strategy should be submitted at least three months prior to the intended **commencement date**. The approval holder must not **commence the action** unless the offset strategy has been approved by the **Minister**.

Koalas -

The proposed development is already compensating in the order of (199%) for the direct impacts to Koalas is already provided in the form of onsite Biobanks (97%) and the retirement of Koala credits from Noorumba Reserve. (102%)

RMS is reviewing the impacts of Appin as part of their assessment of the Review of Environmental Factors. In addition, direct impacts for Appin Road within the project frontage has been included in this assessment.

NSW Department of Planning is reviewing the impacts of proposed future developments as part of their Cumberland Plain Conservation Plan

In addition to these points above, NSW Government has committed \$1m funding for activities to compensate for cumulative impacts to the Koala associated with the development.

The funding will be released over the next two years to community groups, landowners and local council to undertake koala research, tree planting, pest management, and build greater community awareness about Koalas and their habitat.

Connectivity of the koala population is maintained within the Greater Macarthur land use planning

GHFF

What specific concerns the Department has with the proposed onsite offsetting provisions for foraging habitat.

Vegetation Management Plan

11. At least three months prior to the **commencement of the action**, the approval holder must submit a vegetation management plan (VMP) for the protection of protected matters in the Council reserve the **Minister's** approval. If the **Minister** approves the VEMP, then the approved VEMP must be implemented.

Treatment of these should be amended to reflect their status as proposed biobanks, per the Biodiversity Certification Agreement.

From: Anderson, Mark (Australia) [mailto:Mark.Anderson@lendlease.com]
Sent: Monday, 17 December 2018 3:32 PM
To: s22
Cc: 'RobertH@ecoaus.com.au' <RobertH@ecoaus.com.au>; s22
Subject: RE: [EXT]:Additional queries on final decision notice [SEC=UNCLASSIFIED]

s22

We have now received the attached biobank credit report, vegetation map and Koala habitat polygon from South 32's Appin West Biobank site.

In discussion with Rob Humphries, ELA have given the Koala habitat a current Habitat Quality score of 7/10,

Our proposal is to retire 150 credits (21.13 ha of Koala habitat), generating an EPBC Offset score of 107.67 % on its own (i.e. without the 284 Koala credits (= 39.96 ha of habitat) being retired at Mt Gilead).

Also attached is the EPBC Act offset calculator spreadsheet for this site.

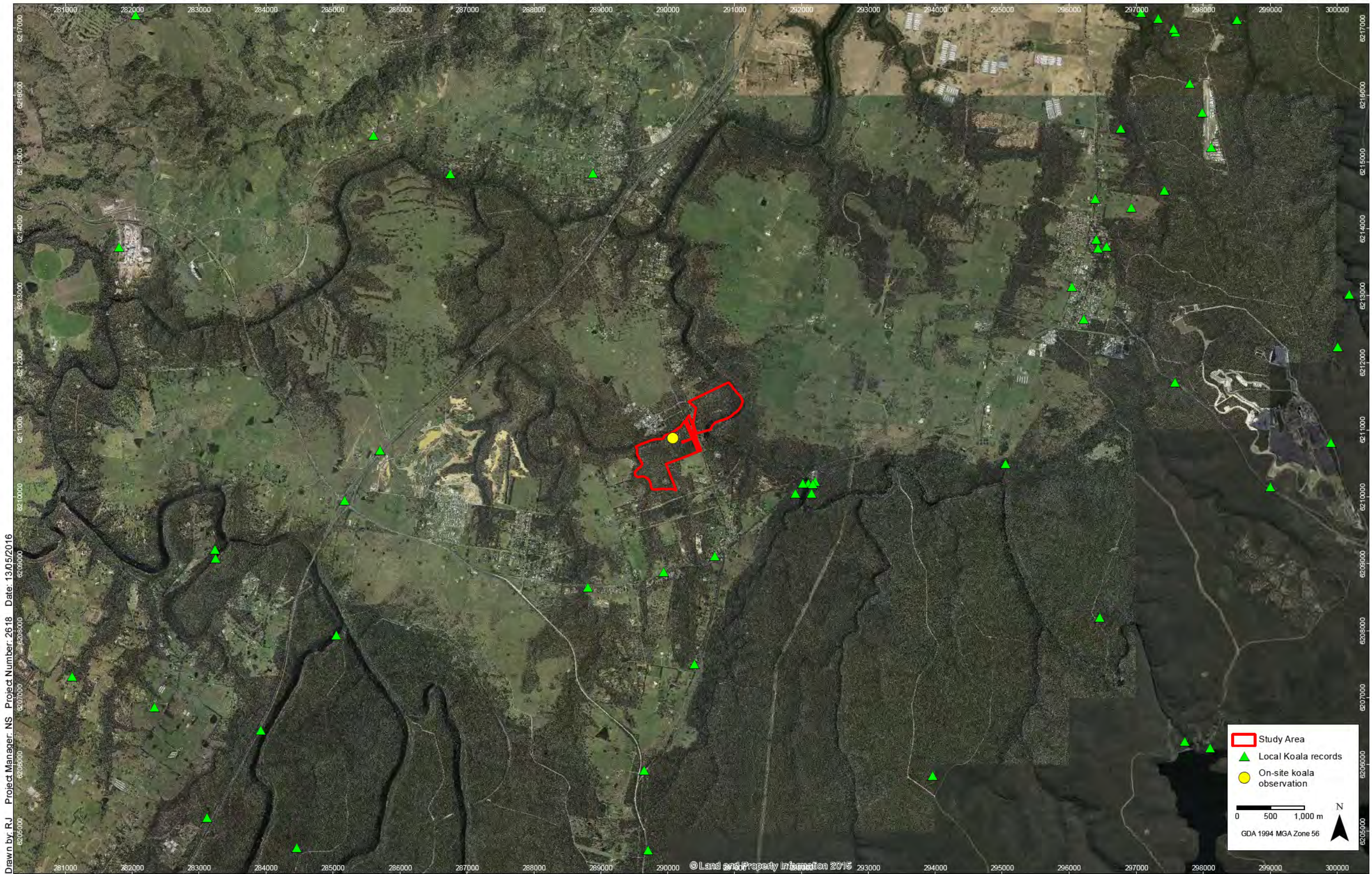
Any queries please let me know.

Regards,

Mark Anderson

Senior Development Manager, Communities
Level 2, 88 Phillip Street, Parramatta NSW 2150 Australia
PO Box 4, Parramatta NSW 2150
M s47F
mark.anderson@lendlease.com | www.lendlease.com





Local Koala records (Atlas of NSW Wildlife, Dec 2015)
 The Appin West BioBank Site

FIGURE 11

Imagery: (c) LPI 2013-02-07

This report identifies the number and type of credits required at a BIOBANK SITE

Date of report: 12/05/2016

Time: 6:08:40PM

Calculator version: v4.0

Biobank details

Proposal ID: 0047/2015/1880B
Proposal name: Appin West offset site
Proposal address: Douglas Park Road Douglas Park NSW 2569
Proponent name: Illawarra Coal
Proponent address: PO Box 514 Unanderra NSW 2526
Proponent phone: s47F
Assessor name: s47F
Assessor address: s47F
Assessor phone: s47F
Assessor accreditation: 0047

Additional information required for approval:

- Use of local benchmark
- Expert report...
 - Koala Phascolarctos cinereus
- Request for additional gain in site value

Ecosystem credits summary

Plant Community type	Area (ha)	Credits created
Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion	3.92	58.00
Grey Gum - Blue-leaved Stringybark open forest on gorge slopes, southern Sydney Basin Bioregion and north east South Eastern Highlands Bioregion	15.17	177.00
Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion	63.67	757.00
Water Gum - Coachwood riparian scrub along sandstone streams, Sydney Basin Bioregion	0.86	12.00
Total	83.62	1,004

Credit profiles

1. Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion, (HN528)

Number of ecosystem credits created	58
IBRA sub-region	Cumberland - Hawkesbury/Nepean

2. Grey Gum - Blue-leaved Stringybark open forest on gorge slopes, southern Sydney Basin Bioregion and north east South Eastern Highlands Bioregion, (HN531)

Number of ecosystem credits created	177
IBRA sub-region	Cumberland - Hawkesbury/Nepean

3. Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion, (HN556)

Number of ecosystem credits created	752
IBRA sub-region	Cumberland - Hawkesbury/Nepean

4. Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion, (HN556)

Number of ecosystem credits created	5
IBRA sub-region	Cumberland - Hawkesbury/Nepean

5. Water Gum - Coachwood riparian scrub along sandstone streams, Sydney Basin Bioregion, (HN607)

Number of ecosystem credits created	12
IBRA sub-region	Cumberland - Hawkesbury/Nepean

Species credits summary

Common name	Scientific name	Extent of impact Ha or individuals	Number of species credits created
Epacris purpurascens subsp. purpurascens	Epacris purpurascens subsp. purpurascens	7,349.00	52,178
Small-flower Grevillea	Grevillea parviflora subsp. parviflora	0.00	2,904
Small-flower Grevillea	Grevillea parviflora subsp. parviflora	409.00	2,904
Koala	Phascolarctos cinereus	44.60	317

Additional management actions

Additional management actions are required for:

Vegetation type or threatened species	Management action details
Epacris purpurascens subsp. purpurascens	Feral and/or over-abundant native herbivore control
Epacris purpurascens subsp. purpurascens	Maintain or re-introduce natural flow regimes
Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion	Exclude commercial apiaries
Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion	Exclude miscellaneous feral species
Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion	Feral and/or over-abundant native herbivore control
Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion	Fox control
Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion	Slashing
Grey Gum - Blue-leaved Stringybark open forest on gorge slopes, southern Sydney Basin Bioregion and north east South Eastern Highlands Bioregion	Exclude commercial apiaries
Grey Gum - Blue-leaved Stringybark open forest on gorge slopes, southern Sydney Basin Bioregion and north east South Eastern Highlands Bioregion	Exclude miscellaneous feral species
Grey Gum - Blue-leaved Stringybark open forest on gorge slopes, southern Sydney Basin Bioregion and north east South Eastern Highlands Bioregion	Feral and/or over-abundant native herbivore control
Grey Gum - Blue-leaved Stringybark open forest on gorge slopes, southern Sydney Basin Bioregion and north east South Eastern Highlands Bioregion	Fox control
Grey Gum - Blue-leaved Stringybark open forest on gorge slopes, southern Sydney Basin Bioregion and north east South Eastern Highlands Bioregion	Slashing
Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion	Exclude commercial apiaries

Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion

Exclude miscellaneous feral species

Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion	Feral and/or over-abundant native herbivore control
Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion	Fox control
Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest of the edges of the Cumberland Plain, Sydney Basin Bioregion	Slashing
Water Gum - Coachwood riparian scrub along sandstone streams, Sydney Basin Bioregion	Exclude commercial apiaries
Water Gum - Coachwood riparian scrub along sandstone streams, Sydney Basin Bioregion	Exclude miscellaneous feral species
Water Gum - Coachwood riparian scrub along sandstone streams, Sydney Basin Bioregion	Feral and/or over-abundant native herbivore control
Water Gum - Coachwood riparian scrub along sandstone streams, Sydney Basin Bioregion	Fox control
Water Gum - Coachwood riparian scrub along sandstone streams, Sydney Basin Bioregion	Slashing

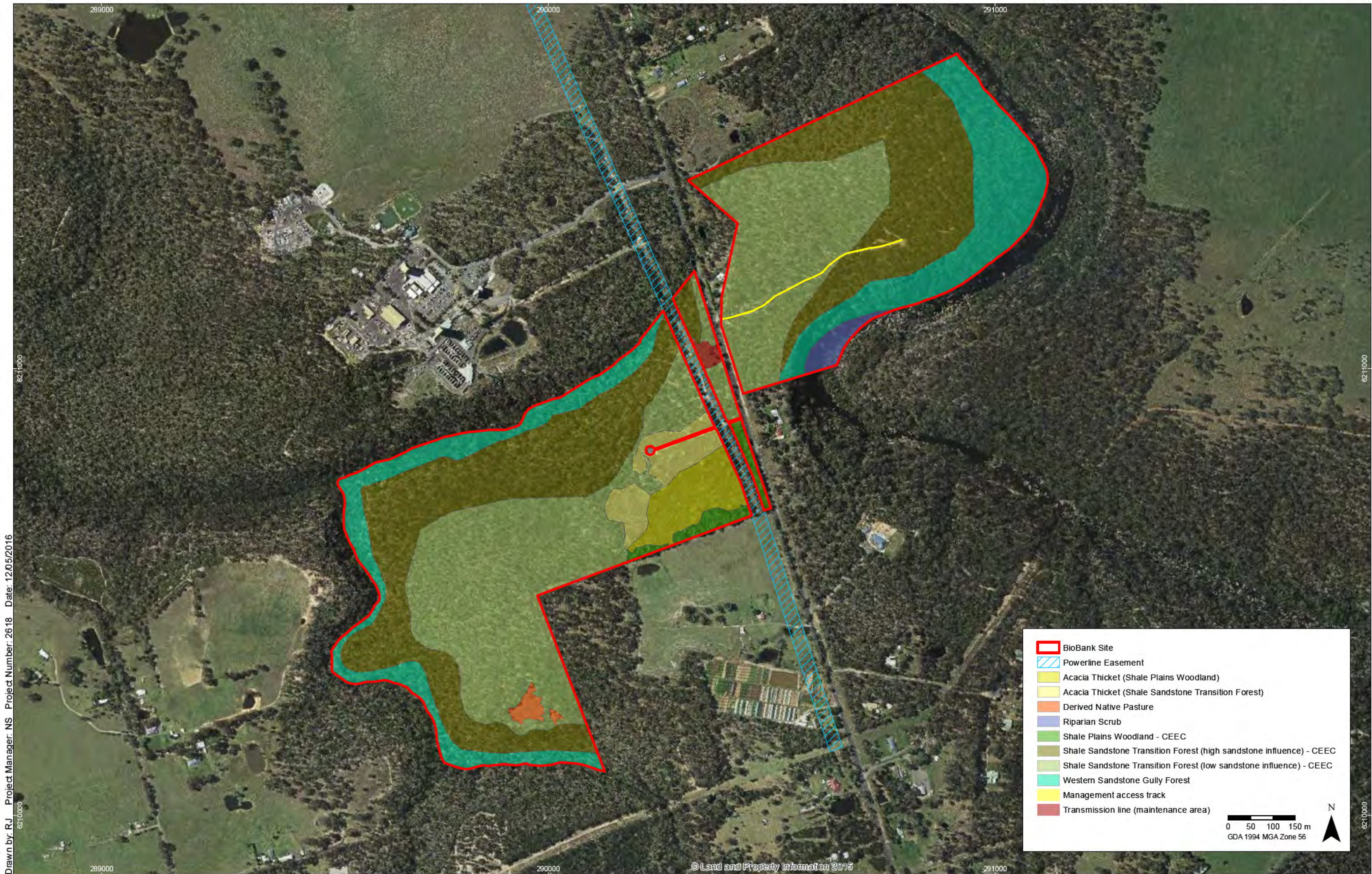


Koala habitat polygon
The Appin West BioBank Site

FIGURE 12

Imagery: (c) LPI 2013-02-07

FOI 190324
Document 2a(iii)(iv)



Site-validated vegetation mapping (Niche 2016 after NPWS 2003)
The Appin West BioBank Site

FOI 190324
Document 2a(iii)(v)

FIGURE 7
Imagery: (c) LPI 2013-02-07