

To: Assistant Secretary, Compliance & Enforcement Branch

Subject: *Bonside Development - Variation to Conditions*

EPBC No: *2011/6063*

Due Date: *16/11/15*

Contact Officer: *s 47F*

For: Signature Clearance Comment Information

Re-submit? First time Second time Third time Fourth time

Director's comments (Post Approvals Section)

*Thanks Done.
Variation to amend administrative error at approval stage.*

Cost Recovery
Time Taken

Officer: *10*

Director:

Name:

s 47F

Signed:

s 47F

Date:

16/11/15

Assistant Secretary's comments

Cost Recovery
Time Taken

Assistant Secretary | *45 mins*

Feedback:

- 1) Consultation & Coverage of Issues
- 2) Spelling, Grammar, Punctuation
- 3) Clarity, Succinctness, Formatting
- 4) Timeliness

Name:

Signed:

Date:

Project Officer to complete once delegate has approved

Is Chapter 4/Sea Dumping Sharepoint Site Up-To-Date?	Y / N
Does Condition Require an Offset?	Y / N
If Y - Has Offset Been Approved?	Y / N

Definitions of feedback criteria:

Consultation and Coverage of Issues – Was a satisfactory amount of consultation undertaken in considering the issues that are the subject of the brief? Was a satisfactory amount of consultation undertaken in the drafting of the brief? Consultation may be internal or external to the Department, depending on the issues covered in the brief. Does the brief appropriately cover all the key issues? The reader should feel that any outstanding questions that they might have had are covered in the content of the brief, without having to go back to the line area with queries.

Spelling – Are there spelling errors or typos in the brief?

Grammar – Are sentences structured correctly and is meaning conveyed accurately?

Punctuation – Is correct punctuation used throughout the brief?

Clarity, Succinctness, Formatting – Is the brief formatted in a succinct and logical way? The reader should understand what it is that is being asked of them at the very beginning of the brief, in the first few sentences.

Timeliness – Was the brief provided to the Branch Head in an appropriate timely manner?

It is important to keep Chapter 4 maintained and workflow process is followed accurately to ensure projects are progressed efficiently and statistics remain accurate.

To: Shane Gaddes, AS, CEB [for decision]

Through: s 47F, Director, PAS

November 2015

EPBC 2011/6063 - Burnside Development – The Point, Victoria – Variation to Approval Conditions

Timing: 16 November 2015

Recommendation/s:

1. That you agree to vary conditions 13 and 16 of EPBC Approval 2011/6063, as requested for this project in accordance with Section 143(1)(c) of the EPBC Act (at Attachment A).

Approved / Not approved

2. That you sign the variation decision instrument (at Attachment B).

Signed / Not signed

3. That you sign the letter to DFC (Project Management) Pty Ltd advising of your decision (at Attachment C).

Signed / Not signed

Signatory:

s 47F

Shane Gaddes
Assistant Secretary
Compliance and Enforcement Branch

Date: 19 November 2015

Comments:

Key Points:

1. The Minister has delegated you as decision maker for this matter pursuant to Section 515 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
2. On 20 July 2015, a delegate of the Minister approved with conditions the development of Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria (EPBC 2011/6063) (at Attachment D).
3. On 29 July 2015, a delegate of the Minister approved a Correction Notification as the expiry date on the approval notice was incorrect (Attachment E).
4. On 8 September 2015 the approval holder requested a variation to conditions 13 and 16 (at Attachment A).

5. The variation to condition 13 is to alter the approving identity from the Department to the Minister which is consistent with condition 16.
6. The variation to condition 16 is to alter the reference from Project Area C2 to Project Area D. This fixes an administrative error that was not detected when the approval was issued (at Attachment A).
7. The Environment Assessment Branch advised on 29 September 2015 that they were comfortable with the variation (at Attachment F).
8. The Department provided the approval holder with a revised draft variation notice on 10 November 2015. The approval holder advised that they accepted the variation as proposed on 11 November 2015 (at Attachment G).
9. In varying a condition under Section 143(c) the Minister must be satisfied that any conditions attached to the approval after the proposed variation are necessary or convenient for: (i) protecting a matter protected by any provision of Part 3 for which the approval has effect; or (ii) 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).
10. Officers of the Post Approvals Section (PAS) have considered this proposed variation and is satisfied that it is necessary and convenient for the protection of the matters of national environmental significance in accordance with Section 143(1)(c) of the EPBC Act. On this basis, PAS recommend that you approve the proposed variation in accordance with this section of the EPBC Act.
11. This variation is consistent with Standard Operating Procedure 5.6, *Variation to Approval Conditions*.

Reviewed by:

s 47F
Assistant Director, PAS
02 6275 s 47F
November 2015

Prepared by:

s 47F
PAS Officer
02 6274 s 47F
15 November 2015

Attachments

- A: Request from proponent for s143 variation to approval conditions, dated 8 September 2015 (for information)
- B: Letter advising of your decision (for signature)
- C: Instrument to vary approval conditions 13 and 16 (for signature)
- D: EPBC Approval dated 20 July 2015 (for information)
- E: Correction Notice Condition dated 29 July 2015 (for information)
- F: Email from EAB to PAS agreeing to the variation (for information)
- G: Email from approval holder agreeing with proposed revised conditions (for information)

s 47F [redacted]

From: s 47F [redacted]
Sent: Wednesday, 7 October 2015 9:32 AM
To: s 47F [redacted]
Subject: FW: Burnside EPBC 2011/6063 - Transition to Post Approvals Section Part 1 [SEC=UNCLASSIFIED]

From: Post Approval
Sent: Thursday, 24 September 2015 1:49 PM
To: s 47F [redacted]
Subject: FW: Burnside EPBC 2011/6063 - Transition to Post Approvals Section Part 1 [SEC=UNCLASSIFIED]

From: s 47F [redacted]@denniscorp.com.au]
Sent: Thursday, 24 September 2015 1:24 PM
To: Post Approval
Subject: RE: Burnside EPBC 2011/6063 - Transition to Post Approvals Section Part 1 [SEC=UNCLASSIFIED]

Would you please advise who is to be our contact officer in the Post Approvals section now that s 47F [redacted] has departed.

Of immediate concern is the need to correct some errors on the conditions of approval. The Assessment Section s 47F [redacted] was advised on 18 August that the conditions of approval required some minor amendments s 47F [redacted] subsequently briefed on the matter but no further advice has since been received. The following email chain provided further information.

Regards,

s 47F [redacted]
s 47F [redacted]
Residential Developments
Dennis Family Corporation
211 Waverley Road, East Malvern, 3145
s 47F [redacted]
s 47F [redacted]
<http://www.denniscorp.com.au>

s 47F [redacted] --10/09/2015 09:32:40 AM---Thanks s 47F [redacted] If the contact officer is finalised in the next few days I may be able to drop in ne

From: s 47F [redacted]
To: s 47F [redacted]
Cc: Post Approval <PostApproval@environment.gov.au>
Date: 10/09/2015 09:32 AM
Subject: RE: Burnside EPBC 2011/6063 - Transition to Post Approvals Section Part 1 [SEC=UNCLASSIFIED]

Thanks s 47F [redacted] If the contact officer is finalised in the next few days I may be able to drop in next Friday to introduce myself and the project.

s 47F [redacted]
s 47F [redacted]
Residential Developments

Dennis Family Corporation
211 Waverley Road, East Malvern, 3145

s 47F

<http://www.denniscorp.com.au>

s 47F 10/09/2015 09:06:51 AM---Hi s 47F Yes, there will be another contact person that will look after your EPBC approval. At the

From: s 47F <[redacted]@environment.gov.au>
To: s 47F <[redacted]@denniscorp.com.au>
Cc: Post Approval <PostApproval@environment.gov.au>
Date: 10/09/2015 09:06 AM
Subject: RE: Burnside EPBC 2011/6063 - Transition to Post Approvals Section Part 1 [SEC=UNCLASSIFIED]

Hi s 47F

Yes, there will be another contact person that will look after your EPBC approval. At the moment all my projects are being reassigned to other officers but the final split has not been finalised. Someone will be in contact when it has been finalised.

Cheers,

s 47F

s 47F

Post Approvals Section
Compliance and Enforcement Branch | ESD
Department of the Environment
Ph: 02 6274 s 47F

From: s 47F <[redacted]@denniscorp.com.au>
Sent: Wednesday, 9 September 2015 4:53 PM
To: s 47F
Cc: Post Approval; s 47F
Subject: RE: Burnside EPBC 2011/6063 - Transition to Post Approvals Section Part 1 [SEC=UNCLASSIFIED]

Hi s 47F

Thanks for the update. Will we have another contact person to deal with?

I will be in Canberra next Friday and wondered whether there may be any benefit in an introductory meeting.

Cheers,

s 47F

s 47F

Residential Developments
Dennis Family Corporation
211 Waverley Road, East Malvern, 3145

s 47F

<http://www.denniscorp.com.au>

s 47F --09/09/2015 04:42:11 PM---Hi s 47F Thank you for the email, I received all 4 parts. I apologise for the inconvenience, however,

From: s 47F <[redacted]@environment.gov.au>
To: s 47F <[redacted]@denniscorp.com.au>
Cc: s 47F <[redacted]@denniscorp.com.au>, Post Approval <PostApproval@environment.gov.au>, s 47F

s 47F

Date: 09/09/2015 04:42 PM

Subject: RE: Burnside EPBC 2011/6063 - Transition to Post Approvals Section Part 1 [SEC=UNCLASSIFIED]

Hi s
47F

Thank you for the email, I received all 4 parts. I apologise for the inconvenience, however, I will no longer be working in the Post Approvals Section after 11 September 2015.

I will let my supervisor know of your request to vary the condition set and another officer will liaise with you regarding your request.

Kind regards,

s 47F

s 47F

Post Approvals Section
Compliance and Enforcement Branch | ESD
Department of the Environment
Ph: 02 6274 s 47F

From: s 47F [mailto:s 47F@denniscorp.com.au] **On Behalf Of** s 47F

Sent: Tuesday, 8 September 2015 12:51 PM

To: Post Approval

Cc: s 47F

Subject: Fw: Burnside EPBC 2011/6063 - Transition to Post Approvals Section [SEC=UNCLASSIFIED] Part 1

Good Afternoon s 47F

I am resending s 47F email below as it is too large with the attachments. I will resend the email in 4 parts.

Apologies for any inconvenience.

Regards

s 47F

s 47F

Residential Developments
Dennis Family Corporation
211 Waverley Road, East Malvern, 3145

s 47F

<http://www.denniscorp.com.au>

----- Forwarded by s 47F [mailto:s 47F@denniscorp.com.au] Dennis on 08/09/2015 12:24 PM -----

From: s 47F [mailto:s 47F@denniscorp.com.au] Melbourne/Dennis

To: post.approvals@environment.gov.au

Cc: s 47F [mailto:s 47F@denniscorp.com.au] Melbourne/Dennis <mailto:s 47F@denniscorp.com.au>

Date: 08/09/2015 12:06 PM

Subject: Re: Burnside EPBC 2011/6063 - Transition to Post Approvals Section [SEC=UNCLASSIFIED]

Hi s 47F

Sorry for the delay in coming back to you on the matters raised in your email dated 20 August.

The amendments we seek to the conditions are as follows and marked up on the attachment:

1. Amend the first sentence of Condition 16 to refer to **Project Area D** and not Project Area C2. The reason for this change is that the 4.480 hectares of NTGVVP and SLL offset relates only to Project Area D (refer Table 2, page 12 in the Preliminary Documentation). The NTGVVP and SLL offset for Project Area C2 is already picked up under Condition 13.
2. The first Note at the foot of Condition 16 should be amended to read **Project Area D** and not Project Area C2 and C1 for the reasons above.

All other conditions appear to be satisfactory, although I note that in Condition 13 the Department is the approving party for the offset management plan whereas in Condition 16 it is the Minister. Perhaps this apparent inconsistency could also be confirmed.

I note your confusion regarding the map and have attached a copy of the original version (including layering) provided to the Department. This might be clearer than the reproduced copy attached to the approval. The detail on the plan was provided at the request of the Assessments Section. Let me know if you require any further changes.

Also find attached electronic copies of the Final Preliminary Documentation and Spiny Rice-Flower Propagation Project as requested.

Please advise if you need any further information.

Regards,

s 47F
s 47F
Residential Developments
Dennis Family Corporation
211 Waverley Road, East Malvern, 3145
s 47F
<http://www.denniscorp.com.au>

[attachment "Amendments to Conditions.pdf" deleted by s 47F Melbourne/Dennis] [attachment "Project Area Plan 29062015.pdf" deleted by s 47F Melbourne/Dennis] [attachment "Report 7045 (4.17) Spiny Rice Flower Propagation Report_March2014.pdf" deleted by s 47F Melbourne/Dennis] [attachment "Report 7045 (6.13) Final Preliminary Documentation EPBC 2011-6063.pdf" deleted by s 47F Melbourne/Dennis]

s 47F --20/08/2015 04:06:26 PM---Good afternoon s 47F EPBC Approval 2011/6063 has now entered the Post Approval stage. As such the pr

From: s 47F @environment.gov.au>
To: s 47F @denniscorp.com.au>
Cc: s 47F @environment.gov.au>, s 47F @environment.gov.au> s 47F
s 47F @environment.gov.au>
Date: 20/08/2015 04:06 PM
Subject: Burnside EPBC 2011/6063 - Transition to Post Approvals Section [SEC=UNCLASSIFIED]

Good afternoon s 47F

EPBC Approval 2011/6063 has now entered the Post Approval stage. As such the project management has moved from the Queensland, Tasmania, Victoria Assessments Section to the Post Approvals Section. My name is s 47F and I will be the contact officer from the Department that will help you with further requests and approvals to EPBC 2011/6063.

s 47F has spoken to me regarding the variations that you seek to the condition set. Could you please forward that request onto s 47F rather than s 47F

It would be greatly appreciated if the marked up version of the conditions could be accompanied by a cover letter stating the reason for variation.

Further I have been looking at the map provided with the conditions and it is very confusing. Is it possible for us to generate a new map that only demarks Project Areas A, B, C1, C2 and D?

For the Post Approvals Section records, could you please an electronic versions of the following documents:

- Final Preliminary Documentation (December 2014, BL&A Report No. 7045 (6.13))
- Spiny Rice-Flower Propagation Project (March 2014, Report No. 7045 (4.17))

Finally, the Post Approvals Section has a email address that all requests are submitted to, could you forward all future requests and documents to the following address: post.approvals@environment.gov.au. You can attention the email to myself and cc in my personal email as well: s.47F@environment.gov.au

I apologise for the multiple requests sent to you in this first email but I look forward to working with you in the future [s.47F](mailto:s.47F@environment.gov.au)

Kind regards

[s.47F](mailto:s.47F@environment.gov.au)

[s.47F](mailto:s.47F@environment.gov.au)

Post Approvals Section
Compliance and Enforcement Branch | ESD
Department of the Environment
Ph: 02 6274 [s.47F](mailto:s.47F@environment.gov.au) | Email: s.47F@environment.gov.au

From: s.47F@denniscorp.com.au
Sent: Tuesday, 18 August 2015 8:34 AM
To: [s.47F](mailto:s.47F@environment.gov.au)
Subject: Re: Burnside 2011/6063 [SEC=UNCLASSIFIED]

Hi [s.47F](mailto:s.47F@environment.gov.au)

Unfortunately we have found several inconsistencies/errors in the conditions that I suspect might have arisen from the re-structuring of the draft conditions we provided. The conditions will need to be amended to ensure no confusion in the event personnel change during the project delivery. I will forward a marked up amended version for your consideration later today.

Regards,

[s.47F](mailto:s.47F@environment.gov.au)

[s.47F](mailto:s.47F@environment.gov.au)

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Dennis Family Corporation
211 Waverley Road, East Malvern, 3145

[s.47F](mailto:s.47F@environment.gov.au)

<http://www.denniscorp.com.au>

[s.47F](mailto:s.47F@environment.gov.au) —30/07/2015 10:04:53 AM---Morning [s.47F](mailto:s.47F@environment.gov.au) As mentioned via email on 23 July last week, there was a typo on the Burnside 2011/60

From: s.47F@environment.gov.au
To: s.47F@denniscorp.com.au
Date: 30/07/2015 10:04 AM
Subject: Burnside 2011/6063 [SEC=UNCLASSIFIED]

Morning [s.47F](mailto:s.47F@environment.gov.au)

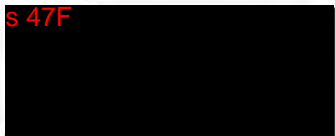
As mentioned via email on 23 July last week, there was a typo on the Burnside 2011/6063 approval notice.

I have attached an updated copy of the approval notice, plus the signed correction notice that will also be published on our website.

Hard copies will be forwarded in the mail.

Any questions, happy to discuss.

Cheers

s 47F


Queensland Tasmania Victoria Assessments
Assessments and Policy Implementation
Department of the Environment
T: (02) 6275 s 47F | E: s 47F @environment.gov.au

[attachment "2011-6063 Correction notification SIGNED 29 July 2015.pdf" deleted by s 47F /Melbourne/Dennis]

[attachment "2011-6063 Update approval notice SIGNED 29 July 2015.pdf" deleted by s 47F /Melbourne/Dennis]

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Australian Government
Department of the Environment

Approval

Burnside Development - The Point, Victoria (EPBC 2011/6063)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

Person to whom the approval is granted DFC (Project Management) Pty Ltd

Proponent's ABN 83 161 448 139

Proposed action To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Approval decision

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved

Conditions of approval

This approval is subject to the conditions specified below.

Expiry date of approval

This approval has effect until 31 February 2035.

Decision-maker

Name and position Deb Callister
Assistant Secretary
Assessments (Queensland, Victoria and Tasmania) and Policy
Implementation Branch

Signature

Date of decision

20 July 2015

Conditions attached to the approval

To minimise impacts of the action on listed threatened species and ecological communities:

1. The **approval holder** must ensure that **construction activities** do not occur outside of the **project area** as illustrated at Appendix A.
2. The **approval holder** must implement sediment and erosion control measures consistent with **best practice pollution, sediment and erosion control guideline(s)** for the duration of **construction activities**.
3. The **approval holder** must prepare a site specific **Growling Grass Frog** Management Plan; which is required to be consistent with **best practice Growling Grass Frog management guidelines**. The plan must outline how **significant impacts** to **Growling Grass Frogs** will be avoided or mitigated and as a minimum must include:
 - a. Management measures demonstrating how the **Growling Grass Frog buffer zone** will be demarcated to minimise vehicle access;
 - b. Details of revegetation, **environmental weed** control measures and other management activities within the **Growling Grass Frog buffer zone**;
 - c. Details of any **construction activities** and management measures to avoid **significant impacts** during construction; and
 - d. Measures to ensure any on-site personnel will be informed of their obligations under the **Growling Grass Frog** Management Plan.
4. **Construction activities** must not commence until the site specific **Growling Grass Frog** Management Plan has been approved by the **Minister** in writing. The site specific **Growling Grass Frog** Management Plan must be implemented.

Project Area A

5. The **approval holder** must ensure that the action does not impact more than seven (7) individual **Spiny Rice-flower** plants within **Project Area A**.
6. Prior to the commencement of **construction activities**, the **approval holder** must offset 9.67 hectares of **NTGVVP** and 9.67 hectares of **Striped Legless Lizard** habitat associated with **Project Area A** in a manner consistent with the **Melbourne Urban Development Policy**. Documentary evidence that the offset has been secured must be provided to the **Minister** within 14 days of being secured.

Project Area B

7. The **approval holder** must not commence **construction activities** in **Project Area B** until either 7(a) or 7(b) are met:
 - a. A direct offset containing a minimum of 100 **Spiny Rice-flower** plants has been secured;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written

- confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
- ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
- b. The **Minister** agrees in writing that condition 15 (a–e) has been satisfied.
8. The **approval holder** must not commence **construction activities in Project Area B** until the following are met:
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 1.824 hectares of **NTGVVP** and 1.824 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 13 and 16.

Project Area C2

9. To protect **Spiny Rice-flower** plants, the **approval holder** must ensure that the number of **Spiny Rice-flower** plants within **Project Area C2** is not reduced as a result of **construction activities**.
10. The **approval holder** must not commence **construction activities in Project Area C2** until a contingency offset is established in accordance with either 10 (a) or 10 (b):
 - a. Enter into a written agreement ("the agreement") with **Trust for Nature**. The **approval holder** must provide a sum of \$600,000.00 ("the funds") to **Trust for Nature** to be held until such time as the contingency offset is to be implemented, at which time the funds will form the basis of the payment to purchase the offset. The remaining funds will be returned to the **approval holder** once the **Minister** agrees in writing that condition 15 (a–e) has been satisfied. A draft copy of the agreement must be provided to the **Minister** prior to signing by all parties. A copy of the signed agreement must then be provided to the **Minister** within 7 days of being signed by all parties; or
 - b. Secure a direct contingency offset site containing a minimum of 60 **Spiny Rice-flower** plants and provide written confirmation and supporting evidence to the **Minister** that demonstrates the contingency offset site has been secured. The contingency offset site must be retained by the **approval holder** until such time as the contingency offset is required, or the **Minister** agrees in writing that

conditions 15 (a–e) have been satisfied. At such time that the contingency offset is to be implemented, an **offset management plan** must be prepared and submitted to the **Minister** for approval. The approved **offset management plan** must then be implemented by the **approval holder**.

11. The **approval holder** must conduct ongoing monitoring of the number of **Spiny Rice-flower** plants within **Project Area C2**, including:
 - a. **Spiny Rice-flower** monitoring is to be undertaken by a **suitably qualified ecologist** to determine if any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost. Monitoring must be completed at three month intervals following the completion of construction activities within **Project Area C2** for a period of 12 months, and then annually thereafter until the **Minister** agrees in writing that condition 15 (a–e) has been satisfied; and
 - b. Making monitoring results and data publicly available in a written report on their website under an open licence.
12. If the monitoring conducted as per condition 11 finds that any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost, the **approval holder** must:
 - a. advise the **Department** within 14 days of receiving the monitoring result;
 - b. within 3 months of notifying the **Department** under (a), provide the **Department** with an analysis of the likely causes of the reduction prepared by a **suitably qualified ecologist** including the likelihood that the reduction is the result of any direct or indirect impacts of construction activities; and
 - c. if the analysis prepared by a **suitably qualified ecologist** finds that the reduction is likely to be the result of any direct or indirect impacts of **construction activities**, then implement the contingency offset set out in either condition 10 (a) or 10 (b).
13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.018 hectares of **NTGVVP** and 4.018 hectares of **Striped Legless Lizard** habitat;
 - i. An **offset management plan** has been prepared and submitted to the **Department** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: The **NTGVVP** and **Striped Legless Lizard** offset set out in this condition is to compensate impacts to **NTGVVP** and **Striped Legless Lizard** in **Project Area C2** and **C1**.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 16.

Project Area D and Project Area C1

14. The **approval holder** must, in consultation with a **suitably qualified ecologist**, develop an **Environmental Management Plan** for the protection and management of **protected matters** within **Project Area D** and **Spiny Rice-flowers** within **Project Area C1**. The **Environmental Management Plan** must be submitted to the **Minister** for approval within 6 months of commencement of **construction activities** within the **project area**. The **approval holder** must ensure the approved **Environmental Management Plan** is implemented within 6 months of approval. The **Environmental Management Plan** must:
 - a. include existing baseline data and other supporting evidence that documents the baseline conditions of **protected matters** within **Project Area D** and **Project Area C1**;
 - b. outline specific management actions to maintain **protected matters** within **Project Area D** and all individual **Spiny Rice-flowers Project Area C1**;
 - c. include details of establishing and maintaining **security fencing** around the perimeter of **Project Area D** and **Project Area C1**, prior to commencement of **construction activities** within 100m of **Project Area D**;
 - d. outline annual monitoring and reporting on the condition of **protected matters** within **Project Area D** and **Project Area C1**;
 - e. define corrective actions and contingency measures to be implemented where monitoring under the **Environmental Management Plan** indicates a decrease in the conditions of **protected matters** below baseline data; and
 - f. include a plan for ongoing management if **Project Area D** and **Project Area C1** remains undeveloped at the expiry date of this approval.
15. The **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1** until the **Minister** agrees in writing that the following are met:
 - a. A **suitably qualified ecologist** has confirmed in writing that each transplant site is demonstrating recruitment by propagated plants;
 - b. A **suitably qualified ecologist** has prepared a report to peer review the results of the **Spiny Rice-flower Propagation Project**;
 - c. The **approval holder** has submitted the peer review report to the **Minister** for review;
 - d. The **Minister** has reviewed the report and determined it demonstrates the **Spiny Rice-flower Propagation Project** has resulted in a **viable and self sustaining Spiny Rice-flower** population at each transplant recipient site, and supports the target number of established **Spiny Rice-flower** plants across the sites; and

- e. The **Minister** has provided written notification to the **approval holder** that condition 15 no longer applies.
16. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**, and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. Condition 15 has been satisfied.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area C2 and C1.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 13.

17. If condition 15 (a–e) cannot be met in full:
- a. the **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1**; until the following are met:
 - i. Adequately compensate for impacts to **Spiny Rice-flower** plants located within **Project Area D** and **Project Area C1** with an alternative offset. This offset strategy must be prepared following consultation with the **Department**; and
 - ii. The **Minister** has provided written notification to the approval holder that condition 14 no longer applies.
 - b. the contingency offset set out in either condition 10 (a) or 10 (b) must be implemented.

Administrative conditions

- 18. The **approval holder** must ensure that **offset attributes** and **shapefiles** for all offset sites are provided to the **Department** at the timing of submitting their corresponding **offset management plan**.
- 19. Within 30 days after the commencement of **construction activities**, the **approval holder** must advise the **Minister** in writing of the actual date of commencement of **construction activities**.

20. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
21. Within three months of every 12 month anniversary of the commencement of **construction activities**, the **approval holder** must publish a report on its website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published. Compliance reports must remain on the approval holder's website for 12 months from the date of publishing. The requirement to submit compliance reports will cease following written agreement with the **Minister**.
22. Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
23. If the **approval holder** wishes to carry out any activity otherwise than in accordance with management plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that management plans. The varied activity shall not commence until the **Minister** has approved the varied management plans in writing. The **Minister** will not approve a varied management plan unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, then it must be implemented in place of the management plan originally approved.
24. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the **Minister** may request that the **approval holder** make specified revisions to the management plans specified in the conditions and submit the revised management plan for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised approved management plans must be implemented. Unless the **Minister** has approved the revised management plans then the **approval holder** must continue to implement the management plan originally approved, as specified in the conditions.

25. If, at any time after 5 years from the date of this approval, the **approval holder** has not **substantially commenced** the action, then the **approval holder** must not **substantially commence** the action without the written agreement of the **Minister**.
26. Unless otherwise agreed to in writing by the **Minister**, the **approval holder** must publish all management plans referred to in these conditions of approval on the approval holder's website. Each management plan must be published on the website within 1 month of being approved. The **approval holder** must notify the **Department** within 5 days of publishing the plan on the website. The management plans must remain on the website for the period this approval has effect.

Definitions:

Approval holder - the person undertaking the action who holds the project approval.

Best practice Growling Grass Frog management guidelines - these include the most recent versions of *Guidelines for managing the endangered Growling Grass Frog in urbanising landscapes* (Victorian Department of Sustainability and Environment, 2010), *Procedure statement for translocation of threatened native vertebrate fauna in Victoria* (Victorian Department of Sustainability and Environment, 2013), *Bellarine Peninsula Ramsar Site Strategic Management Plan* (DEPI, 2003), *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999), *Constructed Wetlands Guidelines* (Victorian Government and Melbourne Water Corporation, 2010) and *Water Sensitive Urban Design Guidelines* (Victorian Government and Melbourne Water Corporation, 2013).

Best practice pollution, sediment and erosion control guidelines - the most recent version of relevant guidelines on pollution, sediment and erosion control, such as the *Construction Techniques for Sediment Pollution Control* (EPA Publication No. 275, 1991); and *Environmental Guidelines for Major Construction Sites* (EPA Publication No. 480, 1996).

Construction activities - includes but is not limited to clearing of vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for infrastructure or earthworks. This does not include maintenance or use of existing access tracks, erection or construction of **security fencing** and signage, , or investigative activities such as accessing the site for surveying or planning purposes.

Department - the Australian Government Department administering the *EPBC Act*.

Environmental Management Plan - the document developed by a **suitably qualified ecologist** to the satisfaction of the **Department**, detailing the long-term management of **protected matters** within **Project Area D** and **Project Area C2**.

Environmental weeds - invasive native and non-native plants including:

- i. listed Victorian Declared Noxious Weeds, including Artichoke Thistle (*Cynara cardunculus*), Fennel (*Foeniculum vulgare*) and Spiny Rush (*Juncus acutus*);
- ii. listed Victorian Invasive Plants, including Mirror Bush (*Coprosma repens*), Pampas grass (*Cortaderia sp.*), Italian buckthorn (*Rhamnus alaternus*) and Spartina/Cord Grass (*Spartina anglica* and *Spartina x townsendii*); and
- iii. listed Weeds of National Significance, including Madeira vine (*Anredera cordifolia*), Asparagus weeds / Bridal Creeper (*Asparagus aethiopicus*, *A. africanus*, *A. asparagoides*, *A. asparagoides* Western Cape form, *A. declinatus*, *A. plumosus*, *A. scandens* [excluding *A. officinalis* and *A. racemosus*]), Brooms including Flax-leaf Broom (*Cytisus scoparius*, *Genista monspessulana* and *G. linifolia*), African boxthorn (*Lycium ferocissimum*), Chilean needle grass (*Nassella neesiana*), Serrated tussock (*Nassella trichotoma*), Blackberry (*Rubus fruticosus* agg.), Silverleaf nightshade (*Solanum elaeagnifolium*), Willows (*Salix spp.* [excluding *S. Babylonica*, *S. Calodendron* and *S. reichardtii*]), Gorse (*Ulex europaeus*).

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

EPBC Act Environmental Offsets Policy - the Australian Government policy document titled: *EPBC Act environmental offsets policy, Department of the Environment, 2013 Policy guiding the use of offsets under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

Established Spiny Rice-flower – A Spiny-Rice flower plant that meets the following:

- i. was introduced into the area through the **Spiny Rice-flower Propagation Project**; and
- ii. is at least 2 years old.

Growling Grass Frog - the frog species *Litoria raniformis*, protected under the **EPBC Act**.

Growling Grass Frog buffer zone - the area identified as Growling Grass Frog Buffer in Appendix A.

Melbourne Urban Development Policy - the document *Policy Statement for Melbourne urban development proposals needing consideration under Parts 7, 8 and 9 of the EPBC Act*, Department of the Environment, February 2014, online: http://www.environment.gov.au/system/files/resources/dc154fd1-d526-4e7d-9a8e-bd17f8ceac15/files/melbourne-urban-development_1.pdf.

Minister - the Australian Government Minister administering the *EPBC Act* and includes a delegate of the Minister.

NTGVVP - is the threatened ecological community *Natural Temperate Grassland of the Victorian Volcanic Plain*, protected under the **EPBC Act**.

Offset attributes - an '.xls' file capturing relevant attributes of the offset site, including the EPBC 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.

Offset management plan - an offset management plan must:

- include baseline information for the offset site(s);
- include details of how the offset(s) are consistent with the **EPBC Act Environmental Offsets Policy**;
- demonstrates how the offset site(s) will be protected for long term conservation purposes;
- include details of short and long term management measures, include timeframes for management measures for the site(s);
- and identify the short and long term arrangements and responsibilities of parties in the management of the site(s).

Project Area A - the area identified as Project Area A in Appendix A.

Project Area B - the area identified as Project Area B in Appendix A.

Project Area C1 - the area identified as Project Area C1 in Appendix A.

Project Area C2 - the area identified as Project Area C2 in Appendix A.

Project Area D - the area identified as Project Area D in Appendix A.

Project area - the area contained within the Proposed Residential Stage Boundaries, identified by a dashed red line in Appendix A.

Protected matters - NTGVVP, **Spiny Rice-flower**, **Striped Legless Lizard** and **Growing Grass Frog**.

Security fencing - a fence with locked gated access that prevents access by the public, while allowing dispersal of **Striped Legless Lizard**.

Shapefile - an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Significant impact - as described in Significant Impact Guidelines 1.1 – Matter of National Environmental Significance (Department of the Environment, 2013) and any specific significant impact guidelines.

Spiny Rice-flower - the plant species *Pimelea spinescens subsp. spinescens*, protected under the EPBC Act.

Spiny Rice-flower Propagation Project - refers to the Spiny Rice-flower Propagation Project prepared by BL&A 2013.

Striped Legless Lizard - the lizard species *Delma impar*, protected under the EPBC Act.

Striped Legless Lizard habitat - is any grassland (exotic and native) that may be utilised by the **Striped Legless Lizard** for breeding, sheltering, foraging or ranging.

Substantially commenced - means the installation of any permanent infrastructure associated with the action.

Suitably qualified ecologist - a person with relevant tertiary qualifications in ecology, botany or environmental science and at least 5 years of experience in surveying and field work relevant to the relevant **Protected Matter**, or any other person agreed to in writing by the **Department**.

Target number - refers to the target total of 800 individual plants as set out in the **Spiny Rice Flower Propagation Project**. In the event the person taking the action secures direct offsets for **Spiny Rice-flower** to compensate for impacts in the **project area**, the target number will be reduced on a 1:1 basis following written confirmation from the **Minister**.

Trust for Nature - meaning the organisation Trust for Nature (<http://www.trustfornature.org.au/>).

Viable and self-sustaining - means that the specified **Spiny Rice-flower** population demonstrates:

- i. Numbers of annually flowering male and female plants in proportions similar to that in natural populations;

- ii. That new germinants are recruiting in numbers similar to that in natural populations;
and
 - iii. A growing population where recruitment exceeds mortality to a similar extent as other managed populations.
-

APPENDIX A



Stage Comparison Plan Concept Plan

Precinct 2

LEGEND:



Precinct 1
22.82ha

Precinct 2
65.49ha

TOTAL AREA: 88.31ha

Proposed residential stage boundaries
(subject to planning approval)

Stage Boundaries (Stages 18PS, 21 & 22)

Growing Grass Frog Habitat
35m from centreline of Kororoit Creek

Existing Sewerage and/or Drainage Easements

Spray Rice Flowers

Growing Grass Frog Buffer

Reserve Unencumbered

Project Area A

Project Area B

Project Area C1

Project Area C2

Project Area D

0 100 200

scale 1:2500 @ A1

DATE: 1 October 2015

REF: 29743 001

DWG: 2974300AS



S 47F







Australian Government

Department of the Environment

CORRECTION NOTIFICATION

Approval

Burnside Development – The Point, Victoria (EPBC 2011/6063)

The Approval, Burnside Development – The Point, Victoria (EPBC 2011/6063) signed on 20 July 2015 contained an error.

The notice incorrectly stated that the expiry date of the approval was 31 February 2035. The correct expiry date of the approval is 31 July 2035.

A corrected version of the notice is at Annexure 1.

Person making correction

Name and position	Deb Callister Assistant Secretary Assessments (Queensland, Victoria and Tasmania) and Policy Implementation Branch
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Date of correction	
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Australian Government
Department of the Environment

Approval

Burnside Development - The Point, Victoria (EPBC 2011/6063)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

Person to whom the approval is granted DFC (Project Management) Pty Ltd

Proponent's ABN 83 161 448 139

Proposed action To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Approval decision

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved

Conditions of approval

This approval is subject to the conditions specified below.

Expiry date of approval

This approval has effect until 31 July 2035.

Decision-maker

Name and position Deb Callister
Assistant Secretary
Assessments (Queensland, Victoria and Tasmania) and Policy
Implementation Branch

Signature

Date of decision

29 July 2015

Conditions attached to the approval

To minimise impacts of the action on listed threatened species and ecological communities:

1. The **approval holder** must ensure that **construction activities** do not occur outside of the **project area** as illustrated at Appendix A.
2. The **approval holder** must implement sediment and erosion control measures consistent with **best practice pollution, sediment and erosion control guideline(s)** for the duration of **construction activities**.
3. The **approval holder** must prepare a site specific **Growling Grass Frog** Management Plan; which is required to be consistent with **best practice Growling Grass Frog management guidelines**. The plan must outline how **significant impacts to Growling Grass Frogs** will be avoided or mitigated and as a minimum must include:
 - a. Management measures demonstrating how the **Growling Grass Frog buffer zone** will be demarcated to minimise vehicle access;
 - b. Details of revegetation, **environmental weed** control measures and other management activities within the **Growling Grass Frog buffer zone**;
 - c. Details of any **construction activities** and management measures to avoid **significant impacts** during construction; and
 - d. Measures to ensure any on-site personnel will be informed of their obligations under the **Growling Grass Frog** Management Plan.
4. **Construction activities** must not commence until the site specific **Growling Grass Frog** Management Plan has been approved by the **Minister** in writing. The site specific **Growling Grass Frog** Management Plan must be implemented.

Project Area A

5. The **approval holder** must ensure that the action does not impact more than seven (7) individual **Spiny Rice-flower** plants within **Project Area A**.
6. Prior to the commencement of **construction activities**, the **approval holder** must offset 9.67 hectares of **NTGVVP** and 9.67 hectares of **Striped Legless Lizard** habitat associated with **Project Area A** in a manner consistent with the **Melbourne Urban Development Policy**. Documentary evidence that the offset has been secured must be provided to the **Minister** within 14 days of being secured.

Project Area B

7. The **approval holder** must not commence **construction activities** in **Project Area B** until either 7(a) or 7(b) are met:
 - a. A direct offset containing a minimum of 100 **Spiny Rice-flower** plants has been secured;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written

- confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
- ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
- b. The **Minister** agrees in writing that condition 15 (a–e) has been satisfied.
8. The **approval holder** must not commence **construction activities** in **Project Area B** until the following are met:
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 1.824 hectares of **NTGVVP** and 1.824 hectares of **Striped Legless Lizard habitat**:
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 13 and 16.

Project Area C2

9. To protect **Spiny Rice-flower** plants, the **approval holder** must ensure that the number of **Spiny Rice-flower** plants within **Project Area C2** is not reduced as a result of **construction activities**.
10. The **approval holder** must not commence **construction activities** in **Project Area C2** until a contingency offset is established in accordance with either 10 (a) or 10 (b):
 - a. Enter into a written agreement (“the agreement”) with **Trust for Nature**. The **approval holder** must provide a sum of \$600,000.00 (“the funds”) to **Trust for Nature** to be held until such time as the contingency offset is to be implemented, at which time the funds will form the basis of the payment to purchase the offset. The remaining funds will be returned to the **approval holder** once the **Minister** agrees in writing that condition 15 (a–e) has been satisfied. A draft copy of the agreement must be provided to the **Minister** prior to signing by all parties. A copy of the signed agreement must then be provided to the **Minister** within 7 days of being signed by all parties; or
 - b. Secure a direct contingency offset site containing a minimum of 60 **Spiny Rice-flower** plants and provide written confirmation and supporting evidence to the **Minister** that demonstrates the contingency offset site has been secured. The contingency offset site must be retained by the **approval holder** until such time as the contingency offset is required, or the **Minister** agrees in writing that

conditions 15 (a–e) have been satisfied. At such time that the contingency offset is to be implemented, an **offset management plan** must be prepared and submitted to the **Minister** for approval. The approved **offset management plan** must then be implemented by the **approval holder**.

11. The **approval holder** must conduct ongoing monitoring of the number of **Spiny Rice-flower** plants within **Project Area C2**, including:
 - a. **Spiny Rice-flower** monitoring is to be undertaken by a **suitably qualified ecologist** to determine if any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost. Monitoring must be completed at three month intervals following the completion of construction activities within **Project Area C2** for a period of 12 months, and then annually thereafter until the **Minister** agrees in writing that condition 15 (a–e) has been satisfied; and
 - b. Making monitoring results and data publicly available in a written report on their website under an open licence.
12. If the monitoring conducted as per condition 11 finds that any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost, the **approval holder** must:
 - a. advise the **Department** within 14 days of receiving the monitoring result;
 - b. within 3 months of notifying the **Department** under (a), provide the **Department** with an analysis of the likely causes of the reduction prepared by a **suitably qualified ecologist** including the likelihood that the reduction is the result of any direct or indirect impacts of construction activities; and
 - c. if the analysis prepared by a **suitably qualified ecologist** finds that the reduction is likely to be the result of any direct or indirect impacts of **construction activities**, then implement the contingency offset set out in either condition 10 (a) or 10 (b).
13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.018 hectares of **NTGVVP** and 4.018 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Department** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area C2 and C1.

Note: these NTGWVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 16.

Project Area D and Project Area C1

14. The **approval holder** must, in consultation with a **suitably qualified ecologist**, develop an **Environmental Management Plan** for the protection and management of **protected matters** within **Project Area D** and **Spiny Rice-flowers** within **Project Area C1**. The **Environmental Management Plan** must be submitted to the **Minister** for approval within 6 months of commencement of **construction activities** within the **project area**. The **approval holder** must ensure the approved **Environmental Management Plan** is implemented within 6 months of approval. The **Environmental Management Plan** must:
 - a. include existing baseline data and other supporting evidence that documents the baseline conditions of **protected matters** within **Project Area D** and **Project Area C1**;
 - b. outline specific management actions to maintain **protected matters** within **Project Area D** and all individual **Spiny Rice-flowers** **Project Area C1**;
 - c. include details of establishing and maintaining **security fencing** around the perimeter of **Project Area D** and **Project Area C1**, prior to commencement of **construction activities** within 100m of **Project Area D**;
 - d. outline annual monitoring and reporting on the condition of **protected matters** within **Project Area D** and **Project Area C1**;
 - e. define corrective actions and contingency measures to be implemented where monitoring under the **Environmental Management Plan** indicates a decrease in the conditions of **protected matters** below baseline data; and
 - f. include a plan for ongoing management if **Project Area D** and **Project Area C1** remains undeveloped at the expiry date of this approval.

15. The **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1** until the **Minister** agrees in writing that the following are met:
 - a. A **suitably qualified ecologist** has confirmed in writing that each transplant site is demonstrating recruitment by propagated plants;
 - b. A **suitably qualified ecologist** has prepared a report to peer review the results of the **Spiny Rice-flower Propagation Project**;
 - c. The **approval holder** has submitted the peer review report to the **Minister** for review;
 - d. The **Minister** has reviewed the report and determined it demonstrates the **Spiny Rice-flower Propagation Project** has resulted in a **viable and self sustaining Spiny Rice-flower** population at each transplant recipient site, and supports the **target number of established Spiny Rice-flower** plants across the sites; and

- e. The **Minister** has provided written notification to the **approval holder** that condition 15 no longer applies.
16. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. Condition 15 has been satisfied.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area C2 and C1.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 13.

17. If condition 15 (a–e) cannot be met in full:
- a. the **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1**; until the following are met:
 - i. Adequately compensate for impacts to **Spiny Rice-flower** plants located within **Project Area D** and **Project Area C1** with an alternative offset. This offset strategy must be prepared following consultation with the **Department**; and
 - ii. The **Minister** has provided written notification to the approval holder that condition 14 no longer applies.
 - b. the contingency offset set out in either condition 10 (a) or 10 (b) must be implemented.

Administrative conditions

- 18. The **approval holder** must ensure that **offset attributes** and **shapefiles** for all offset sites are provided to the **Department** at the timing of submitting their corresponding **offset management plan**.
- 19. Within 30 days after the commencement of **construction activities**, the **approval holder** must advise the **Minister** in writing of the actual date of commencement of **construction activities**.

-
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20. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
 21. Within three months of every 12 month anniversary of the commencement of **construction activities**, the **approval holder** must publish a report on its website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published. Compliance reports must remain on the approval holder's website for 12 months from the date of publishing. The requirement to submit compliance reports will cease following written agreement with the **Minister**.
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 23. If the **approval holder** wishes to carry out any activity otherwise than in accordance with management plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that management plans. The varied activity shall not commence until the **Minister** has approved the varied management plans in writing. The **Minister** will not approve a varied management plan unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, then it must be implemented in place of the management plan originally approved.
 24. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the **Minister** may request that the **approval holder** make specified revisions to the management plans specified in the conditions and submit the revised management plan for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised approved management plans must be implemented. Unless the **Minister** has approved the revised management plans then the **approval holder** must continue to implement the management plan originally approved, as specified in the conditions.

25. If, at any time after 5 years from the date of this approval, the **approval holder** has not **substantially commenced** the action, then the **approval holder** must not **substantially commence** the action without the written agreement of the **Minister**.
26. Unless otherwise agreed to in writing by the **Minister**, the **approval holder** must publish all management plans referred to in these conditions of approval on the approval holder's website. Each management plan must be published on the website within 1 month of being approved. The **approval holder** must notify the **Department** within 5 days of publishing the plan on the website. The management plans must remain on the website for the period this approval has effect.

Definitions:

Approval holder - the person undertaking the action who holds the project approval.

Best practice Growling Grass Frog management guidelines - these include the most recent versions of *Guidelines for managing the endangered Growling Grass Frog in urbanising landscapes* (Victorian Department of Sustainability and Environment, 2010), *Procedure statement for translocation of threatened native vertebrate fauna in Victoria* (Victorian Department of Sustainability and Environment, 2013), *Bellarine Peninsula Ramsar Site Strategic Management Plan* (DEPI, 2003), *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999), *Constructed Wetlands Guidelines* (Victorian Government and Melbourne Water Corporation, 2010) and *Water Sensitive Urban Design Guidelines* (Victorian Government and Melbourne Water Corporation, 2013).

Best practice pollution, sediment and erosion control guidelines - the most recent version of relevant guidelines on pollution, sediment and erosion control, such as the *Construction Techniques for Sediment Pollution Control* (EPA Publication No. 275, 1991); and *Environmental Guidelines for Major Construction Sites* (EPA Publication No. 480, 1996).

Construction activities - includes but is not limited to clearing of vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for infrastructure or earthworks. This does not include maintenance or use of existing access tracks, erection or construction of **security fencing** and signage, , or investigative activities such as accessing the site for surveying or planning purposes.

Department - the Australian Government Department administering the *EPBC Act*.

Environmental Management Plan - the document developed by a **suitably qualified ecologist** to the satisfaction of the **Department**, detailing the long-term management of **protected matters** within **Project Area D** and **Project Area C2**.

Environmental weeds - invasive native and non-native plants including:

- i. listed Victorian Declared Noxious Weeds, including Artichoke Thistle (*Cynara cardunculus*), Fennel (*Foeniculum vulgare*) and Spiny Rush (*Juncus acutus*);
- ii. listed Victorian Invasive Plants, including Mirror Bush (*Coprosma repens*), Pampas grass (*Cortaderia sp.*), Italian buckthorn (*Rhamnus alaternus*) and Spartina/Cord Grass (*Spartina anglica* and *Spartina x townsendii*); and
- iii. listed Weeds of National Significance, including Madeira vine (*Anredera cordifolia*), Asparagus weeds / Bridal Creeper (*Asparagus aethiopicus*, *A. africanus*, *A. asparagoides*, *A. asparagoides Western Cape form*, *A. declinatus*, *A. plumosus*, *A. scandens* [excluding *A. officinalis* and *A. racemosus*]), Brooms including Flax-leaf Broom (*Cytisus scoparius*, *Genista monspessulana* and *G. linifolia*), African boxthorn (*Lycium ferocissimum*), Chilean needle grass (*Nassella neesiana*), Serrated tussock (*Nassella trichotoma*), Blackberry (*Rubus fruticosus* agg.), Silverleaf nightshade (*Solanum elaeagnifolium*), Willows (*Salix spp.* [excluding *S. Babylonica*, *S. Calodendron* and *S. reichardtii*]), Gorse (*Ulex europaeus*).

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

EPBC Act Environmental Offsets Policy - the Australian Government policy document titled: *EPBC Act environmental offsets policy, Department of the Environment, 2013 Policy guiding the use of offsets under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

Established Spiny Rice-flower – A Spiny-Rice flower plant that meets the following:

- i. was introduced into the area through the **Spiny Rice-flower Propagation Project**; and
- ii. is at least 2 years old.

Growling Grass Frog - the frog species *Litoria raniformis*, protected under the **EPBC Act**.

Growling Grass Frog buffer zone - the area identified as Growling Grass Frog Buffer in Appendix A.

Melbourne Urban Development Policy - the document *Policy Statement for Melbourne urban development proposals needing consideration under Parts 7, 8 and 9 of the EPBC Act*, Department of the Environment, February 2014, online:

http://www.environment.gov.au/system/files/resources/dc154fd1-d526-4e7d-9a8e-bd17f8ceac15/files/melbourne-urban-development_1.pdf.

Minister - the Australian Government Minister administering the *EPBC Act* and includes a delegate of the Minister.

NTGVVP - is the threatened ecological community *Natural Temperate Grassland of the Victorian Volcanic Plain*, protected under the **EPBC Act**.

Offset attributes - an '.xls' file capturing relevant attributes of the offset site, including the EPBC 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.

Offset management plan - an offset management plan must:

- include baseline information for the offset site(s);
- include details of how the offset(s) are consistent with the **EPBC Act Environmental Offsets Policy**;
- demonstrates how the offset site(s) will be protected for long term conservation purposes;
- include details of short and long term management measures, include timeframes for management measures for the site(s);
- and identify the short and long term arrangements and responsibilities of parties in the management of the site(s).

Project Area A - the area identified as Project Area A in Appendix A.

Project Area B - the area identified as Project Area B in Appendix A.

Project Area C1 - the area identified as Project Area C1 in Appendix A.

Project Area C2 - the area identified as Project Area C2 in Appendix A.

Project Area D - the area identified as Project Area D in Appendix A.

Project area - the area contained within the Proposed Residential Stage Boundaries, identified by a dashed red line in Appendix A.

Protected matters - NTGVVP, **Spiny Rice-flower**, **Striped Legless Lizard** and **Growing Grass Frog**.

Security fencing - a fence with locked gated access that prevents access by the public, while allowing dispersal of **Striped Legless Lizard**.

Shapefile - an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Significant impact - as described in Significant Impact Guidelines 1.1 – Matter of National Environmental Significance (Department of the Environment, 2013) and any specific significant impact guidelines.

Spiny Rice-flower - the plant species *Pimelea spinescens subsp. spinescens*, protected under the EPBC Act.

Spiny Rice-flower Propagation Project - refers to the Spiny Rice-flower Propagation Project prepared by BL&A 2013.

Striped Legless Lizard - the lizard species *Delma impar*, protected under the EPBC Act.

Striped Legless Lizard habitat - is any grassland (exotic and native) that may be utilised by the **Striped Legless Lizard** for breeding, sheltering, foraging or ranging.

Substantially commenced - means the installation of any permanent infrastructure associated with the action.

Suitably qualified ecologist - a person with relevant tertiary qualifications in ecology, botany or environmental science and at least 5 years of experience in surveying and field work relevant to the relevant **Protected Matter**, or any other person agreed to in writing by the Department.

Target number - refers to the target total of 800 individual plants as set out in the **Spiny Rice Flower Propagation Project**. In the event the person taking the action secures direct offsets for **Spiny Rice-flower** to compensate for impacts in the **project area**, the target number will be reduced on a 1:1 basis following written confirmation from the **Minister**.

Trust for Nature - meaning the organisation Trust for Nature (<http://www.trustfornature.org.au/>).

Viable and self-sustaining - means that the specified **Spiny Rice-flower** population demonstrates:

- i. Numbers of annually flowering male and female plants in proportions similar to that in natural populations;

-
-
- ii. That new germinants are recruiting in numbers similar to that in natural populations;
and
 - iii. A growing population where recruitment exceeds mortality to a similar extent as other managed populations.
-

Appendix A - Project Area



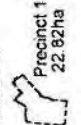
APPENDIX A



Stage Comparison Plan
Concept Plan

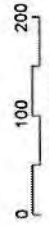
Precinct 2

LEGEND:



TOTAL AREA: 88.31ha

- - - - - Proposed residential stage boundaries (subject to planning approval)
- - - - - Stage Boundaries (Stages 18PS, 21 & 22)
- - - - - Growing Grass Frog Habitat 35m from centreline of Kororoit Creek
- Existing Sewerage and/or Drainage Easement
- Spiny Rice Flowers
- █ Growing Grass Frog Suffer
- █ Reserve Unencumbered
- █ Project Area A
- █ Project Area B
- █ Project Area C1
- █ Project Area C2
- █ Project Area D



scale 1:2500 @ A1
DATE 29 June 2015
REF 29743 001
DWG. 2974300AR

Bosco-Jensen Pty Ltd
A.B.N 69 959 528 837
P.O. Box 5076, South Melbourne, Vic 3206
42 Eastern Road, South Melbourne
VIC 3206
Tel (03) 9699 1400 Fax (03) 9699 5582

s 47F [Redacted]

From: s 47F [Redacted]
Sent: Friday, 13 November 2015 2:04 PM
To: s 47F [Redacted]
Subject: FW: Burnside EPBC 2011/6063 [SEC=UNCLASSIFIED]

Sent with Good (www.good.com)

-----Original Message-----

From: s 47F [Redacted]
Sent: Thursday, November 12, 2015 03:53 PM AUS Eastern Standard Time
To: s 47F [Redacted]
Subject: FW: Burnside EPBC 2011/6063 [SEC=UNCLASSIFIED]

Attachment F of Burnside Brief

From: s 47F [Redacted]
Sent: Saturday, 26 September 2015 8:16 AM
To: s 47F [Redacted]
Cc: s 47F [Redacted]
Subject: FW: Burnside EPBC 2011/6063 [SEC=UNCLASSIFIED]

This message has been archived.

H s 47F [Redacted]

Please see the email from s 47F [Redacted] and history below.

We're comfortable with the changes required; can you please confirm that post-approvals now complete the required process?



s 47F

From: s 47F [redacted]@denniscorp.com.au
Sent: Wednesday, 11 November 2015 8:29 AM
To: s 47F [redacted]
Cc:
Subject: Re: Burnside Development - EPBC 2011/6063 [SEC=UNCLASSIFIED]
Attachments: 2012-6063 - Post Approvals - Variation to Condition - Approval Notice.docx
Categories: Copied to SharePoint

Hi s 47F [redacted]

Thanks for the update. The proposed variation notice is satisfactory. We had noticed the different approving authorities in conditions 13 and 16 and support the two being the same.

Do you have any indication of when the variations might be approved?

Cheers,

s 47F [redacted]
s 47F [redacted]
Residential Developments
Dennis Family Corporation
211 Waverley Road, East Malvern, 3145
s 47F [redacted]
<http://www.denniscorp.com.au>

s 47F [redacted] 10/11/2015 03:17:20 PM---Hi s 47F [redacted] As s 47F [redacted] has moved to another area of the Department I have been tasked with progressi

From: s 47F [redacted]<[redacted]@environment.gov.au>
To: s 47F [redacted]<[redacted]@denniscorp.com.au>
Cc: s 47F [redacted]<[redacted]@environment.gov.au>
Date: 10/11/2015 03:17 PM
Subject: Burnside Development - EPBC 2011/6063 [SEC=UNCLASSIFIED]

Hi s 47F [redacted]

As s 47F [redacted] has moved to another area of the Department I have been tasked with progressing your request to vary condition 16.

Attached is the proposed variation notice. Please advise if it meets your requirements. You will notice that I have also proposed to vary condition 13. I have just changed the approving from the Department to the Minister so it is consistent with condition 16.

Please advise by return email if you agree with the proposed changes or not.

Kind regards,

s 47F [redacted]

Post Approvals Section
Compliance and Enforcement Branch
Department of the Environment
GPO Box 787, Canberra City, ACT 2601
(02) 6274 s 47F [redacted]

(See attached file: 2012-6063 - Post Approvals - Variation to Condition - Approval Notice.docx)

Attention:

This e-mail is privileged and confidential. If you are not the intended recipient please delete the message and notify the sender. Any views or opinions presented are solely those of the author.

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Our reference: 2011/6063

Contact Officer: s 47F
Telephone: (02) 6274 s 47F Facsimile: (02) 6274 s 47F
Email: post.approvals@environment.gov.au

s 47F

s 47F

Residential Developments
Dennis Family Corporation
211 Waverley Road
EAST MALVERN VIC 3145

Dear Mr s 47F

EPBC 2011/6063 - Burnside Development – The Point, Victoria – Variation to Approval Conditions

I refer to your letter of 8 September 2015 to the Department, requesting a variation to conditions 13 and 16 of the approval dated 20 July 2015.

Officers of the Post Approvals Section have assessed your request and provided advice regarding the variation. As delegate of the Minister for the Environment, I have decided to approve your request of 8 September 2015 to vary conditions 13 and 16 of the approval in accordance with the provisions of the national environment law, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Conditions 13 and 16 must now be undertaken in accordance with the varied condition specified in the variation notification, which has been attached for your information.

The variation of conditions of approval does not relieve the person to whom it has been granted from an obligation to comply with any other law of the Commonwealth, state or territory that is applicable to do the action and to have any right, title or interest that is required to access land or waters and to do the action.

Please ensure that you maintain accurate records of all activities associated with, or relevant to the conditions of approval, so that they can be made available to the department on request. Such documents may be subject to audit and used to verify compliance. Summaries of results of audits may be published by the department. Information about the monitoring and audit program can be found on the department's website at www.environment.gov.au/epbc/compliance/auditing.html.

If you have any enquiries please contact s 47F on 02 6274 s 47F

Yours sincerely

s 47F

Shane Gaddes
Assistant Secretary
Compliance & Enforcement Branch
Environment Standards Division

19 November 2015

s 47F

From: s 47F @denniscorp.com.au
Sent: Wednesday, 11 November 2015 8:29 AM
To: s 47F
Cc: s 47F
Subject: Re: Burnside Development - EPBC 2011/6063 [SEC=UNCLASSIFIED]
Attachments: 2012-6063 - Post Approvals - Variation to Condition - Approval Notice.docx

Hi s 47F

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Do you have any indication of when the variations might be approved?

Cheers,

s 47F
s 47F
Residential Developments
Dennis Family Corporation
211 Waverley Road, East Malvern, 3145
s 47F
<http://www.denniscorp.com.au>

s 47F 10/11/2015 03:17:20 PM---Hi s 47F As s 47F has moved to another area of the Department I have been tasked with progressi

From: s 47F @environment.gov.au
To: s 47F @denniscorp.com.au
Cc: s 47F @environment.gov.au
Date: 10/11/2015 03:17 PM
Subject: Burnside Development - EPBC 2011/6063 [SEC=UNCLASSIFIED]

Hi s 47F

As s 47F has moved to another area of the Department I have been tasked with progressing your request to vary condition 16.

Attached is the proposed variation notice. Please advise if it meets your requirements. You will notice that I have also proposed to vary condition 13. I have just changed the approving from the Department to the Minister so it is consistent with condition 16.

Please advise by return email if you agree with the proposed changes or not.

Kind regards,

s 47F

Post Approvals Section
Compliance and Enforcement Branch
Department of the Environment
GPO Box 787, Canberra City, ACT 2601
(02) 6274 s 47F
s 47F @environment.gov.au

(See attached file: 2012-6063 - Post Approvals - Variation to Condition - Approval Notice.docx)

Attention:

This e-mail is privileged and confidential. If you are not the intended recipient please delete the message and notify the sender. Any views or opinions presented are solely those of the author.

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VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Burnside Development – The Point, Victoria - EPBC 2011/6063

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

Approved action

Person to whom the approval is granted DFC (Project Management) Pty Ltd
ABN: 83 161 448 139

Approved action To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Variation

Variation of conditions of approval The variation is:
Delete Conditions 13 and 16 attached to the approval dated 20 July 2013 and substitute with Conditions 13 and 16 specified below.

Date of effect This variation has effect on the date the instrument is signed.

Person authorised to make decision

Mr Shane Gaddes
Assistant Secretary
Compliance & Enforcement Branch

Signature

Date of decision

Condition attached to the approval

13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.018 hectares of **NTGVVP** and 4.018 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrates the offset has been secured.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate for impacts to NTGVVP and Striped Legless Lizard in Project Areas C1 and C2.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 16.

16. The **approval holder** must not commence **construction activities** in **Project Area D** until the following are met.
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved offset management plan must be implemented by the **approval holder**, and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrates the offset has been secured.
 - b. Condition 15 has been satisfied.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in **Project Area D**.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 13.

- e. The **Minister** has provided written notification to the **approval holder** that condition 15 no longer applies.

16. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.

- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of **Striped Legless Lizard habitat**;
- i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
- ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
- b. Condition 15 has been satisfied.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area ~~C2~~ and ~~C1~~. **D**

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 13.

17. If condition 15 (a–e) cannot be met in full:

- a. the **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1**; until the following are met:
- i. Adequately compensate for impacts to **Spiny Rice-flower** plants located within **Project Area D** and **Project Area C1** with an alternative offset. This offset strategy must be prepared following consultation with the **Department**; and
- ii. The **Minister** has provided written notification to the approval holder that condition 14 no longer applies.
- b. the contingency offset set out in either condition 10 (a) or 10 (b) must be implemented.

Administrative conditions

18. The **approval holder** must ensure that **offset attributes** and **shapefiles** for all offset sites are provided to the **Department** at the timing of submitting their corresponding **offset management plan**.
19. Within 30 days after the commencement of **construction activities**, the **approval holder** must advise the **Minister** in writing of the actual date of commencement of **construction activities**.

s 47F

From: s 47F
Sent: Thursday, 9 March 2017 1:23 PM
To: s 47F
Cc: s 47F
Subject: RE: Campbelltown and Karabeal - future EPBC Act offset proposals (7045)
[SEC=UNCLASSIFIED]

Hello s 47F

As I indicated on the phone to one of your colleagues yesterday, s 47F and s 47F are both out of the office on business for most of this week, and s 47F will be away all of next week as well. I am unable to schedule a meeting without discussing availability with them first. I hope to have an opportunity to speak to s 47F and s 47F later tomorrow, so please bear with me.

I would also appreciate some more information regarding the purpose as I was under the impression that the issues surrounding the MUD offset conditions had been resolved previously?

Kind regards,

s 47F

Post Approvals Section
Compliance and Enforcement Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F

From: s 47F [mailto:s 47F@ecologicalresearch.com.au]
Sent: Wednesday, 8 March 2017 2:11 PM
To: s 47F [mailto:s 47F@environment.gov.au]; s 47F [mailto:s 47F@environment.gov.au]; s 47F [mailto:s 47F@environment.gov.au]
Cc: s 47F [mailto:s 47F@denniscorp.com.au]; s 47F [mailto:s 47F@ecologicalresearch.com.au]
Subject: Campbelltown and Karabeal - future EPBC Act offset proposals (7045)

Dear Post-Approvals Team,

As s 47F is currently on leave and I am looking after his projects, I have been asked to arrange a meeting for s 47F and s 47F to meet you.

The purpose of this meeting is to discuss the MUD offset conditions of the EPBC approval.

Could you please let me know if the three of you would be available on either Tuesday the 4th April or Friday the 7th April?

Many thanks,

s 47F

s 47F

s 47F

s 22

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

s 22

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

s 22

[Redacted]

[Redacted]

[Redacted]

s 47F

s 47F

[Redacted]

[Redacted]

s 47F

From: s 47F @denniscorp.com.au>
Sent: Wednesday, 15 March 2017 3:11 PM
To: s 47F
Cc: s 47F
Subject: RE: Campbelltown and Karabeal - future EPBC Act offset proposals (7045)

H s 47F

Further to s 47F earlier email seeking a meeting with you in early April, the meeting is to discuss the option of amending Condition 6 of the Burnside EPBC Act approval so as to allow compensation for NTGVVP & SLL within Project Area A through offsets OR payment through the MUD. Currently it only allows for the later.

We can issue a more detailed briefing on the request next week when s 47F returns to the office.

Could you please let s 47F PA (cc'd) know if the three of you would be available to meet s 47F and s 47F on either Friday the 7th April or any time during the week starting 10 April, except Friday 14?

If you have any further questions about the request please feel free to contact s 47F or s 47F from BLA.

Kind Regards

s 47F
– **Developments**
Dennis Family Corporation
211 Waverley Road East Malvern VIC 3145
P: s 47F
s 47F @denniscorp.com.au | W: www.denniscorp.com.au



From: s 47F @ecologicalresearch.com.au]
Sent: Wednesday, 8 March 2017 2:11 PM
To: s 47F @environment.gov.au>; s 47F @environment.gov.au'
s 47F @environment.gov.au>; s 47F @environment.gov.au>
Cc: s 47F @denniscorp.com.au>; s 47F @ecologicalresearch.com.au>
Subject: Campbelltown and Karabeal - future EPBC Act offset proposals (7045)

Dear Post-Approvals Team,

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Could you please let me know if the three of you would be available on either Tuesday the 4th April or Friday the 7th April?

Many thanks,

S
47F
s 47F
s 47F



s 22

[Redacted text block]

47F

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

s 22

[Redacted text block]

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[Redacted text block]

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[REDACTED] s [REDACTED]
[REDACTED] 22 [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

s 47F [REDACTED]

• [REDACTED] • [REDACTED] • [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

s 47F

From: s 47F @ecologicalresearch.com.au
Sent: Monday, 20 March 2017 4:04 PM
To: s 47F
Cc: s 47F
Subject: RE: EPBC 2011/6063 - Project Area B OMP decision [SEC=UNCLASSIFIED]

Categories: Copied to SharePoint

Hi s
47F

Thanks – I was in central Australia and had a great time.

I'd be happy to prepare this briefing and have it to you by 31st March – I'm meeting with the Dennis Family Corporation next week once s returns from leave and will have a clearer understanding myself by then.
47F

s 47F advised s from our office last week that we would have a response to our future offset proposals today or tomorrow – hope this is tracking ok.

Regards,

s 47F
s 47F

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111
s 47F @ecologicalresearch.com.au



From: s 47F @environment.gov.au]
Sent: Monday, 20 March 2017 3:30 PM
To: s 47F
Cc: s 47F
Subject: RE: EPBC 2011/6063 - Project Area B OMP decision [SEC=UNCLASSIFIED]

Hello s
47F

I trust your time on leave was enjoyable. By now you would be aware that a meeting has been booked in early April for further discussions between yourself, s 47F and staff from Post Approvals, this time to discuss options for varying Condition 6 of EPBC Approval 2011/6063. We would appreciate receiving a written briefing from yourself on the issues so that we have sufficient time to consider them prior to the meeting.

Kind regards,

s 47F
Post Approvals Section
Compliance and Enforcement Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F

From: s 47F [redacted]@ecologicalresearch.com.au]
Sent: Monday, 20 March 2017 10:40 AM
To: s 47F [redacted]@environment.gov.au>
Cc: s 47F [redacted]@ecologicalresearch.com.au>; s 47F [redacted]@environment.gov.au>
Subject: RE: EPBC 2011/6063 - Project Area B OMP decision [SEC=UNCLASSIFIED]

Thanks s [redacted] – much appreciated!
47F

Regards,

s 47F [redacted]

s 47F [redacted]

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111

s 47F [redacted] @ecologicalresearch.com.au

[redacted]

🌟 Experience 🌟 Knowledge 🌟 Solutions

s 22 [redacted]
[redacted]
[redacted]
[redacted]
[redacted]

[redacted]

[redacted]
[redacted] [redacted]
[redacted]

[redacted] [redacted]
[redacted]

[redacted]

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

s 47F

From: s 47F @ecologicalresearch.com.au
Sent: Thursday, 6 April 2017 9:32 AM
To: s 47F
Cc: Post Approval; s 47F
Subject: Briefing note on tomorrow's meeting re Modeina

Hi s
47F

Our apologies for the delay in getting this briefing note to you. Please find an outline below of the two matters Dennis Family Corporation wish to discuss at tomorrow's meeting.

Briefing note: meeting between Dennis Family Corporation and Post Approvals, 10 AM Friday 7th April 2017

DFC wishes to discuss with the Post Approvals Team a proposal to alter Condition 6 of the Burnside EPBC Approval and update the Team on the progress of the SRF Propagation Project to date.

Condition 6

The objective of the proposal to alter Condition 6 of the Burnside EPBC Approval is to allow compensation for the removal of 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat in Project Area A through a direct offset. Condition 6 has been worded very specifically to only allow offsetting in a manner consistent with the Melbourne Urban Development Policy (MUD).

The MUD policy applies to urban development not captured under the Melbourne Strategic Assessment, but for which the Department believes that the offset into the Western Grasslands Reserve (WGR) may be appropriate and is likely to provide acceptable outcomes for relevant matters of national environmental significance.

s 47G(1)(a)

DFC believes that direct offsets for NTGVVP and Striped Legless Lizard habitat can be sourced for considerably less than this and that direct offsets would represent an equivalent offset outcome for removal of NTGVVP and Striped Legless Lizard habitat at Burnside as the offset under the MUD policy.

We intend to commence removal of vegetation within Project Area A in August 2017 and believe that a direct offset can be secured within the next three years. In order to satisfy the Department that an offset will be secured for this removal, we propose that a bank guarantee for the amount of the MUD policy offset be held by DELWP. This would provide the Department with confidence that an offset will be secured through either a direct offset within three years of commencement of development, or failing this through the MUD policy. Initial discussions with DELWP suggest they are receptive to this approach.

Please see below the current and a proposed alternative Condition 6.

Current Condition 6 - Prior to the commencement of construction activities, the approval holder must offset 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat associated with Project Area A in a manner consistent with the Melbourne Urban Development Policy. Documentary evidence that the offset has been secured must be provided to the Minister within 14 days of being secured.

Proposed Condition 6 - Prior to the commencement of construction activities, the approval holder must provide a bank guarantee to DELWP for offset of 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat associated with Project Area A in a manner consistent with the Melbourne Urban Development Policy. Should the approval holder secure a direct offset for 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat, to the satisfaction of the Minister, within three years of commencement of construction activities, the bank guarantee will be cancelled.

If a direct offset for 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat is not secured to the satisfaction of the Minister within three years of commencement of construction activities, DELWP will call-in the bank guarantee and apply the funds in accordance with the MUD policy.

SRF Propagation Project

s 22 [Redacted]

[Redacted]

[Redacted]

[Redacted]

If you have any questions please don't hesitate to contact me.

Regards,

s 47F [Redacted]

s 47F [Redacted]

Suite 5, 61-63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111
s 47F @ecologicalresearch.com.au



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s 47F

From: s 47F @ecologicalresearch.com.au
Sent: Monday, 10 April 2017 12:50 PM
To: s 47F
Cc: Post Approval; s 47F
Subject: 7 April 2017 meeting re Modeina - outcomes

Hi all,

Thanks again s 47F and s 47F for meeting with us on Friday – it was a very productive meeting. I’ve summarised the discussion and outcomes/next steps in bullet form below.

Condition 6

- Proposed change in wording to allow for direct offset:
 - *Request:* DFC requested a variation to the wording of this condition to allow for the option of a first/third party direct offset for the Project Area A 9.67 hectares of NTGVVP and Striped Legless Lizard habitat
 - *Outcome:* Post Approvals advise that this is likely to be satisfactory – **Post Approvals to confirm**
- Proposed DELWP bank guarantee:
 - *Request:* DFC proposed providing a bank guarantee to DELWP to secure MUD policy offset and allow construction activities to commence whilst it searches for a direct offset
 - *Outcome:* Post Approvals advised this is not possible
- Proposed use of Karabeal NTGVVP/SLL offset ‘balance’
 - *Post Approvals suggested* the possible use of the remaining values at the Karabeal offset site to provide EPBC Act offsets for part or all of Project Area A, with the potential to further split this Project Area into A1 & A2
 - *Outcomes:* BL&A/DFC have determined that:
 - Karabeal does not contain sufficient area of NTGVVP/SLL habitat to offset the whole of Project Area A
 - Scope exists for offsetting the first of two ‘stages’ within Project Area A (‘Project Area A1’) at Karabeal
 - A proposed Project Area A1 (10/4) would not require services within Project Area C2
 - **BL&A/DFC to confirm and present (early this week):**
 - **Project Area A1 offset strategy for Karabeal, including ‘simplified’ Project Area map of Modeina**
 - **Proposed changes to wording of Condition 6**

s 22

[Redacted text block containing multiple lines of blacked-out content]

o s 22

[Redacted content]

I've **bolded** actions and responsible parties. Please let me know if there's any additional/alternative information you think we should capture here.

Regards,

s 47F

s 47F

Suite 5, 61-63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111
s 47F @ecologicalresearch.com.au



From: s 47F
Sent: Thursday, 6 April 2017 9:32 AM
To: s 47F
Cc: Post Approval; s 47F
Subject: Briefing note on tomorrow's meeting re Modeina

Hi s 47F

Our apologies for the delay in getting this briefing note to you. Please find an outline below of the two matters Dennis Family Corporation wish to discuss at tomorrow's meeting.

Briefing note: meeting between Dennis Family Corporation and Post Approvals, 10 AM Friday 7th April 2017

DFC wishes to discuss with the Post Approvals Team a proposal to alter Condition 6 of the Burnside EPBC Approval and update the Team on the progress of the SRF Propagation Project to date.

Condition 6

The objective of the proposal to alter Condition 6 of the Burnside EPBC Approval is to allow compensation for the removal of 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat in Project Area A through a direct offset. Condition 6 has been worded very specifically to only allow offsetting in a manner consistent with the Melbourne Urban Development Policy (MUD).

The MUD policy applies to urban development not captured under the Melbourne Strategic Assessment, but for which the Department believes that the offset into the Western Grasslands Reserve (WGR) may be appropriate and is likely to provide acceptable outcomes for relevant matters of national environmental significance.

s 47G(1)(a)
[REDACTED] DFC believes that direct offsets for NTGVVP and Striped Legless Lizard habitat can be sourced for considerably less than this and that direct offsets would represent an equivalent offset outcome for removal of NTGVVP and Striped Legless Lizard habitat at Burnside as the offset under the MUD policy.

We intend to commence removal of vegetation within Project Area A in August 2017 and believe that a direct offset can be secured within the next three years. In order to satisfy the Department that an offset will be secured for this removal, we propose that a bank guarantee for the amount of the MUD policy offset be held by DELWP. This would provide the Department with confidence that an offset will be secured through either a direct offset within three years of commencement of development, or failing this through the MUD policy. Initial discussions with DELWP suggest they are receptive to this approach.

Please see below the current and a proposed alternative Condition 6.

Current Condition 6 - Prior to the commencement of construction activities, the approval holder must offset 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat associated with Project Area A in a manner consistent with the Melbourne Urban Development Policy. Documentary evidence that the offset has been secured must be provided to the Minister within 14 days of being secured.

Proposed Condition 6 - Prior to the commencement of construction activities, the approval holder must provide a bank guarantee to DELWP for offset of 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat associated with Project Area A in a manner consistent with the Melbourne Urban Development Policy. Should the approval holder secure a direct offset for 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat, to the satisfaction of the Minister, within three years of commencement of construction activities, the bank guarantee will be cancelled.

If a direct offset for 9.67 hectares of NTGVVP and 9.67 hectares of Striped Legless Lizard habitat is not secured to the satisfaction of the Minister within three years of commencement of construction activities, DELWP will call-in the bank guarantee and apply the funds in accordance with the MUD policy.

SRF Propagation Project

s 22
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

s 22
[Redacted]

[Redacted]

If you have any questions please don't hesitate to contact me.

Regards,

s 47F [Redacted]

s 47F [Redacted]

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111

s 47F @ecologicalresearch.com.au



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s 47F

From: s 47F @ecologicalresearch.com.au>
Sent: Thursday, 13 April 2017 1:14 PM
To: s 47F
Cc: Post Approval; s 47F @denniscorp.com.au; s 47F @denniscorp.com.au
Subject: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063)
Attachments: 7045_8 DoEE-Ietto170413-Modeina Condition Var.pdf

Dear s 47F and s 47F

On behalf of s 47F please see attached the documentation regarding the request for variation to approval conditions 6 and 13 for Modeina Estate Precinct 2 (EPBC 2011/6063).

Kind regards,

s 47F

s 47F

Suite 5, 61 - 63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111 / Fax (03) 9815 s 47F @ecologicalresearch.com.au



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s 47F

From: s 47F
Sent: Wednesday, 19 April 2017 3:21 PM
To: s 47F
Cc: s 47F
Subject: RE: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063) [SEC=UNCLASSIFIED]

Hello s
47F

Yes, we did receive your request, and we will get to it in due course. As you point out, it is more complex that was discussed prior to Easter.

Kind regards,

s 47F

Post Approvals Section
Compliance and Enforcement Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F

From: s 47F [mailto:s 47F@ecologicalresearch.com.au]
Sent: Wednesday, 19 April 2017 2:54 PM
To: s 47F [mailto:s 47F@environment.gov.au]; s 47F [mailto:s 47F@environment.gov.au]
Cc: Post Approval <PostApproval@environment.gov.au>; s 47F [mailto:s 47F@denniscorp.com.au]; s 47F [mailto:s 47F@denniscorp.com.au]; s 47F [mailto:s 47F@denniscorp.com.au]
Subject: RE: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063)

Hi s 47F,

Could you confirm that your office received this request for variation last week (below and attached)?

We recognise that there was some more detail in the request than we anticipated, so if you have any questions please don't hesitate to contact me.

Regards,

s 47F

s 47F

Suite 5, 61-63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111
s 47F [mailto:s 47F@ecologicalresearch.com.au]

BL&A  Brett Lane & Associates Pty. Ltd.
Ecological Research & Management
Experience Knowledge Solutions

From: s 47F
Sent: Thursday, 13 April 2017 1:14 PM
To: s 47F [mailto:s 47F@environment.gov.au]; s 47F [mailto:s 47F@environment.gov.au]

Cc: PostApproval@environment.gov.au; s 47F [redacted] [@denniscorp.com.au](mailto:[redacted]@denniscorp.com.au); s 47F [redacted]
[redacted] [@denniscorp.com.au](mailto:[redacted]@denniscorp.com.au)

Subject: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063)

Dear s [redacted] and s 47F [redacted]
47F

On behalf of s 47F [redacted], please see attached the documentation regarding the request for variation to approval conditions 6 and 13 for Modeina Estate Precinct 2 (EPBC 2011/6063).

Kind regards,

s 47F [redacted]
s 47F [redacted]

Suite 5, 61 - 63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111 / Fax (03) 9815 s 47F [redacted] [@ecologicalresearch.com.au](mailto:[redacted]@ecologicalresearch.com.au)



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s 47F

From: s 47F
Sent: Wednesday, 31 May 2017 12:04 PM
To: s 47F
Cc: s 47F
Subject: RE: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063) [SEC=UNCLASSIFIED]

Hi s 47F

I appreciate your patience with this. Unfortunately s 47F is on leave this week and we have several high priorities that need to be progressed. If I have time I'll try to progress this tomorrow, otherwise s 47F will resume this as her main priority next week. We should be able to present a brief to the delegate by the end of next week.

Regards

s 47F
Assistant Director
Post Approvals Section
Compliance and Enforcement Branch
Environmental Standards Division
Department of the Environment and Energy
P: 02 6274 s 47F
e s 47F @environment.gov.au

From: s 47F @ecologicalresearch.com.au]
Sent: Tuesday, 30 May 2017 4:48 PM
To: s 47F @environment.gov.au>; s 47F @environment.gov.au>
Cc: s 47F @denniscorp.com.au>; s 47F @denniscorp.com.au>; s 47F @environment.gov.au>; s 47F @environment.gov.au>; s 47F @ecologicalresearch.com.au>
Subject: RE: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063)

Hi s 47F

I spoke to s 47F yesterday when calling s 47F number in relation to the attached variation request submitted on 13th April 2017. I understand that a briefing package for this request has not yet been provided to the Delegate.

We note that the proposed variation to Condition 6 of the approval – splitting Project Area A into two sub-areas – is in line with what was suggested by your team during our meeting at your offices prior to Easter. Some consequential minor changes were also needed to three other conditions that stemmed from this suggestion. We had therefore hoped to have a response from your team by early-mid May.

Dennis Family Corporation are concerned by the delay in receiving a response to this request. Could you please advise at your earliest convenience when we can expect a briefing package to be provided to the Delegate.

Regards,

s 47F

s 47F

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124

Ph (03) 9815 2111

s.47F@ecologicalresearch.com.au



From: s.47F
Sent: Thursday, 18 May 2017 11:12 AM
To: s.47F@environment.gov.au'; s.47F@environment.gov.au'
Cc: s.47F
Subject: RE: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063)

Hi s.47F

Could I enquire as to progress with your consideration of this variation request?

Regards,

s.47F

s.47F

Suite 5, 61-63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124

Ph (03) 9815 2111

s.47F@ecologicalresearch.com.au



From: s.47F
Sent: Friday, 28 April 2017 3:30 PM
To: s.47F@environment.gov.au; s.47F@environment.gov.au
Cc: PostApproval@environment.gov.au; s.47F@denniscorp.com.au; s.47F@environment.gov.au; s.47F@denniscorp.com.au
Subject: RE: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063)

Hi s.47F

I hope you and your team had a good Easter/Anzac break.

We are hoping we might be able to have a response from your team by next Friday 5th May as to the acceptability of this request for variation to conditions. Could you drop me a line and let me know if this will be possible?

Thanks again.

Regards,

s.47F

s.47F

Suite 5, 61-63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124

Ph (03) 9815 2111

s.47F@ecologicalresearch.com.au



Brett Lane & Associates Pty. Ltd.
Ecological Research & Management

Experience Knowledge Solutions

From: § 47F
Sent: Thursday, 13 April 2017 1:14 PM
To: § 47F @environment.gov.au; § 47F @environment.gov.au
Cc: PostApproval@environment.gov.au; § 47F @denniscorp.com.au; § 47F @denniscorp.com.au
Subject: Request for variation to approval conditions for Modeina Estate Precinct 2 (EPBC 2011/6063)

Dear § 47F and § 47F

On behalf of § 47F, please see attached the documentation regarding the request for variation to approval conditions 6 and 13 for Modeina Estate Precinct 2 (EPBC 2011/6063).

Kind regards,

§ 47F
§ 47F

Suite 5, 61 - 63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111 / Fax (03) 9815 § 47F @ecologicalresearch.com.au



Brett Lane & Associates Pty. Ltd.
Ecological Research & Management

Experience Knowledge Solutions

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FOI 180711
Doc 17a



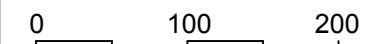
Stage Comparison Plan Concept Plan Precinct 2

LEGEND:



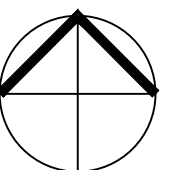
TOTAL AREA: 88.31ha

- Proposed residential stage boundaries (subject to planning approval)
- Growing Grass Frog Habitat 35m from centreline of Kororoit Creek
- Existing Sewerage and or Drainage Easements
- Retained Native Vegetation
- Spiny Rice Flowers
- Growing Grass Frog Buffer
- Reserve
- Project Area A1
- Project Area A2
- Project Area B
- Project Area C1
- Project Area C2
- Project Area D

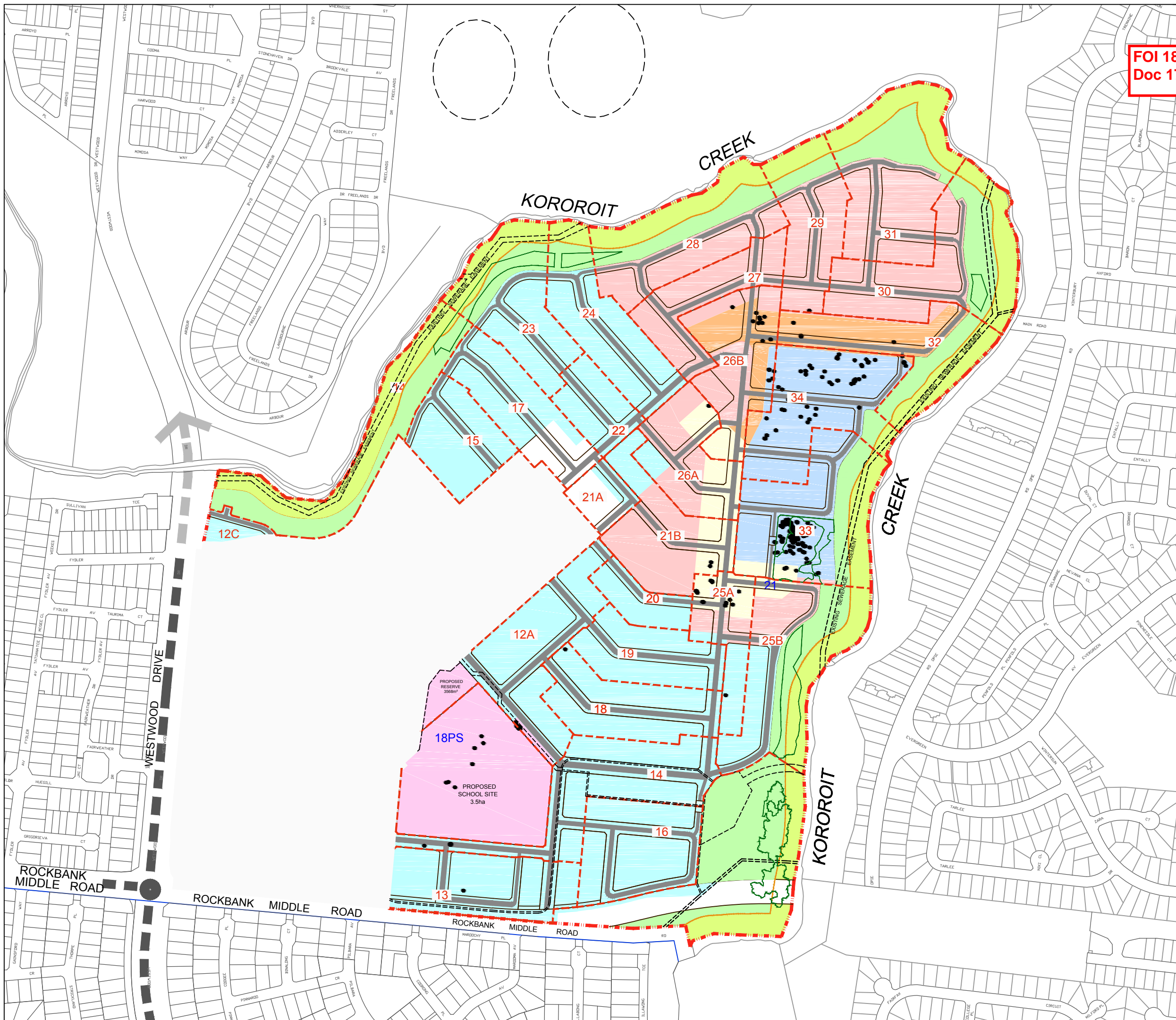


scale 1:2500 @ A1

DATE: 30 June 2017
REF: 29743 001
DWG: 2974300AS



Bosco Jonson Pty Ltd
 A.B.N 15 169 138 827
 P.O. Box 5075, South Melbourne, Vic 3205
 16 Eastern Road, South Melbourne
 Vic 3205 Australia
 Tel 03) 9699 1400 Fax 03) 9699 5992



s 47F

From: s 47F @ecologicalresearch.com.au
Sent: Wednesday, 26 July 2017 12:46 PM
To: s 47F
Cc: s 47F @denniscorp.com.au
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

Hi s
47F

Apologies for the slow reply on this – I thought I'd passed it on to the client but had neglected to do so. Dennis Family Corporation are happy with this latest proposed consolidated notice, provided on 13th June 2017.

s 22

For project planning purposes, could you please give us an indication of when you anticipate being able to review:

- s 22
- The Project Area A1 OMP?

Regards,

s 47F

s 47F

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
(03) 9815 2111 s 47F

s 47F @ecologicalresearch.com.au



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From: s 47F @environment.gov.au]
Sent: Thursday, 13 July 2017 2:05 PM
To: s 47F @ecologicalresearch.com.au>
Cc: s 47F @environment.gov.au>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]
Importance: High

Hello s
47F

Thank you for your email and your time on the phone yesterday afternoon. s 47F and I have considered your proposed changes and engaged in another discussion over Condition 14, bearing in mind the issues and concerns that you raised with me yesterday.

We have further revised condition 14 – see attached. We have no concerns with your proposed minor edit to condition 6. We have also identified and corrected a further error found in the definitions.

Please advise if you are happy to proceed with the attached changes.

Kind regards,

s 47F

Post Approvals Section
Assessments and Governance Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F

From: s 47F [mailto:s 47F@ecologicalresearch.com.au]
Sent: Wednesday, 12 July 2017 2:51 PM
To: s 47F [mailto:s 47F@environment.gov.au]
Cc: s 47F [mailto:s 47F@environment.gov.au]; s 47F [mailto:s 47F@denniscorp.com.au]
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

Hi s 47F

Please find attached our proposed changes to the revised Consolidated Notice.

The first change to Condition 6 is minor and consistent with other conditions, but we are not overly concerned about this.

The second is an important change to Condition 14 – seen to be aimed at protecting values within **both** Project Areas D and C1. The use of the phrase ‘within 6 months’ is taken to mean ‘within 6 months prior to...’ and linking this trigger with the entire *project area* would jeopardise the intended commencement date in Project Area A1 of August 2017. The suggested change refers to both Project Areas D & C1 throughout the condition wording and it is proposed this be triggered by commencement within 100 metres of either project area (noting that the proponent intends to fence these areas at the outset).

Happy to discuss by phone if this helps.

Regards,

s 47F

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111
s 47F [mailto:s 47F@ecologicalresearch.com.au]



From: s 47F [mailto:s 47F@environment.gov.au]
Sent: Thursday, 6 July 2017 2:16 PM
To: s 47F [mailto:s 47F@ecologicalresearch.com.au]
Cc: s 47F [mailto:s 47F@environment.gov.au]
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]
Importance: High

Hello **s**
47F

I have attached a revised Consolidated Notice for your agreement. All edits are in track-changes.

Apologies for the delay.

Kind regards,

s 47F

Post Approvals Section
Assessments and Governance Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 **s** 47F

From: **s** 47F [@ecologicalresearch.com.au](mailto:s47f@ecologicalresearch.com.au)
Sent: Tuesday, 4 July 2017 9:09 AM
To: **s** 47F [@environment.gov.au](mailto:s47f@environment.gov.au)>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

Thanks **s** – I hear you!
47F

s 47F

s 47F

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111
s 47F [@ecologicalresearch.com.au](mailto:s47f@ecologicalresearch.com.au)



From: **s** 47F [@environment.gov.au](mailto:s47f@environment.gov.au)
Sent: Tuesday, 4 July 2017 8:22 AM
To: **s** 47F [@ecologicalresearch.com.au](mailto:s47f@ecologicalresearch.com.au)>
Cc: **s** 47F [@environment.gov.au](mailto:s47f@environment.gov.au)>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

Hi **s**
47F

Thank you for the revised Appendix A. Apologies, the revisions to the Consolidated Notice are still underway – too many competing demands! Hopefully by COB tomorrow, if not sooner.

Regards,

s 47F

Post Approvals Section
Compliance and Enforcement Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 **s** 47F

s 47F

From: s 47F @ecologicalresearch.com.au
Sent: Monday, 7 August 2017 2:56 PM
To: s 47F
Cc: s 47F
Subject: RE: EPBC 2011/6063 - multiple variations and consolidated notice decision [SEC=UNCLASSIFIED]

Thanks s 47F

Regards,

s 47F

s 47F

Suite 5, 61-63 Camberwell Road, Hawthorn East VIC 3123 / PO Box 337, Camberwell VIC 3124
(03) 9815 2111 s 47F
s 47F
s 47F @ecologicalresearch.com.au



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From: s 47F @environment.gov.au]
Sent: Monday, 7 August 2017 11:27 AM
To: s 47F @ecologicalresearch.com.au>
Cc: s 47F @environment.gov.au>
Subject: EPBC 2011/6063 - multiple variations and consolidated notice decision [SEC=UNCLASSIFIED]

Hello s 47F

Attached is the decision notice and signed decision letter regarding your variation request. I have also attached a copy of the new consolidated notice, for your reference. The originals will be in the mail shortly.

Kind regards,

s 47F

Post Approvals Section
Assessments and Governance Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F

s 47F

From: s 47F
Sent: Monday, 7 August 2017 11:27 AM
To: s 47F
Cc: s 47F
Subject: EPBC 2011/6063 - multiple variations and consolidated notice decision [SEC=UNCLASSIFIED]
Attachments: 2011-6063 - multi variation decision letter - SIGNED - 20170804.pdf; 2011-6063 - consolidated notice - SIGNED - 20170804.pdf; 2011-6063 - multi variation notice - SIGNED - 20170804.pdf

Hello s 47F

Attached is the decision notice and signed decision letter regarding your variation request. I have also attached a copy of the new consolidated notice, for your reference. The originals will be in the mail shortly.

Kind regards,

s 47F

Post Approvals Section
Assessments and Governance Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F



Our reference: 2011/6063

Mr s 47F
s 47F
Brett Lane & Associates
s 47F
s 47F

Dear Mr s 47F

Burnside Development (now Modenia Estate) (EPBC 2011/6063)

Thank you for your letter dated 18 April 2017 to the Department, requesting a variation to conditions 4, 5, 6 and 13 of the approval decision dated 20 July 2015.

Officers of this Department have reviewed the variation request for conditions 4, 5, 6 and 13. As delegate of the Minister, I have varied these conditions of EPBC Approval 2011/6063 under section 143(1)(c) of the *Environment Protection and Biodiversity Conservation Act 1999* to allow Project Area A to be divided into two parts (A1 and A2), thus enabling EPBC offset requirements to be satisfied separately for each part. It is my understanding that, following discussions with the Department, you have also agreed to vary conditions 7, 8, 11, 14, 15, 16, 17, and 23 to ensure consistency and ease of administration. All conditions must now be undertaken in accordance with the varied condition specified in the variation notification, which has been attached for your information.

A consolidated notice that includes all changes to the approval is also attached. Please note that the consolidated notice is provided solely for ease of reference – it is not a legally binding document.

As you are aware, the Department has an active monitoring program which includes monitoring inspections, desk top document reviews and audits. Please ensure that you maintain accurate records of all activities associated with, or relevant to, the conditions of approval so that they can be made available to the Department on request.

Should you require any further information please contact s 47F Post Approvals Section, on (02) 6274 s 47F or by email: post.approvals@environment.gov.au.

Yours sincerely

s 47F

James Barker
Assistant Secretary
Assessments and Governance Branch
Environment Standards Division

4 / 8 2017

To: James Barker (for decision)

Through: s 47F, Director, PAS

FOI 180711
Doc 25

s 47F

... 30/2017

EPBC 2011/6063–Burnside Development (now Modena Estate)– Variations to Conditions

Timing: 8 August 2017. The variation request was initiated on 18 April 2017 .

Recommendation/s:

That you agree to vary conditions 4, 5, 6 and 13 of EPBC Approval 2011/6063 to allow Project Area A to be divided into two parts (A1 and A2), thus enabling EPBC offset requirements to be satisfied separately for each part.

Agreed / Please discuss

That you agree to vary conditions 7, 8, 11, 14, 15, 16, 17 and 23 of EPBC Approval 2011/6063 to improve consistency between conditions and ease of administration.

Agreed / Please discuss

That you agree to the provision of a Consolidated Notice incorporating these and previous variations for ease of reference.

Agreed / Please discuss

That you sign the variation decision instrument at **Attachment A** and the Consolidated Notice at **Attachment B** for publication.

Signed / Not signed

That you sign the letter at **Attachment C** advising Brett Lane and Associates of your decision.

Signed / Not signed

s 47F

Signatory: James Barker AS, AGB

Date: 4/8 2017

Comments:

Key Points:

1. The Minister has delegated you as decision maker for this matter pursuant to section 515 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

2. On 20 July 2015, a delegate of the Minister approved with conditions the Burnside Development (now Modenia Estate) (at **Attachment D**), a residential housing development in the Melbourne suburb of Burnside, Victoria. The approval conditions were subsequently varied on 19 November 2015 and 23 January 2017.
3. On 7 April 2017, representatives of the Dennis Family Corporation (the approval holder) and Brett Lane & Associates met with staff from the Department to discuss possible changes to the conditions of approval for the Burnside Development (EPBC 2011/6063). The primary reason for these discussions was the difficulties that the approval holder has experienced trying to utilise the Melbourne Urban Development Policy to secure the offset specified. The Department agreed that direct offsets under the EPBC Act Environmental Offsets Policy would be appropriate. It was also agreed that a property at Karabeal recently placed under an s69 agreement by the approval holder would likely be suitable for this purpose.
4. Subsequently, on 13 April 2017, Brett Lane & Associates wrote to the Department on behalf of the approval holder, requesting variations to conditions 6 and 13. This letter was received by the Department on 18 April 2017 (see **Attachment E**).
5. This request seeks to divide the current Project Area A into two parts (A1 and A2), allowing for EPBC Act offsets for the removal of Natural Temperate Grassland of the Victorian Volcanic Plain (NTGVVP) and Striped Legless Lizard (SLL) habitat to be satisfied separately for each part. A division of Project Area A is necessary, as the available area at the Karabeal property is insufficient to offset Project Area A in its entirety.
6. The request also seeks to vary condition 13 in order to correct an error in the original distribution of NTGVVP and SLL habitat, where a parcel of land was incorrectly attributed to Project Areas C1 and C2. This land is now included as part of the new Project Area A2. Appendix A to the conditions of approval has been updated accordingly (see **Attachment A**).
7. Varying condition 6 necessitates variations to conditions 4 and 5 to ensure continuity of terminology (Project Area A becoming A1 and A2).
8. As this is the third time that variations to this approval have been requested, it was considered appropriate to compile a Consolidated Notice (see **Attachment B**) for ease of reference. The Department used this opportunity to review all conditions attached to EPBC 2011/6063 to ensure both consistency and enforceability. As a result, the Department proposed variations to conditions 7, 8, 11, 14, 15, 16, 17 and 23. These changes were discussed with the approval holder, who agreed in writing on 26 July 2017 (see **Attachment F**).
9. The Act provides for the variation, revocation or addition to existing approvals where certain conditions are met in accordance with section 143. Subsection 143(1)(c) provides that the Minister (or delegate) may add to any conditions attached to an approval if:
 - the approval holder agrees to the addition; and
 - the Minister is satisfied that the conditions attached to an approval after the proposed addition, are necessary or convenient for protecting a matter of national environmental significance or repairing or mitigating damage to a such a matter.

10. With these matters in mind, the Department recommends that you:

- approve the variations to conditions 4, 5, 6, 7, 8, 11, 13, 14, 15, 16, 17 and 23 and Appendix A at **Attachment A**; and
- sign the Consolidated Notice (**Attachment B**) and the letter to Brett Lane and Associates advising of your decision (**Attachment C**)

11. The proposed variation has been processed in accordance with the approval monitoring standard operating procedures – 5.6 Variation of approval conditions.

s 47F

s 47F
Assistant Director
Post Approvals Section
Ph: (02) 6274 **s 47F**

s 47F
Senior Project Officer
Post Approval Section
(02) 6274 **s 47F**

3 August 2017

ATTACHMENTS

- A: Notice of variation (for signature)
- B: Consolidated Notice (for signature)
- C: Letter to Brett Lane and Associates advising of your decision (for signature)
- D: Conditions of EPBC 2011/6063 approval (for information)
- E: Correspondence of 18 April 2017 from Brett Lane and Associates requesting a variation (for information)
- F: Correspondence of 26 July 2017 from Brett Lane and Associates agreeing to the wording of the draft variation/Consolidated Notice (for information)



VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Burnside Development – The Point, Victoria (EPBC No 2011/6063)

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

Approved action

Person to whom the approval is granted

DFC (Project Management) Pty Ltd

ABN: 83 161 448 139

Approved action

To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Variation

Variation of conditions of approval

The variation is:
Delete conditions 4, 5, 6 7, 8, 11, 13, 14, 15, 16, 17, 23 and Appendix A attached to the approval dated 20 July 2015 and substitute with the conditions, Appendix A and additional definitions specified below.

Note: All other conditions including the definitions in the approval dated 20 July 2015 remain unchanged.

Date of effect

This variation has effect on the date the instrument is signed

Person authorised to make decision

name and position

James Barker
Assistant Secretary
Assessments and Governance Branch

Signature

s 47F

Date of decision

4 / 8 2017

Conditions attached to the approval

4. **Construction activities** must not commence in **Project Areas A1, A2, C1, C2 and D** until the site specific **Growling Grass Frog** Management Plan has been approved by the **Minister** in writing. Construction in **Project Area B** can proceed prior to approval of the site-specific **Growling Grass Frog** Management Plan. The site specific **Growling Grass Frog** Management Plan must be implemented.

Project Area A1 and A2

5. The **approval holder** must ensure that the action does not impact more than eleven (11) individual **Spiny Rice-flower** plants within the combined area of **Project Areas A1 and A2**.
6. The approval holder must not commence **construction activities** in **Project Area A1** until the following are met:
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 6.053 hectares of **NTGVVP** and 6.053 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence demonstrating that the offset has been secured.
- 6A. The approval holder must not commence **construction activities** in **Project Area A2** until either 6A(a) or 6A(b) are met:
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.277 hectares of **NTGVVP** and 4.277 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence demonstrating that the offset has been secured;

OR

- b. In a manner consistent with the **Melbourne Urban Development Policy**, secure an offset for impacts to 4.277 hectares of **NTGVVP** and 4.277 hectares of **Striped Legless Lizard habitat** associated with **Project Area A2**. Documentary evidence that the offset has been secured must be provided to the **Department** with 14 days of being secured.

Project Area B

7. The **approval holder** must not commence **construction activities** in **Project Area B** until either 7(a) or 7(b) are met:
 - a. A direct offset containing a minimum of 100 **Spiny Rice-flower** plants has been secured;

- i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. The **Minister** agrees in writing that condition 15 (a–e) has been satisfied.
8. The **approval holder** must not commence **construction activities** in **Project Area B** until the following are met:
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 1.824 hectares of **NTGVVP** and 1.824 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
11. The **approval holder** must conduct ongoing monitoring of the number of **Spiny Rice-flower** plants within **Project Area C2**, including:
- a. **Spiny Rice-flower** monitoring is to be undertaken by a **suitably qualified ecologist** to determine if any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost. Monitoring must be completed at three month intervals following the completion of construction activities within **Project Area C2** for a period of 12 months, and then annually thereafter until the **Minister** agrees in writing that condition 15 (a–e) has been satisfied; and
 - b. Making monitoring results and data publicly available in a written report on their website.
13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 3.358 hectares of **NTGVVP** and 3.358 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Project Area D and Project Area C1

14. The **approval holder** must, in consultation with a **suitably qualified ecologist**, develop an **Environmental Management Plan** for the protection and management of **protected matters** within **Project Area D** and **Spiny Rice-flowers** within **Project Area C1**. The **Environmental Management Plan** must be submitted to the **Minister** for approval 6 months prior to the commencement of **construction activities** within 100 metres of **Project Area D** and **Project Area C1**. The approved **Environmental Management Plan** must be implemented by the **approval holder**. The **Environmental Management Plan** must:
 - a. include existing baseline data and other supporting evidence that documents the baseline conditions of **protected matters** within **Project Area D** and **Project Area C1**;
 - b. outline specific management actions to maintain **protected matters** within **Project Area D** and all individual **Spiny Rice-flowers** within **Project Area C1**;
 - c. include details of establishing and maintaining **security fencing** around the perimeter of **Project Area D** and **Project Area C1** prior to commencement of **construction activities** within 100m of **Project Area D** and **Project Area C1**;
 - d. outline annual monitoring and reporting on the condition of **protected matters** within **Project Area D** and **Project Area C1**;
 - e. define corrective actions and contingency measures to be implemented where monitoring under the **Environmental Management Plan** indicates a decrease in the conditions of **protected matters** below baseline data; and
 - f. include a plan for ongoing management if **Project Area D** and **Project Area C1** remains undeveloped at the expiry date of this approval.
15. The **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1** until the **Minister** agrees in writing that the following are met:
 - a. A **suitably qualified ecologist** has confirmed in writing that each transplant site is demonstrating recruitment by propagated plants;
 - b. A **suitably qualified ecologist** has prepared a report to peer review the results of the **Spiny Rice-flower Propagation Project**;
 - c. The **approval holder** has submitted the peer review report to the **Minister** for review;
 - d. The **Minister** has reviewed the report and determined it demonstrates the **Spiny Rice-flower Propagation Project** has resulted in a **viable and self sustaining Spiny Rice-flower** population at each transplant recipient site, and supports the **target number of established Spiny Rice-flower** plants across the sites; and
 - e. The **Minister** has provided written notification to the **approval holder** that condition 14 no longer applies.
16. The **approval holder** must not commence **construction activities** in **Project Area D** until the following are met.

- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of Striped Legless Lizard habitat;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
- b. Condition 15 has been satisfied.

17. If condition 15 (a–d) cannot be met in full:

- a. the **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1**; until the following are met:
 - i. Adequately compensate for impacts to **Spiny Rice-flower** plants located within **Project Area D** and **Project Area C1** with an alternative offset. This offset strategy must be prepared following consultation with the **Department**; and
 - ii. The **Minister** has provided written notification to the **approval holder** that conditions 14 and 15 no longer apply.
- b. the contingency offset set out in either condition 10 (a) or 10 (b) must be implemented.

23. If the **approval holder** wishes to carry out any activity otherwise than in accordance with management plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that management plan. The varied activity shall not commence until the **Minister** has approved the revised management plan in writing. The **Minister** will not approve a revised management plan unless the revised management plan will result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, then it must be implemented in place of the management plan originally approved.

Definitions:

Project Area A1 - the area identified as Project Area A1 in Appendix A.

Project Area A2 - the area identified as Project Area A2 in Appendix A.

APPENDIX A



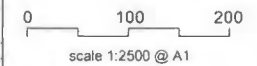
Stage Comparison Plan Concept Plan Precinct 2

LEGEND:



TOTAL AREA: 88.31ha

- Proposed residential stage boundaries (subject to planning approval)
- Growing Grass Frog Habitat 35m from centreline of Kororoit Creek
- Existing Sewerage and/or Drainage Easements
- Retained Native Vegetation
- Spiny Rice Flowers
- Growing Grass Frog Buffer
- Reserve
- Project Area A1
- Project Area A2
- Project Area B
- Project Area C1
- Project Area C2
- Project Area D



DATE: 30 June 2017
REF: 29743 001
DWG: 2974300AS

Bosco Jonson Pty Ltd
ABN 15 69 136 827
P.O. Box 5075, South Melbourne, Vic 3205
16 Eastern Road, South Melbourne
Vic 3205 Australia
Tel 03) 9699 1400 Fax 03) 9699 5992







B

CONSOLIDATED APPROVAL NOTICE

Burnside Development – The Point, Victoria (EPBC 2011/6063)

The attached notice (Attachment A) is provided to consolidate the approval conditions for the above project, approved on 20 July 2015. The action was varied on 26 March 2015 during the assessment phase. The approval conditions were subject to variation on the date of this consolidated approval notice, and at various times during the post approval phase. These decisions are publicly available on the Department's website at <http://epbcnotices.environment.gov.au/referralslist>

The publication of this notice does not alter the dates of: effect for the approval; the variations to conditions; the expiry date of the approval; or any other dates mentioned in conditions. The consolidated approval notice is for ease of reference only.

Name and position

S 47F

James Barker
Assistant Secretary
Assessment and Governance Branch

**Date of Consolidated
Approval Notice**

4 / 8 / 2017



Burnside Development – The Point, Victoria (EPBC 2011/6063)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

Person to whom the approval is granted DFC (Project Management) Pty Ltd

Proponent's ABN 83 161 448 139

Proposed action To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Approval

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved

Conditions of approval

This approval is subject to the conditions specified below.

Expiry date of approval

This approval has effect until 31 July 2035.

Decision-maker

Name and position Deb Callister
Assistant Secretary
Assessments (Queensland, Victoria and Tasmania) and Policy
Implementation Branch

signature **SIGNED**

date of decision **20 July 2015**

Conditions attached to the approval

To minimise impacts of the action on listed threatened species and ecological communities:

1. The **approval holder** must ensure that **construction activities** do not occur outside of the **project area** as illustrated at Appendix A.
2. The **approval holder** must implement sediment and erosion control measures consistent with **best practice pollution, sediment and erosion control guideline(s)** for the duration of **construction activities**.
3. The **approval holder** must prepare a site specific **Growling Grass Frog** Management Plan; which is required to be consistent with **best practice Growling Grass Frog management guidelines**. The plan must outline how significant impacts to **Growling Grass Frogs** will be avoided or mitigated and as a minimum must include:
 - a. Management measures demonstrating how the **Growling Grass Frog buffer zone** will be demarcated to minimise vehicle access;
 - b. Details of revegetation, **environmental weed** control measures and other management activities within the **Growling Grass Frog buffer zone**;
 - c. Details of any **construction activities** and management measures to avoid **significant impacts** during construction; and
 - d. Measures to ensure any on-site personnel will be informed of their obligations under the **Growling Grass Frog** Management Plan.
4. **Construction activities** must not commence in **Project Areas A1, A2, C1, C2 and D** until the site specific **Growling Grass Frog** Management Plan has been approved by the **Minister** in writing. Construction in **Project Area B** can proceed prior to approval of the site-specific **Growling Grass Frog** Management Plan. The site specific **Growling Grass Frog** Management Plan must be implemented.

Project Area A1 and A2

5. The **approval holder** must ensure that the action does not impact more than eleven (11) individual **Spiny Rice-flower** plants within the combined area of **Project Areas A1 and A2**.
6. The approval holder must not commence **construction activities** in **Project Area A1** until the following are met:
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 6.053 hectares of **NTGVVP** and 6.053 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence demonstrating that the offset has been secured.
- 6A. The approval holder must not commence **construction activities** in **Project Area A2** until either 6A(a) or 6A(b) are met:

- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.277 hectares of **NTGVVP** and 4.277 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence demonstrating that the offset has been secured;

OR

- b. In a manner consistent with the **Melbourne Urban Development Policy**, secure an offset for impacts to 4.277 hectares of **NTGVVP** and 4.277 hectares of **Striped Legless Lizard habitat** associated with **Project Area A2**. Documentary evidence that the offset has been secured must be provided to the **Department** with 14 days of being secured.

Project Area B

7. The **approval holder** must not commence **construction activities** in **Project Area B** until either 7(a) or 7(b) are met:
 - a. A direct offset containing a minimum of 100 **Spiny Rice-flower** plants has been secured;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. The **Minister** agrees in writing that condition 15 (a–e) has been satisfied.
8. The **approval holder** must not commence **construction activities** in **Project Area B** until the following are met:
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 1.824 hectares of **NTGVVP** and 1.824 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Project Area C2

9. To protect **Spiny Rice-flower** plants, the **approval holder** must ensure that the number of **Spiny Rice-flower** plants within **Project Area C2** is not reduced as a result of **construction activities**.

10. The **approval holder** must not commence **construction activities** in **Project Area C2** until a contingency offset is established in accordance with either 10(a) or 10(b):
 - a. Enter into a written agreement (“the agreement”) with **Trust for Nature**. The **approval holder** must provide a sum of \$600,000.00 (“the funds”) to **Trust for Nature** to be held until such time as the contingency offset is to be implemented, at which time the funds will form the basis of the payment to purchase the offset. The remaining funds will be returned to the **approval holder** once the **Minister** agrees in writing that condition 15 (a–e) has been satisfied. A draft copy of the agreement must be provided to the **Minister** prior to signing by all parties. A copy of the signed agreement must then be provided to the **Minister** within 7 days of being signed by all parties; or
 - b. Secure a direct contingency offset site containing a minimum of 60 **Spiny Rice-flower** plants and provide written confirmation and supporting evidence to the **Minister** that demonstrates the contingency offset site has been secured. The contingency offset site must be retained by the **approval holder** until such time as the contingency offset is required, or the **Minister** agrees in writing that conditions 15 (a–e) have been satisfied. At such time that the contingency offset is to be implemented, an **offset management plan** must be prepared and submitted to the **Minister** for approval. The approved **offset management plan** must then be implemented by the **approval holder**.
11. The **approval holder** must conduct ongoing monitoring of the number of **Spiny Rice-flower** plants within **Project Area C2**, including:
 - a. **Spiny Rice-flower** monitoring is to be undertaken by a **suitably qualified ecologist** to determine if any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost. Monitoring must be completed at three month intervals following the completion of construction activities within **Project Area C2** for a period of 12 months, and then annually thereafter until the **Minister** agrees in writing that condition 15 (a–e) has been satisfied; and
 - b. Making monitoring results and data publicly available in a written report on their website.
12. If the monitoring conducted as per condition 11 finds that any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost, the **approval holder** must:
 - a. advise the **Department** within 14 days of receiving the monitoring result;
 - b. within 3 months of notifying the **Department** under (a), provide the **Department** with an analysis of the likely causes of the reduction prepared by a **suitably qualified ecologist** including the likelihood that the reduction is the result of any direct or indirect impacts of **construction activities**; and
 - c. if the analysis prepared by a **suitably qualified ecologist** finds that the reduction is likely to be the result of any direct or indirect impacts of **construction activities**, then implement the contingency offset set out in either condition 10 (a) or 10 (b).
13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 3.358 hectares of **NTGVVP** and 3.358 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved.

- The approved **offset management plan** must be implemented by the **approval holder**; and
- ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Project Area D and Project Area C1

14. The **approval holder** must, in consultation with a **suitably qualified ecologist**, develop an **Environmental Management Plan** for the protection and management of **protected matters** within **Project Area D** and **Spiny Rice-flowers** within **Project Area C1**. The **Environmental Management Plan** must be submitted to the **Minister** for approval 6 months prior to the commencement of **construction activities** within 100 metres of **Project Area D** and **Project Area C1**. The approved **Environmental Management Plan** must be implemented by the **approval holder**. The **Environmental Management Plan** must:
 - a. include existing baseline data and other supporting evidence that documents the baseline conditions of **protected matters** within **Project Area D** and **Project Area C1**;
 - b. outline specific management actions to maintain **protected matters** within **Project Area D** and all individual **Spiny Rice-flowers** within **Project Area C1**;
 - c. include details of establishing and maintaining **security fencing** around the perimeter of **Project Area D** and **Project Area C1** prior to commencement of **construction activities** within 100m of **Project Area D** and **Project Area C1**;
 - d. outline annual monitoring and reporting on the condition of **protected matters** within **Project Area D** and **Project Area C1**;
 - e. define corrective actions and contingency measures to be implemented where monitoring under the **Environmental Management Plan** indicates a decrease in the conditions of **protected matters** below baseline data; and
 - f. include a plan for ongoing management if **Project Area D** and **Project Area C1** remains undeveloped at the expiry date of this approval.
15. The **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1** until the **Minister** agrees in writing that the following are met:
 - a. A **suitably qualified ecologist** has confirmed in writing that each transplant site is demonstrating recruitment by propagated plants;
 - b. A **suitably qualified ecologist** has prepared a report to peer review the results of the **Spiny Rice-flower Propagation Project**;
 - c. The **approval holder** has submitted the peer review report to the **Minister** for review;
 - d. The **Minister** has reviewed the report and determined it demonstrates the **Spiny Rice-flower Propagation Project** has resulted in a **viable and self sustaining Spiny Rice-flower** population at each transplant recipient site, and supports the **target number** of **established Spiny Rice-flower** plants across the sites; and
 - e. The **Minister** has provided written notification to the **approval holder** that condition 14 no longer applies.

16. The **approval holder** must not commence **construction activities** in **Project Area D** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of Striped Legless Lizard habitat;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. Condition 15 has been satisfied.
17. If condition 15 (a–d) cannot be met in full:
- a. the **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1**; until the following are met:
 - i. Adequately compensate for impacts to **Spiny Rice-flower** plants located within **Project Area D** and **Project Area C1** with an alternative offset. This offset strategy must be prepared following consultation with the **Department**; and
 - ii. The **Minister** has provided written notification to the **approval holder** that conditions 14 and 15 no longer apply.
 - b. the contingency offset set out in either condition 10 (a) or 10 (b) must be implemented.

Administrative conditions

18. The **approval holder** must ensure that **offset attributes** and **shapefiles** for all offset sites are provided to the **Department** at the timing of submitting their corresponding **offset management plan**.
19. Within 30 days after the commencement of **construction activities**, the **approval holder** must advise the **Minister** in writing of the actual date of commencement of **construction activities**.
20. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
21. Within three months of every 12 month anniversary of the commencement of **construction activities**, the **approval holder** must publish a report on its website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the

same time as the compliance report is published. Compliance reports must remain on the approval holder's website for 12 months from the date of publishing. The requirement to submit compliance reports will cease following written agreement with the **Minister**.

22. Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
23. If the **approval holder** wishes to carry out any activity otherwise than in accordance with management plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that management plan. The varied activity shall not commence until the **Minister** has approved the revised management plan in writing. The **Minister** will not approve a revised management plan unless the revised management plan will result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, then it must be implemented in place of the management plan originally approved.
24. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the **Minister** may request that the **approval holder** make specified revisions to the management plans specified in the conditions and submit the revised management plan for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised approved management plans must be implemented. Unless the **Minister** has approved the revised management plans then the **approval holder** must continue to implement the management plan originally approved, as specified in the conditions.
25. If, at any time after 5 years from the date of this approval, the **approval holder** has not **substantially commenced** the action, then the **approval holder** must not **substantially commence** the action without the written agreement of the **Minister**.
26. Unless otherwise agreed to in writing by the **Minister**, the **approval holder** must publish all management plans referred to in these conditions of approval on the approval holder's website. Each management plan must be published on the website within 1 month of being approved. The **approval holder** must notify the **Department** within 5 days of publishing the plan on the website. The management plans must remain on the website for the period this approval has effect.

Definitions:

Approval holder - the person undertaking the action who holds the project approval.

Best practice Growling Grass Frog management guidelines - these include the most recent versions of *Guidelines for managing the endangered Growling Grass Frog in urbanising landscapes* (Victorian Department of Sustainability and Environment, 2010), *Procedure statement for translocation of threatened native vertebrate fauna in Victoria* (Victorian Department of Sustainability and Environment, 2013), *Bellarine Peninsula Ramsar Site Strategic Management Plan* (DEPI, 2003), *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999), *Constructed Wetlands Guidelines* (Victorian Government and Melbourne Water Corporation, 2010) and *Water Sensitive Urban Design Guidelines* (Victorian Government and Melbourne Water Corporation, 2013).

Best practice pollution, sediment and erosion control guidelines - the most recent version of relevant guidelines on pollution, sediment and erosion control, such as the *Construction Techniques for Sediment Pollution Control* (EPA Publication No. 275, 1991); and *Environmental Guidelines for Major Construction Sites* (EPA Publication No. 480, 1996).

Construction activities - includes but is not limited to clearing of vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for infrastructure or earthworks. This does not include maintenance or use of existing access tracks, erection or construction of **security fencing** and signage, , or investigative activities such as accessing the site for surveying or planning purposes.

Department - the Australian Government Department administering the **EPBC Act**.

Environmental Management Plan - the document developed by a **suitably qualified ecologist** to the satisfaction of the **Department**, detailing the long-term management of **protected matters** within **Project Area D** and **Project Area C1**.

Environmental weeds - invasive native and non-native plants including:

- i. listed Victorian Declared Noxious Weeds, including Artichoke Thistle (*Cynara cardunculus*), Fennel (*Foeniculum vulgare*) and Spiny Rush (*Juncus acutus*);
- ii. listed Victorian Invasive Plants, including Mirror Bush (*Coprosma repens*), Pampas grass (*Cortaderia sp.*), Italian buckthorn (*Rhamnus alaternus*) and Spartina/Cord Grass (*Spartina anglica* and *Spartina x townsendii*); and
- iii. listed Weeds of National Significance, including Madeira vine (*Anredera cordifolia*), Asparagus weeds / Bridal Creeper (*Asparagus aethiopicus*, *A. africanus*, *A. asparagoides*, *A. asparagoides Western Cape form*, *A. declinatus*, *A. plumosus*, *A. scandens* [excluding *A. officinalis* and *A. racemosus*]), Brooms including Flax-leaf Broom (*Cytisus scoparius*, *Genista monspessulana* and *G. linifolia*), African boxthorn (*Lycium ferocissimum*), Chilean needle grass (*Nassella neesiana*), Serrated tussock (*Nassella trichotoma*), Blackberry (*Rubus fruticosus* agg.), Silverleaf nightshade (*Solanum elaeagnifolium*), Willows (*Salix spp.* [excluding *S. Babylonica*, *S. Calodendron* and *S. reichardtii*]), Gorse (*Ulex europaeus*).

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

EPBC Act Environmental Offsets Policy - the Australian Government policy document titled: *EPBC Act environmental offsets policy, Department of the Environment, 2013 Policy guiding the use of offsets under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

Established Spiny Rice-flower – A Spiny-Rice flower plant that meets the following:

- i. was introduced into the area through the **Spiny Rice-flower Propagation Project**; and
- ii. is at least 2 years old.

Growling Grass Frog - the frog species *Litoria raniformis*, protected under the **EPBC Act**.

Growling Grass Frog buffer zone - the area identified as Growling Grass Frog Buffer in Appendix A.

Melbourne Urban Development Policy - the document *Policy Statement for Melbourne urban development proposals needing consideration under Parts 7, 8 and 9 of the EPBC Act*, Department of the Environment, February 2014, online: http://www.environment.gov.au/system/files/resources/dc154fd1-d526-4e7d-9a8e-bd17f8ceac15/files/melbourne-urban-development_1.pdf.

Minister - the Australian Government Minister administering the *EPBC Act* and includes a delegate of the Minister.

NTGVVP - is the threatened ecological community *Natural Temperate Grassland of the Victorian Volcanic Plain*, protected under the **EPBC Act**.

Offset attributes - an '.xls' file capturing relevant attributes of the offset site, including the EPBC 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.

Offset management plan - an offset management plan must:

- include baseline information for the offset site(s);
- include details of how the offset(s) are consistent with the **EPBC Act Environmental Offsets Policy**;
- demonstrates how the offset site(s) will be protected for long term conservation purposes;
- include details of short and long term management measures, include timeframes for management measures for the site(s);
- and identify the short and long term arrangements and responsibilities of parties in the management of the site(s).

Project Area A1 - the area identified as Project Area A1 in Appendix A.

Project Area A2 - the area identified as Project Area A2 in Appendix A.

Project Area B - the area identified as Project Area B in Appendix A.

Project Area C1 - the area identified as Project Area C1 in Appendix A.

Project Area C2 - the area identified as Project Area C2 in Appendix A.

Project Area D - the area identified as Project Area D in Appendix A.

Project area - the area contained within the Proposed Residential Stage Boundaries, identified by a dashed red line in Appendix A.

Protected matters - NTGVVP, **Spiny Rice-flower**, **Striped Legless Lizard** and **Growling Grass Frog**.

Security fencing - a fence with locked gated access that prevents access by the public, while allowing dispersal of **Striped Legless Lizard**.

Shapefile - an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Significant impact - as described in Significant Impact Guidelines 1.1 – Matter of National Environmental Significance (Department of the Environment, 2013) and any specific significant impact guidelines.

Spiny Rice-flower - the plant species *Pimelea spinescens subsp. spinescens*, protected under the **EPBC Act**.

Spiny Rice-flower Propagation Project - refers to the Spiny Rice-flower Propagation Project prepared by BL&A 2013.

Striped Legless Lizard - the lizard species *Delma impar*, protected under the **EPBC Act**.

Striped Legless Lizard habitat - is any grassland (exotic and native) that may be utilised by the **Striped Legless Lizard** for breeding, sheltering, foraging or ranging.

Substantially commenced - means the installation of any permanent infrastructure associated with the action.

Suitably qualified ecologist - a person with relevant tertiary qualifications in ecology, botany or environmental science and at least 5 years of experience in surveying and field work relevant to the relevant **Protected Matter**, or any other person agreed to in writing by the **Department**.

Target number - refers to the target total of 800 individual plants as set out in the **Spiny Rice Flower Propagation Project**. In the event the person taking the action secures direct offsets for **Spiny Rice-flower** to compensate for impacts in the **project area**, the target number will be reduced on a 1:1 basis following written confirmation from the **Minister**.

Trust for Nature - meaning the organisation Trust for Nature (<http://www.trustfornature.org.au/>).

Viable and self-sustaining - means that the specified **Spiny Rice-flower** population demonstrates:

- i. Numbers of annually flowering male and female plants in proportions similar to that in natural populations;
 - ii. That new germinants are recruiting in numbers similar to that in natural populations;
and
 - iii. A growing population where recruitment exceeds mortality to a similar extent as other managed populations.
-

APPENDIX A



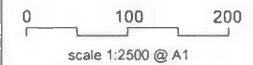
Stage Comparison Plan Concept Plan Precinct 2

LEGEND:



TOTAL AREA: 88.31ha

- Proposed residential stage boundaries (subject to planning approval)
- Growing Grass Frog Habitat 35m from centreline of Kororoit Creek
- Existing Sewerage and/or Drainage Easements
- Retained Native Vegetation
- Spiny Rice Flowers
- Growing Grass Frog Buffer
- Reserve
- Project Area A1
- Project Area A2
- Project Area B
- Project Area C1
- Project Area C2
- Project Area D



DATE: 30 June 2017
REF: 29743 001
DWG: 2974300AS

Bosco Jonson Pty Ltd
ABN 15 969 138 827
P.O. Box 5076, South Melbourne, Vic 3205
18 Eastern Road, South Melbourne
Vic 3205 Australia
Tel (03) 9699 1400 Fax (03) 9692 5992







Our reference: 2011/6063

Mr s 47F
s 47F
Brett Lane & Associates
PO Box 337
CAMBERWELL VICTORIA 3123

Dear Mr s 47F

Burnside Development (now Modenia Estate) (EPBC 2011/6063)

Thank you for your letter dated 18 April 2017 to the Department, requesting a variation to conditions 4, 5, 6 and 13 of the approval decision dated 20 July 2015.

Officers of this Department have reviewed the variation request for conditions 4, 5, 6 and 13. As delegate of the Minister, I have varied these conditions of EPBC Approval 2011/6063 under section 143(1)(c) of the *Environment Protection and Biodiversity Conservation Act 1999* to allow Project Area A to be divided into two parts (A1 and A2), thus enabling EPBC offset requirements to be satisfied separately for each part. It is my understanding that, following discussions with the Department, you have also agreed to vary conditions 7, 8, 11, 14, 15, 16, 17, and 23 to ensure consistency and ease of administration. All conditions must now be undertaken in accordance with the varied condition specified in the variation notification, which has been attached for your information.

A consolidated notice that includes all changes to the approval is also attached. Please note that the consolidated notice is provided solely for ease of reference – it is not a legally binding document.

As you are aware, the Department has an active monitoring program which includes monitoring inspections, desk top document reviews and audits. Please ensure that you maintain accurate records of all activities associated with, or relevant to, the conditions of approval so that they can be made available to the Department on request.

Should you require any further information please contact s 47F, Post Approvals Section, on (02) 6274 s 47F or by email: post.approvals@environment.gov.au.

Yours sincerely

s 47F

James Barker
Assistant Secretary
Assessments and Governance Branch
Environment Standards Division

4 / 8 2017



Approval

Burnside Development - The Point, Victoria (EPBC 2011/6063)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

Person to whom the approval is granted DFC (Project Management) Pty Ltd

Proponent's ABN 83 161 448 139

Proposed action To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Approval decision

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved

Conditions of approval

This approval is subject to the conditions specified below.

Expiry date of approval

This approval has effect until 31 February 2035.

Decision-maker

Name and position Deb Callister
Assistant Secretary
Assessments (Queensland, Victoria and Tasmania) and Policy
Implementation Branch

Signature

S 47F

Date of decision

20 July 2015

Conditions attached to the approval

To minimise impacts of the action on listed threatened species and ecological communities:

1. The **approval holder** must ensure that **construction activities** do not occur outside of the **project area** as illustrated at Appendix A.
2. The **approval holder** must implement sediment and erosion control measures consistent with **best practice pollution, sediment and erosion control guideline(s)** for the duration of **construction activities**.
3. The **approval holder** must prepare a site specific **Growling Grass Frog** Management Plan; which is required to be consistent with **best practice Growling Grass Frog management guidelines**. The plan must outline how **significant impacts to Growling Grass Frogs** will be avoided or mitigated and as a minimum must include:
 - a. Management measures demonstrating how the **Growling Grass Frog buffer zone** will be demarcated to minimise vehicle access;
 - b. Details of revegetation, **environmental weed** control measures and other management activities within the **Growling Grass Frog buffer zone**;
 - c. Details of any **construction activities** and management measures to avoid **significant impacts** during construction; and
 - d. Measures to ensure any on-site personnel will be informed of their obligations under the **Growling Grass Frog** Management Plan.
4. **Construction activities** must not commence until the site specific **Growling Grass Frog** Management Plan has been approved by the **Minister** in writing. The site specific **Growling Grass Frog** Management Plan must be implemented.

Project Area A

5. The **approval holder** must ensure that the action does not impact more than seven (7) individual **Spiny Rice-flower** plants within **Project Area A**.
6. Prior to the commencement of **construction activities**, the **approval holder** must offset 9.67 hectares of **NTGVVP** and 9.67 hectares of **Striped Legless Lizard habitat** associated with **Project Area A** in a manner consistent with the **Melbourne Urban Development Policy**. Documentary evidence that the offset has been secured must be provided to the **Minister** within 14 days of being secured.

Project Area B

7. The **approval holder** must not commence **construction activities** in **Project Area B** until either 7(a) or 7(b) are met:
 - a. A direct offset containing a minimum of 100 **Spiny Rice-flower** plants has been secured;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written

confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and

- ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. The **Minister** agrees in writing that condition 15 (a–e) has been satisfied.
8. The **approval holder** must not commence **construction activities** in **Project Area B** until the following are met:
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 1.824 hectares of **NTGVVP** and 1.824 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 13 and 16.

Project Area C2

9. To protect **Spiny Rice-flower** plants, the **approval holder** must ensure that the number of **Spiny Rice-flower** plants within **Project Area C2** is not reduced as a result of **construction activities**.
10. The **approval holder** must not commence **construction activities** in **Project Area C2** until a contingency offset is established in accordance with either 10 (a) or 10 (b):
 - a. Enter into a written agreement (“the agreement”) with **Trust for Nature**. The **approval holder** must provide a sum of \$600,000.00 (“the funds”) to **Trust for Nature** to be held until such time as the contingency offset is to be implemented, at which time the funds will form the basis of the payment to purchase the offset. The remaining funds will be returned to the **approval holder** once the **Minister** agrees in writing that condition 15 (a–e) has been satisfied. A draft copy of the agreement must be provided to the **Minister** prior to signing by all parties. A copy of the signed agreement must then be provided to the **Minister** within 7 days of being signed by all parties; or
 - b. Secure a direct contingency offset site containing a minimum of 60 **Spiny Rice-flower** plants and provide written confirmation and supporting evidence to the **Minister** that demonstrates the contingency offset site has been secured. The contingency offset site must be retained by the **approval holder** until such time as the contingency offset is required, or the **Minister** agrees in writing that

conditions 15 (a–e) have been satisfied. At such time that the contingency offset is to be implemented, an **offset management plan** must be prepared and submitted to the **Minister** for approval. The approved **offset management plan** must then be implemented by the **approval holder**.

11. The **approval holder** must conduct ongoing monitoring of the number of **Spiny Rice-flower** plants within **Project Area C2**, including:
 - a. **Spiny Rice-flower** monitoring is to be undertaken by a **suitably qualified ecologist** to determine if any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost. Monitoring must be completed at three month intervals following the completion of construction activities within **Project Area C2** for a period of 12 months, and then annually thereafter until the **Minister** agrees in writing that condition 15 (a–e) has been satisfied; and
 - b. Making monitoring results and data publicly available in a written report on their website under an open licence.
12. If the monitoring conducted as per condition 11 finds that any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost, the **approval holder** must:
 - a. advise the **Department** within 14 days of receiving the monitoring result;
 - b. within 3 months of notifying the **Department** under (a), provide the **Department** with an analysis of the likely causes of the reduction prepared by a **suitably qualified ecologist** including the likelihood that the reduction is the result of any direct or indirect impacts of construction activities; and
 - c. if the analysis prepared by a **suitably qualified ecologist** finds that the reduction is likely to be the result of any direct or indirect impacts of **construction activities**, then implement the contingency offset set out in either condition 10 (a) or 10 (b).
13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.018 hectares of **NTGVVP** and 4.018 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Department** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area C2 and C1.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 16.

Project Area D and Project Area C1

14. The **approval holder** must, in consultation with a **suitably qualified ecologist**, develop an **Environmental Management Plan** for the protection and management of **protected matters** within **Project Area D** and **Spiny Rice-flowers** within **Project Area C1**. The **Environmental Management Plan** must be submitted to the **Minister** for approval within 6 months of commencement of **construction activities** within the **project area**. The **approval holder** must ensure the approved **Environmental Management Plan** is implemented within 6 months of approval. The **Environmental Management Plan** must:
 - a. include existing baseline data and other supporting evidence that documents the baseline conditions of **protected matters** within **Project Area D** and **Project Area C1**;
 - b. outline specific management actions to maintain **protected matters** within **Project Area D** and all individual **Spiny Rice-flowers Project Area C1**;
 - c. include details of establishing and maintaining **security fencing** around the perimeter of **Project Area D** and **Project Area C1**, prior to commencement of **construction activities** within 100m of **Project Area D**;
 - d. outline annual monitoring and reporting on the condition of **protected matters** within **Project Area D** and **Project Area C1**;
 - e. define corrective actions and contingency measures to be implemented where monitoring under the **Environmental Management Plan** indicates a decrease in the conditions of **protected matters** below baseline data; and
 - f. include a plan for ongoing management if **Project Area D** and **Project Area C1** remains undeveloped at the expiry date of this approval.

15. The **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1** until the **Minister** agrees in writing that the following are met:
 - a. A **suitably qualified ecologist** has confirmed in writing that each transplant site is demonstrating recruitment by propagated plants;
 - b. A **suitably qualified ecologist** has prepared a report to peer review the results of the **Spiny Rice-flower Propagation Project**;
 - c. The **approval holder** has submitted the peer review report to the **Minister** for review;
 - d. The **Minister** has reviewed the report and determined it demonstrates the **Spiny Rice-flower Propagation Project** has resulted in a **viable and self sustaining Spiny Rice-flower** population at each transplant recipient site, and supports the **target number of established Spiny Rice-flower** plants across the sites; and

- e. The **Minister** has provided written notification to the **approval holder** that condition 15 no longer applies.
16. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. Condition 15 has been satisfied.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area C2 and C1.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 13.

17. If condition 15 (a–e) cannot be met in full:
- a. the **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1**; until the following are met:
 - i. Adequately compensate for impacts to **Spiny Rice-flower** plants located within **Project Area D** and **Project Area C1** with an alternative offset. This offset strategy must be prepared following consultation with the **Department**; and
 - ii. The **Minister** has provided written notification to the approval holder that condition 14 no longer applies.
 - b. the contingency offset set out in either condition 10 (a) or 10 (b) must be implemented.

Administrative conditions

- 18. The **approval holder** must ensure that **offset attributes** and **shapefiles** for all offset sites are provided to the **Department** at the timing of submitting their corresponding **offset management plan**.
- 19. Within 30 days after the commencement of **construction activities**, the **approval holder** must advise the **Minister** in writing of the actual date of commencement of **construction activities**.

20. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
21. Within three months of every 12 month anniversary of the commencement of **construction activities**, the **approval holder** must publish a report on its website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published. Compliance reports must remain on the approval holder's website for 12 months from the date of publishing. The requirement to submit compliance reports will cease following written agreement with the **Minister**.
22. Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
23. If the **approval holder** wishes to carry out any activity otherwise than in accordance with management plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that management plans. The varied activity shall not commence until the **Minister** has approved the varied management plans in writing. The **Minister** will not approve a varied management plan unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, then it must be implemented in place of the management plan originally approved.
24. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the **Minister** may request that the **approval holder** make specified revisions to the management plans specified in the conditions and submit the revised management plan for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised approved management plans must be implemented. Unless the **Minister** has approved the revised management plans then the **approval holder** must continue to implement the management plan originally approved, as specified in the conditions.

25. If, at any time after 5 years from the date of this approval, the **approval holder** has not **substantially commenced** the action, then the **approval holder** must not **substantially commence** the action without the written agreement of the **Minister**.
26. Unless otherwise agreed to in writing by the **Minister**, the **approval holder** must publish all management plans referred to in these conditions of approval on the approval holder's website. Each management plan must be published on the website within 1 month of being approved. The **approval holder** must notify the **Department** within 5 days of publishing the plan on the website. The management plans must remain on the website for the period this approval has effect.

Definitions:

Approval holder - the person undertaking the action who holds the project approval.

Best practice Growling Grass Frog management guidelines - these include the most recent versions of *Guidelines for managing the endangered Growling Grass Frog in urbanising landscapes* (Victorian Department of Sustainability and Environment, 2010), *Procedure statement for translocation of threatened native vertebrate fauna in Victoria* (Victorian Department of Sustainability and Environment, 2013), *Bellarine Peninsula Ramsar Site Strategic Management Plan* (DEPI, 2003), *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999), *Constructed Wetlands Guidelines* (Victorian Government and Melbourne Water Corporation, 2010) and *Water Sensitive Urban Design Guidelines* (Victorian Government and Melbourne Water Corporation, 2013).

Best practice pollution, sediment and erosion control guidelines - the most recent version of relevant guidelines on pollution, sediment and erosion control, such as the *Construction Techniques for Sediment Pollution Control* (EPA Publication No. 275, 1991); and *Environmental Guidelines for Major Construction Sites* (EPA Publication No. 480, 1996).

Construction activities - includes but is not limited to clearing of vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for infrastructure or earthworks. This does not include maintenance or use of existing access tracks, erection or construction of **security fencing** and signage, , or investigative activities such as accessing the site for surveying or planning purposes.

Department - the Australian Government Department administering the **EPBC Act**.

Environmental Management Plan - the document developed by a **suitably qualified ecologist** to the satisfaction of the **Department**, detailing the long-term management of **protected matters** within **Project Area D** and **Project Area C2**.

Environmental weeds - invasive native and non-native plants including:

- i. listed Victorian Declared Noxious Weeds, including Artichoke Thistle (*Cynara cardunculus*), Fennel (*Foeniculum vulgare*) and Spiny Rush(*Juncus acutus*);
- ii. listed Victorian Invasive Plants, including Mirror Bush (*Coprosma repens*), Pampas grass (*Cortaderia sp.*), Italian buckthorn (*Rhamnus alaternus*) and Spartina/Cord Grass (*Spartina anglica* and *Spartina x townsendii*); and
- iii. listed Weeds of National Significance, including Madeira vine (*Anredera cordifolia*), Asparagus weeds / Bridal Creeper (*Asparagus aethiopicus*, *A. africanus*, *A. asparagoides*, *A. asparagoides* Western Cape form, *A. declinatus*, *A. plumosus*, *A. Scandens* [excluding *A. Officinalis* and *A. Racemosus*]), Brooms including Flax-leaf Broom (*Cytisus scoparius*, *Genista monspessulana* and *G. linifolia*), African boxthorn (*Lycium ferocissimum*), Chilean needle grass (*Nassella neesiana*), Serrated tussock (*Nassella trichotoma*), Blackberry (*Rubus fruticosus* agg.), Silverleaf nightshade (*Solanum elaeagnifolium*), Willows (*Salix* spp. [excluding *S. Babylonica*, *S. Calodendron* and *S. reichardtii*]), Gorse (*Ulex europaeus*).

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

EPBC Act Environmental Offsets Policy - the Australian Government policy document titled: *EPBC Act environmental offsets policy, Department of the Environment, 2013 Policy guiding the use of offsets under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

Established Spiny Rice-flower – A Spiny-Rice flower plant that meets the following:

- i. was introduced into the area through the **Spiny Rice-flower Propagation Project**; and
- ii. is at least 2 years old.

Growling Grass Frog - the frog species *Litoria raniformis*, protected under the **EPBC Act**.

Growling Grass Frog buffer zone - the area identified as Growling Grass Frog Buffer in Appendix A.

Melbourne Urban Development Policy - the document *Policy Statement for Melbourne urban development proposals needing consideration under Parts 7, 8 and 9 of the EPBC Act*, Department of the Environment, February 2014, online:

http://www.environment.gov.au/system/files/resources/dc154fd1-d526-4e7d-9a8e-bd17f8ceac15/files/melbourne-urban-development_1.pdf.

Minister - the Australian Government Minister administering the *EPBC Act* and includes a delegate of the Minister.

NTGVVP - is the threatened ecological community *Natural Temperate Grassland of the Victorian Volcanic Plain*, protected under the **EPBC Act**.

Offset attributes - an '.xls' file capturing relevant attributes of the offset site, including the EPBC 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.

Offset management plan - an offset management plan must:

- include baseline information for the offset site(s);
- include details of how the offset(s) are consistent with the **EPBC Act Environmental Offsets Policy**;
- demonstrates how the offset site(s) will be protected for long term conservation purposes;
- include details of short and long term management measures, include timeframes for management measures for the site(s);
- and identify the short and long term arrangements and responsibilities of parties in the management of the site(s).

Project Area A - the area identified as Project Area A in Appendix A.

Project Area B - the area identified as Project Area B in Appendix A.

Project Area C1 - the area identified as Project Area C1 in Appendix A.

Project Area C2 - the area identified as Project Area C2 in Appendix A.

Project Area D - the area identified as Project Area D in Appendix A.

Project area - the area contained within the Proposed Residential Stage Boundaries, identified by a dashed red line in Appendix A.

Protected matters - NTGVVP, **Spiny Rice-flower**, **Striped Legless Lizard** and **Growing Grass Frog**.

Security fencing - a fence with locked gated access that prevents access by the public, while allowing dispersal of **Striped Legless Lizard**.

Shapefile - an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Significant impact - as described in Significant Impact Guidelines 1.1 – Matter of National Environmental Significance (Department of the Environment, 2013) and any specific significant impact guidelines.

Spiny Rice-flower - the plant species *Pimelea spinescens subsp. spinescens*, protected under the EPBC Act.

Spiny Rice-flower Propagation Project - refers to the Spiny Rice-flower Propagation Project prepared by BL&A 2013.

Striped Legless Lizard - the lizard species *Delma impar*, protected under the EPBC Act.

Striped Legless Lizard habitat - is any grassland (exotic and native) that may be utilised by the **Striped Legless Lizard** for breeding, sheltering, foraging or ranging.

Substantially commenced - means the installation of any permanent infrastructure associated with the action.

Suitably qualified ecologist - a person with relevant tertiary qualifications in ecology, botany or environmental science and at least 5 years of experience in surveying and field work relevant to the relevant **Protected Matter**, or any other person agreed to in writing by the **Department**.

Target number - refers to the target total of 800 individual plants as set out in the **Spiny Rice Flower Propagation Project**. In the event the person taking the action secures direct offsets for **Spiny Rice-flower** to compensate for impacts in the **project area**, the target number will be reduced on a 1:1 basis following written confirmation from the **Minister**.

Trust for Nature - meaning the organisation Trust for Nature (<http://www.trustfornature.org.au/>).

Viable and self-sustaining - means that the specified **Spiny Rice-flower** population demonstrates:

- i. Numbers of annually flowering male and female plants in proportions similar to that in natural populations;

- ii. That new germinants are recruiting in numbers similar to that in natural populations;
and
 - iii. A growing population where recruitment exceeds mortality to a similar extent as other managed populations.
-

Appendix A - Project Area



APPENDIX A



Stage Comparison Plan Concept Plan Precinct 2

LEGEND:

Precinct 1
22.82ha

Precinct 2
65.49ha

- TOTAL AREA: 88.31ha**
- Proposed residential stage boundaries (subject to planning approval)
 - Stage Boundaries (Stages 18PS, 21 & 22)
 - Growing Grass Frog Habitat
35m from centreline of Kororoit Creek
 - Existing Sewerage and/or Drainage Easements
 - Spiny Rice Flowers
 - Growing Grass Frog Buffer
 - Reserve Unencumbered
 - Project Area A
 - Project Area B
 - Project Area C1
 - Project Area C2
 - Project Area D

0 100 200
scale 1:2500 @ A1

DATE: 29 June 2015
REF: 29743 001
DWG: 2974300AR

Boco Johnson Pty Ltd
ABN 18 169 138 627
P.O. Box 5075, South Melbourne, Vic 3205
18 Eastern Road, South Melbourne
Vic 3205 Australia
Tel: (03) 9629 1400 Fax: (03) 9699 5392





CORRECTION NOTIFICATION

Approval

Burnside Development – The Point, Victoria (EPBC 2011/6063)

The Approval, Burnside Development – The Point, Victoria (EPBC 2011/6063) signed on 20 July 2015 contained an error.

The notice incorrectly stated that the expiry date of the approval was 31 February 2035. The correct expiry date of the approval is 31 July 2035.

A corrected version of the notice is at Annexure 1.

Person making correction

Name and position	Deb Callister Assistant Secretary Assessments (Queensland, Victoria and Tasmania) and Policy Implementation Branch
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Date of correction	S 47F
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Australian Government
Department of the Environment

Approval

Burnside Development - The Point, Victoria (EPBC 2011/6063)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

Person to whom the approval is granted DFC (Project Management) Pty Ltd

Proponent's ABN 83 161 448 139

Proposed action To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Approval decision

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved

Conditions of approval

This approval is subject to the conditions specified below.

Expiry date of approval

This approval has effect until 31 July 2035.

Decision-maker

Name and position Deb Callister
Assistant Secretary
Assessments (Queensland, Victoria and Tasmania) and Policy
Implementation Branch

Signature

S 47F

Date of decision

29 July 2015

Conditions attached to the approval

To minimise impacts of the action on listed threatened species and ecological communities:

1. The **approval holder** must ensure that **construction activities** do not occur outside of the **project area** as illustrated at Appendix A.
2. The **approval holder** must implement sediment and erosion control measures consistent with **best practice pollution, sediment and erosion control guideline(s)** for the duration of **construction activities**.
3. The **approval holder** must prepare a site specific **Growling Grass Frog** Management Plan; which is required to be consistent with **best practice Growling Grass Frog management guidelines**. The plan must outline how **significant impacts** to **Growling Grass Frogs** will be avoided or mitigated and as a minimum must include:
 - a. Management measures demonstrating how the **Growling Grass Frog buffer zone** will be demarcated to minimise vehicle access;
 - b. Details of revegetation, **environmental weed** control measures and other management activities within the **Growling Grass Frog buffer zone**;
 - c. Details of any **construction activities** and management measures to avoid **significant impacts** during construction; and
 - d. Measures to ensure any on-site personnel will be informed of their obligations under the **Growling Grass Frog** Management Plan.
4. **Construction activities** must not commence until the site specific **Growling Grass Frog** Management Plan has been approved by the **Minister** in writing. The site specific **Growling Grass Frog** Management Plan must be implemented.

Project Area A

5. The **approval holder** must ensure that the action does not impact more than seven (7) individual **Spiny Rice-flower** plants within **Project Area A**.
6. Prior to the commencement of **construction activities**, the **approval holder** must offset 9.67 hectares of **NTGVVP** and 9.67 hectares of **Striped Legless Lizard** habitat associated with **Project Area A** in a manner consistent with the **Melbourne Urban Development Policy**. Documentary evidence that the offset has been secured must be provided to the **Minister** within 14 days of being secured.

Project Area B

7. The **approval holder** must not commence **construction activities** in **Project Area B** until either 7(a) or 7(b) are met:
 - a. A direct offset containing a minimum of 100 **Spiny Rice-flower** plants has been secured;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written

- confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
- ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
- b. The **Minister** agrees in writing that condition 15 (a–e) has been satisfied.
8. The **approval holder** must not commence **construction activities** in **Project Area B** until the following are met:
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 1.824 hectares of **NTGVVP** and 1.824 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 13 and 16.

Project Area C2

9. To protect **Spiny Rice-flower** plants, the **approval holder** must ensure that the number of **Spiny Rice-flower** plants within **Project Area C2** is not reduced as a result of **construction activities**.
10. The **approval holder** must not commence **construction activities** in **Project Area C2** until a contingency offset is established in accordance with either 10 (a) or 10 (b):
 - a. Enter into a written agreement (“the agreement”) with **Trust for Nature**. The **approval holder** must provide a sum of \$600,000.00 (“the funds”) to **Trust for Nature** to be held until such time as the contingency offset is to be implemented, at which time the funds will form the basis of the payment to purchase the offset. The remaining funds will be returned to the **approval holder** once the **Minister** agrees in writing that condition 15 (a–e) has been satisfied. A draft copy of the agreement must be provided to the **Minister** prior to signing by all parties. A copy of the signed agreement must then be provided to the **Minister** within 7 days of being signed by all parties; or
 - b. Secure a direct contingency offset site containing a minimum of 60 **Spiny Rice-flower** plants and provide written confirmation and supporting evidence to the **Minister** that demonstrates the contingency offset site has been secured. The contingency offset site must be retained by the **approval holder** until such time as the contingency offset is required, or the **Minister** agrees in writing that

conditions 15 (a–e) have been satisfied. At such time that the contingency offset is to be implemented, an **offset management plan** must be prepared and submitted to the **Minister** for approval. The approved **offset management plan** must then be implemented by the **approval holder**.

11. The **approval holder** must conduct ongoing monitoring of the number of **Spiny Rice-flower** plants within **Project Area C2**, including:
 - a. **Spiny Rice-flower** monitoring is to be undertaken by a **suitably qualified ecologist** to determine if any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost. Monitoring must be completed at three month intervals following the completion of construction activities within **Project Area C2** for a period of 12 months, and then annually thereafter until the **Minister** agrees in writing that condition 15 (a–e) has been satisfied; and
 - b. Making monitoring results and data publicly available in a written report on their website under an open licence.
12. If the monitoring conducted as per condition 11 finds that any individual **Spiny Rice-flower** plants within **Project Area C2** have been lost, the **approval holder** must:
 - a. advise the **Department** within 14 days of receiving the monitoring result;
 - b. within 3 months of notifying the **Department** under (a), provide the **Department** with an analysis of the likely causes of the reduction prepared by a **suitably qualified ecologist** including the likelihood that the reduction is the result of any direct or indirect impacts of construction activities; and
 - c. if the analysis prepared by a **suitably qualified ecologist** finds that the reduction is likely to be the result of any direct or indirect impacts of **construction activities**, then implement the contingency offset set out in either condition 10 (a) or 10 (b).
13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.018 hectares of **NTGVVP** and 4.018 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Department** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area C2 and C1.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 16.

Project Area D and Project Area C1

14. The **approval holder** must, in consultation with a **suitably qualified ecologist**, develop an **Environmental Management Plan** for the protection and management of **protected matters** within **Project Area D** and **Spiny Rice-flowers** within **Project Area C1**. The **Environmental Management Plan** must be submitted to the **Minister** for approval within 6 months of commencement of **construction activities** within the **project area**. The **approval holder** must ensure the approved **Environmental Management Plan** is implemented within 6 months of approval. The **Environmental Management Plan** must:
 - a. include existing baseline data and other supporting evidence that documents the baseline conditions of **protected matters** within **Project Area D** and **Project Area C1**;
 - b. outline specific management actions to maintain **protected matters** within **Project Area D** and all individual **Spiny Rice-flowers Project Area C1**;
 - c. include details of establishing and maintaining **security fencing** around the perimeter of **Project Area D** and **Project Area C1**, prior to commencement of **construction activities** within 100m of **Project Area D**;
 - d. outline annual monitoring and reporting on the condition of **protected matters** within **Project Area D** and **Project Area C1**;
 - e. define corrective actions and contingency measures to be implemented where monitoring under the **Environmental Management Plan** indicates a decrease in the conditions of **protected matters** below baseline data; and
 - f. include a plan for ongoing management if **Project Area D** and **Project Area C1** remains undeveloped at the expiry date of this approval.

15. The **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1** until the **Minister** agrees in writing that the following are met:
 - a. A **suitably qualified ecologist** has confirmed in writing that each transplant site is demonstrating recruitment by propagated plants;
 - b. A **suitably qualified ecologist** has prepared a report to peer review the results of the **Spiny Rice-flower Propagation Project**;
 - c. The **approval holder** has submitted the peer review report to the **Minister** for review;
 - d. The **Minister** has reviewed the report and determined it demonstrates the **Spiny Rice-flower Propagation Project** has resulted in a **viable and self sustaining Spiny Rice-flower** population at each transplant recipient site, and supports the **target number** of **established Spiny Rice-flower** plants across the sites; and

- e. The **Minister** has provided written notification to the **approval holder** that condition 15 no longer applies.
16. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.
 - b. Condition 15 has been satisfied.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in Project Area C2 and C1.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 13.

17. If condition 15 (a–e) cannot be met in full:
- a. the **approval holder** must not commence **construction activities** within **Project Area D** and **Project Area C1**; until the following are met:
 - i. Adequately compensate for impacts to **Spiny Rice-flower** plants located within **Project Area D** and **Project Area C1** with an alternative offset. This offset strategy must be prepared following consultation with the **Department**; and
 - ii. The **Minister** has provided written notification to the approval holder that condition 14 no longer applies.
 - b. the contingency offset set out in either condition 10 (a) or 10 (b) must be implemented.

Administrative conditions

- 18. The **approval holder** must ensure that **offset attributes** and **shapefiles** for all offset sites are provided to the **Department** at the timing of submitting their corresponding **offset management plan**.
- 19. Within 30 days after the commencement of **construction activities**, the **approval holder** must advise the **Minister** in writing of the actual date of commencement of **construction activities**.

20. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
21. Within three months of every 12 month anniversary of the commencement of **construction activities**, the **approval holder** must publish a report on its website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published. Compliance reports must remain on the approval holder's website for 12 months from the date of publishing. The requirement to submit compliance reports will cease following written agreement with the **Minister**.
22. Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
23. If the **approval holder** wishes to carry out any activity otherwise than in accordance with management plans as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that management plans. The varied activity shall not commence until the **Minister** has approved the varied management plans in writing. The **Minister** will not approve a varied management plan unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised management plan, then it must be implemented in place of the management plan originally approved.
24. If the **Minister** believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the **Minister** may request that the **approval holder** make specified revisions to the management plans specified in the conditions and submit the revised management plan for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised approved management plans must be implemented. Unless the **Minister** has approved the revised management plans then the **approval holder** must continue to implement the management plan originally approved, as specified in the conditions.

25. If, at any time after 5 years from the date of this approval, the **approval holder** has not **substantially commenced** the action, then the **approval holder** must not **substantially commence** the action without the written agreement of the **Minister**.
26. Unless otherwise agreed to in writing by the **Minister**, the **approval holder** must publish all management plans referred to in these conditions of approval on the approval holder's website. Each management plan must be published on the website within 1 month of being approved. The **approval holder** must notify the **Department** within 5 days of publishing the plan on the website. The management plans must remain on the website for the period this approval has effect.

Definitions:

Approval holder - the person undertaking the action who holds the project approval.

Best practice Growing Grass Frog management guidelines - these include the most recent versions of *Guidelines for managing the endangered Growing Grass Frog in urbanising landscapes* (Victorian Department of Sustainability and Environment, 2010), *Procedure statement for translocation of threatened native vertebrate fauna in Victoria* (Victorian Department of Sustainability and Environment, 2013), *Bellarine Peninsula Ramsar Site Strategic Management Plan* (DEPI, 2003), *Urban Stormwater Best Practice Environmental Management Guidelines* (CSIRO, 1999), *Constructed Wetlands Guidelines* (Victorian Government and Melbourne Water Corporation, 2010) and *Water Sensitive Urban Design Guidelines* (Victorian Government and Melbourne Water Corporation, 2013).

Best practice pollution, sediment and erosion control guidelines - the most recent version of relevant guidelines on pollution, sediment and erosion control, such as the *Construction Techniques for Sediment Pollution Control* (EPA Publication No. 275, 1991); and *Environmental Guidelines for Major Construction Sites* (EPA Publication No. 480, 1996).

Construction activities - includes but is not limited to clearing of vegetation, the erection of any onsite temporary structures and the use of heavy duty equipment for the purpose of breaking the ground for infrastructure or earthworks. This does not include maintenance or use of existing access tracks, erection or construction of **security fencing** and signage, or investigative activities such as accessing the site for surveying or planning purposes.

Department - the Australian Government Department administering the *EPBC Act*.

Environmental Management Plan - the document developed by a **suitably qualified ecologist** to the satisfaction of the **Department**, detailing the long-term management of **protected matters** within **Project Area D** and **Project Area C2**.

Environmental weeds - invasive native and non-native plants including:

- i. listed Victorian Declared Noxious Weeds, including Artichoke Thistle (*Cynara cardunculus*), Fennel (*Foeniculum vulgare*) and Spiny Rush (*Juncus acutus*);
- ii. listed Victorian Invasive Plants, including Mirror Bush (*Coprosma repens*), Pampas grass (*Cortaderia sp.*), Italian buckthorn (*Rhamnus alaternus*) and Spartina/Cord Grass (*Spartina anglica* and *Spartina x townsendii*); and
- iii. listed Weeds of National Significance, including Madeira vine (*Anredera cordifolia*), Asparagus weeds / Bridal Creeper (*Asparagus aethiopicus*, *A. africanus*, *A. asparagoides*, *A. asparagoides Western Cape form*, *A. declinatus*, *A. plumosus*, *A. scandens* [excluding *A. officinalis* and *A. racemosus*]), Brooms including Flax-leaf Broom (*Cytisus scoparius*, *Genista monspessulana* and *G. linifolia*), African boxthorn (*Lycium ferocissimum*), Chilean needle grass (*Nassella neesiana*), Serrated tussock (*Nassella trichotoma*), Blackberry (*Rubus fruticosus agg.*), Silverleaf nightshade (*Solanum elaeagnifolium*), Willows (*Salix spp.* [excluding *S. Babylonica*, *S. Calodendron* and *S. reichardtii*]), Gorse (*Ulex europaeus*).

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

EPBC Act Environmental Offsets Policy - the Australian Government policy document titled: *EPBC Act environmental offsets policy, Department of the Environment, 2013 Policy guiding the use of offsets under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

Established Spiny Rice-flower – A Spiny-Rice flower plant that meets the following:

- i. was introduced into the area through the **Spiny Rice-flower Propagation Project**; and
- ii. is at least 2 years old.

Growling Grass Frog - the frog species *Litoria raniformis*, protected under the **EPBC Act**.

Growling Grass Frog buffer zone - the area identified as Growling Grass Frog Buffer in Appendix A.

Melbourne Urban Development Policy - the document *Policy Statement for Melbourne urban development proposals needing consideration under Parts 7, 8 and 9 of the EPBC Act*, Department of the Environment, February 2014, online: http://www.environment.gov.au/system/files/resources/dc154fd1-d526-4e7d-9a8e-bd17f8ceac15/files/melbourne-urban-development_1.pdf.

Minister - the Australian Government Minister administering the *EPBC Act* and includes a delegate of the Minister.

NTGVVP - is the threatened ecological community *Natural Temperate Grassland of the Victorian Volcanic Plain*, protected under the **EPBC Act**.

Offset attributes - an '.xls' file capturing relevant attributes of the offset site, including the EPBC 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.

Offset management plan - an offset management plan must:

- include baseline information for the offset site(s);
- include details of how the offset(s) are consistent with the **EPBC Act Environmental Offsets Policy**;
- demonstrates how the offset site(s) will be protected for long term conservation purposes;
- include details of short and long term management measures, include timeframes for management measures for the site(s);
- and identify the short and long term arrangements and responsibilities of parties in the management of the site(s).

Project Area A - the area identified as Project Area A in Appendix A.

Project Area B - the area identified as Project Area B in Appendix A.

Project Area C1 - the area identified as Project Area C1 in Appendix A.

Project Area C2 - the area identified as Project Area C2 in Appendix A.

Project Area D - the area identified as Project Area D in Appendix A.

Project area - the area contained within the Proposed Residential Stage Boundaries, identified by a dashed red line in Appendix A.

Protected matters - NTGVVP, **Spiny Rice-flower**, **Striped Legless Lizard** and **Growling Grass Frog**.

Security fencing - a fence with locked gated access that prevents access by the public, while allowing dispersal of **Striped Legless Lizard**.

Shapefile - an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes including at least the EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Significant impact - as described in Significant Impact Guidelines 1.1 – Matter of National Environmental Significance (Department of the Environment, 2013) and any specific significant impact guidelines.

Spiny Rice-flower - the plant species *Pimelea spinescens subsp. spinescens*, protected under the **EPBC Act**.

Spiny Rice-flower Propagation Project - refers to the Spiny Rice-flower Propagation Project prepared by BL&A 2013.

Striped Legless Lizard - the lizard species *Delma impar*, protected under the **EPBC Act**.

Striped Legless Lizard habitat - is any grassland (exotic and native) that may be utilised by the **Striped Legless Lizard** for breeding, sheltering, foraging or ranging.

Substantially commenced - means the installation of any permanent infrastructure associated with the action.

Suitably qualified ecologist - a person with relevant tertiary qualifications in ecology, botany or environmental science and at least 5 years of experience in surveying and field work relevant to the relevant **Protected Matter**, or any other person agreed to in writing by the **Department**.

Target number - refers to the target total of 800 individual plants as set out in the **Spiny Rice Flower Propagation Project**. In the event the person taking the action secures direct offsets for **Spiny Rice-flower** to compensate for impacts in the **project area**, the target number will be reduced on a 1:1 basis following written confirmation from the **Minister**.

Trust for Nature - meaning the organisation Trust for Nature (<http://www.trustfornature.org.au/>).

Viable and self-sustaining - means that the specified **Spiny Rice-flower** population demonstrates:

- i. Numbers of annually flowering male and female plants in proportions similar to that in natural populations;

- ii. That new germinants are recruiting in numbers similar to that in natural populations;
and
 - iii. A growing population where recruitment exceeds mortality to a similar extent as other managed populations.
-

Appendix A - Project Area



APPENDIX A



Stage Comparison Plan

Concept Plan

Precinct 2

LEGEND:



TOTAL AREA: 88.31ha

- Proposed residential stage boundaries (subject to planning approval)
- Stage Boundaries (Stages 18PS, 21 & 22)
- Growing Grass Frog Habitat 35m from centreline of Kororoit Creek
- Existing Sewerage and or Drainage Easements
- Spiny Rice Flowers
- Growing Grass Frog Buffer
- Reserve Unencumbered
- Project Area A
- Project Area B
- Project Area C1
- Project Area C2
- Project Area D



scale 1:2500 @ A1

DATE 29 June 2015
REF: 29743 001
DWG: 2974300AR



Bosco Jonson Pty Ltd
ABN 15 859 128 827
P.O. Box 5078, South Melbourne, Vic 3205
10 Eastern Road, South Melbourne
Vic 3205 Australia
Tel (61) 9629 1400 Fax (61) 9629 5992





VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Burnside Development – The Point, Victoria - EPBC 2011/6063

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

Approved action

Person to whom the approval is granted DFC (Project Management) Pty Ltd
ABN: 83 161 448 139

Approved action To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Variation

Variation of conditions of approval The variation is:
Delete Conditions 13 and 16 attached to the approval dated 20 July 2013 and substitute with Conditions 13 and 16 specified below.

Date of effect This variation has effect on the date the instrument is signed.

Person authorised to make decision

Mr Shane Gaddes
Assistant Secretary
Compliance & Enforcement Branch

Signature

S 47F

Date of decision

19 November 2015

Condition attached to the approval

13. The **approval holder** must not commence **construction activities** in **Project Area C2** until the following are met.
 - a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.018 hectares of **NTGVVP** and 4.018 hectares of **Striped Legless Lizard habitat**;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Department** has been provided with written confirmation and supporting evidence that demonstrates the offset has been secured.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate for impacts to NTGVVP and Striped Legless Lizard in Project Areas C1 and C2.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 16.

16. The **approval holder** must not commence **construction activities** in **Project Area D** until the following are met.
- a. A direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, has been secured to compensate for the impacts to 4.480 hectares of **NTGVVP** and 4.480 hectares of **Striped Legless Lizard habitat**.
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved offset management plan must be implemented by the **approval holder**, and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrates the offset has been secured.
 - b. Condition 15 has been satisfied.

Note: The NTGVVP and Striped Legless Lizard offset set out in this condition is to compensate impacts to NTGVVP and Striped Legless Lizard in **Project Area D**.

Note: these NTGVVP and Striped Legless Lizard offsets are in addition to those required under conditions 6, 8 and 13.



VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Burnside Development - The Point, Victoria (EPBC No 2011/6063)

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


Approved action

Person to whom the approval is granted	DFC (Project Management) Pty Ltd ABN: 83 161 448 139
Approved action	To develop Modeina Estate Precinct 2, a residential housing development in the Melbourne suburb of Burnside, Victoria [see EPBC Act referral 2011/6063 and variation to proposal dated 26 March 2015].

Variation

Variation of conditions of approval	The variation is: Delete conditions 4 and 5 attached to the approval dated 20 July 2015 and substitute with the condition specified below. Note: All other conditions including the definitions in the approval dated 20 July 2015 remain unchanged.
Date of effect	This variation has effect on the date the instrument is signed

Person authorised to make decision

name and position	Monica Collins Assistant Secretary Compliance & Enforcement Branch
Signature	 s 47F
Date of decision	23 January 2017

Conditions attached to the approval

- 4 **Construction activities** in **Project Areas A, C1, C2** and **D** must not commence until the site-specific **Growling Grass Frog** Management Plan has been approved by the **Minister** in writing. Construction in **Project Area B** can proceed prior to approval of the site-specific **Growling Grass Frog** Management Plan. The site-specific **Growling Grass Frog** Management Plan must be implemented.
- 5 The **approval holder** must ensure that the action does not impact more than eleven (11) individual **Spiny Rice-flower** plants within **Project Area A**.

13th April 2017

EPBC Act Post Approvals
GPO Box 787
Canberra ACT 2601
By email – postapproval@environment.gov.au

s 47F

Dear Sir/Madam,

**RE: EPBC 2011/6063 - MODEINA ESTATE PRECINCT 2
REQUEST FOR VARIATION TO APPROVAL CONDITIONS 6 & 13
BL&A PROJECT NO. 7045.8**

Following on from discussions held between Dennis Family Corporation and the Post Approvals team in Canberra on 7th April 2017, I write on behalf of Dennis Family Corporation to request a variation to Conditions 6 and 13 and the Project Area map for the current approval under the EPBC Act for Precinct 2 of the development.

If approved, this request would also necessitate minor changes to the wording of Conditions 4 & 5.

Variation requests background

Subsequent to our meeting in early April, Brett Lane and Associates undertook a GIS analysis of mapped Natural Temperate Grassland of the Victorian Volcanic Plain (NTGVVP) and Striped Legless Lizard (SLL) habitat to inform a proposed variation to Project Area A (described below).

As part of this analysis, we determined that the area of NTGVVP/SLL habitat occurring in a part of Project Area A, shown in the approval Appendix A as a 'Proposed Reserve', was in fact inaccurately attributed to Project Area C1 and C2.

We propose to instead attribute this area of NTGVVP/SLL habitat (0.660 hectares) to Project Area A2, as described below.

Furthermore, these requests for variations are due to the fact that the Dennis Family Corporation:

- Has identified significant cost savings associated with satisfying NTGVVP and SLL habitat offsets through direct offsets, as opposed to MUD policy offsets in the Western Grassland Reserve;
- Has secured a first party direct offset for NTGVVP and SLL habitat at a property in Karabeal, in Victoria's west, which we believe would satisfy the offset requirements for part of Project Area A, but not in its entirety; and
- Has a commercial need to commence construction of the first stages of Project Area A in August 2017; and
- Wishes to utilise direct offsets at the Karabeal property to satisfy part of the NTGVVP and SLL habitat offsets for the first stages of Project Area A to allow construction to commence.

Variations requested

The requested variations to conditions are summarised below:

- Attribute 0.660 hectares of NTGWVP and SLL habitat to Project Area A, resulting in a total impact to each MNES of 10.330 hectares;
- To further divide Project Area A into two distinct areas (A1 and A2), allowing for EPBC Act offsets for the removal of NTGWVP and SLL habitat to be satisfied separately for each new area of impact;
- To allow for the Project Area A1 NTGWVP and SLL habitat offset requirements to be satisfied through an approved direct offset, consistent with the EPBC Act Environmental Offsets Policy; and
- To allow for the Project Area A2 NTGWVP and SLL habitat offset requirements to be satisfied through either:
 - The Melbourne Urban Development (MUD) policy; or
 - An approved direct offset, consistent with the EPBC Act Environmental Offsets Policy.

Proposed changes to conditions

The proposed changes are shown below.

Condition 6

Prior to the commencement of **construction activities** in Project Area A1, the **approval holder** must:

- a) Secure a direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, to compensate for the impacts to 6.053 hectares of **NTGWVP** and 6.053 hectares of **Striped Legless Lizard** habitat;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured.

Prior to the commencement of **construction activities** in Project Area A2, the **approval holder** must:

- b) Secure a direct offset, consistent with the **EPBC Act Environmental Offsets Policy**, to compensate for the impacts to 4.277 hectares of **NTGWVP** and 4.277 hectares of **Striped Legless Lizard** habitat;
 - i. An **offset management plan** has been prepared and submitted to the **Minister** for approval, and the **approval holder** has received written confirmation that the **offset management plan** has been approved. The approved **offset management plan** must be implemented by the **approval holder**; and
 - ii. The **Minister** has been provided with written confirmation and supporting evidence that demonstrate the offset has been secured;

or

- b) Secure an offset for impacts to 4.277 hectares of NTGWVP and 4.277 hectares of Striped Legless Lizard habitat associated with Project Area A2 in a manner consistent with the **Melbourne Urban Development Policy**. Documentary evidence that the offset has been secured must be provided to the **Department** within 14 days of being secured;

Conditions 4 & 5

In both Conditions 4 & 5, the above variation to Condition 6 would necessitate replacing the term *Project Area A* with *Project Area A1 and A2*.

Condition 13

Replace the figure 4.018 hectares of NTGWVP and SLL habitat with 3.358 hectares, as determined by GIS analysis and demonstrated in the summary of project areas below.

Summary of Project Areas

In order to give certainty around the changes to the areas of NTGWVP and SLL habitat, the following table provides a comparison of previous and proposed areas in hectares within each project area.

Project Area	Approval areas (ha)	Proposed areas (ha)
A1	9.670	6.053
A2		4.277
B	1.824	1.824
C1	4.018	3.358
C2		
D	4.480	4.480
	19.992	19.992

Maps of the currently approved and proposed project areas are provided in Appendix 1.

Demonstration of Karabeal Project Area A1 offset capacity

In March 2017, Brett Lane and Associates provided the Post Approvals team with a 'Future Offset Proposal' for the Karabeal property – Report 7045 (42.0) – showing NTGWVP and SLL habitat offsets allocated to Project Area B and remaining areas of these values available for future offsets.

This report identified that 7.3 hectares of both NTGWVP and SLL habitat was to be allocated to Project Area B out of a total of 30.4 hectares available at Karabeal, leaving a 23.1-hectare balance of these values.

The EPBC Act Offset Guide was used to determine the area required to offset 6.053 hectares of NTGWVP and SLL habitat – this was found to be an area of 23.1 hectares, using the same assumptions and parameters as that used for Project Area B.

The values identified using the EPBC Act Offset Guide are presented in Appendix 2 and a justification of these values is presented in Appendix 3.



Brett Lane & Associates Pty. Ltd.
Ecological Research & Management

We look forward to discussing these proposed changes with you. If you have any enquiries please do not hesitate to call me.

Yours sincerely,

s 47F
[Redacted signature]

s 47F
s 47F
Brett Lane & Associates Pty Ltd

s 47F
[Redacted email address]@ecologicalresearch.com.au

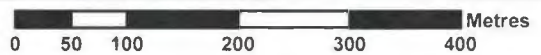
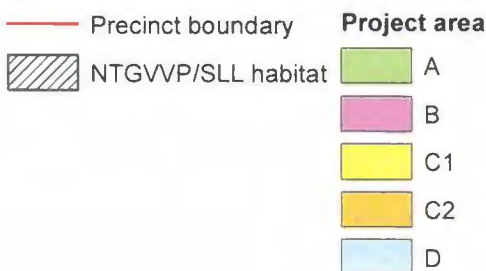
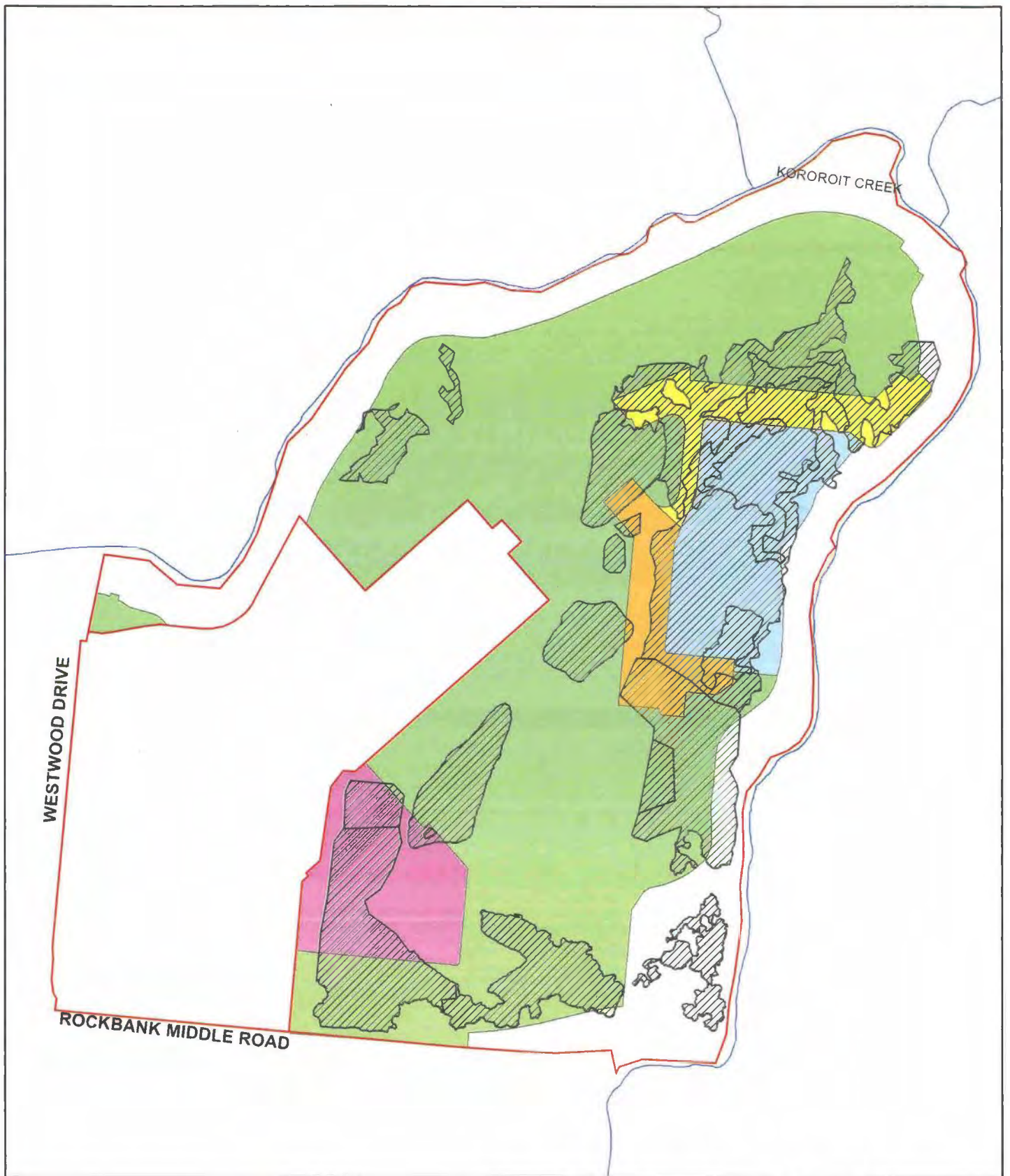


Brett Lane & Associates Pty. Ltd.
Ecological Research & Management

Appendix 1:

1A: Currently approved EPBC project areas for Modeina Precinct 2

1B: Proposed EPBC project areas for Modeina Precinct 2









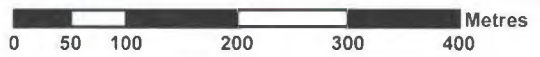
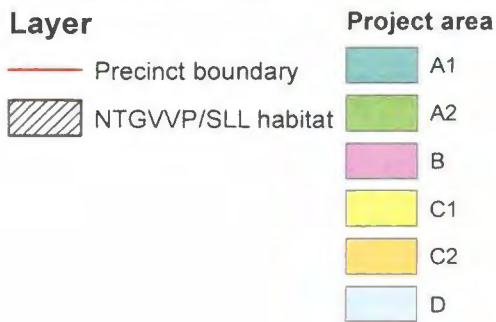
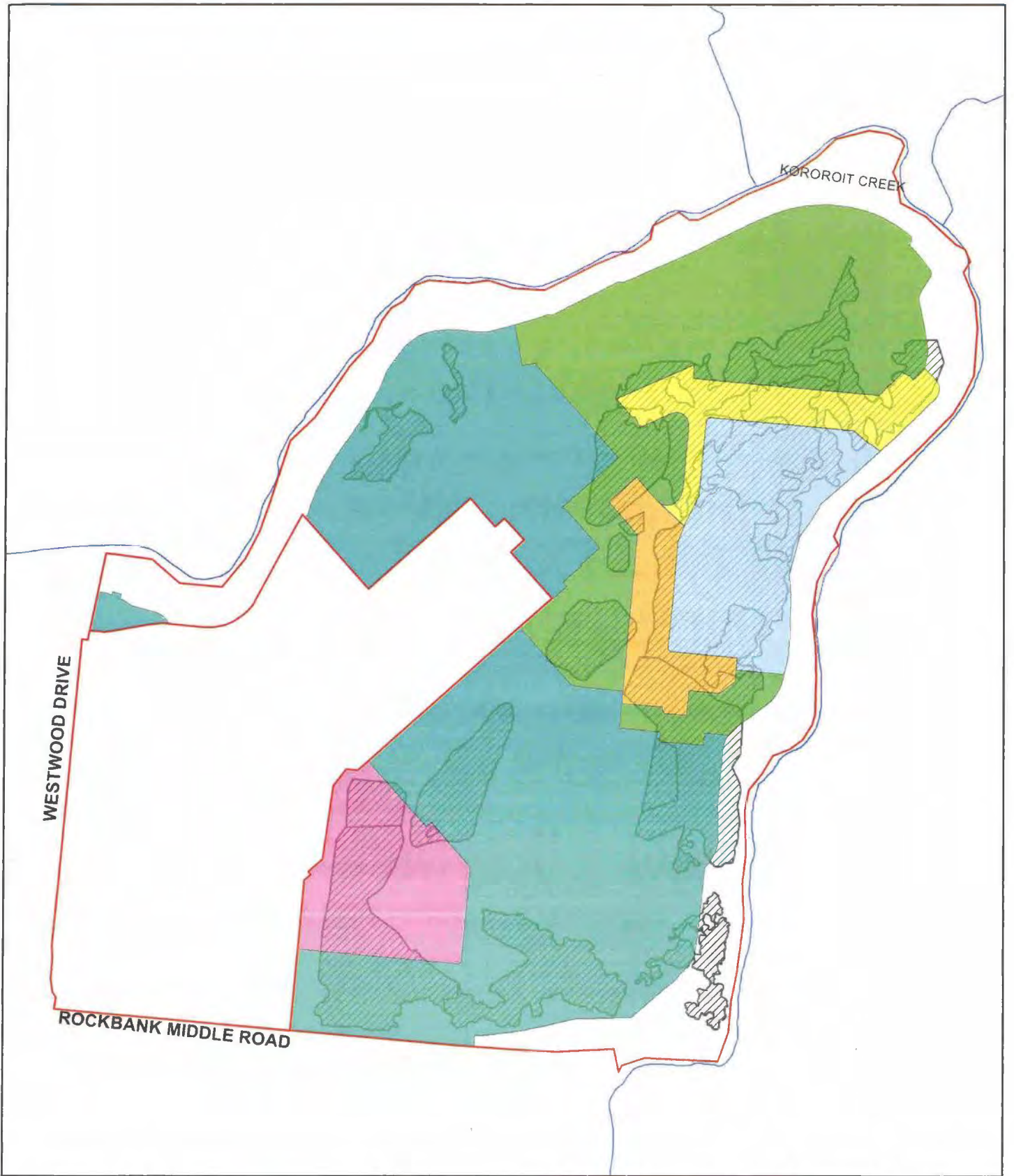
Appendix 1A: Currently approved EPBC project areas

Project: Modeina Estate Precinct 2 (2011/6063)

Client: DFC (Project Management) Pty Ltd

Project No.: 7045 Date: 13/04/2017 Created By: **S.47F**

	 Brait Latte & Associates Pty. Ltd. <i>Ecological Research & Assessment</i>		
	 Papermill: Yarru 5, 61 - 63 Camberwell Road  Knowledge: Hawthorn East, VIC 3123  Solutions: PO Box 147, Camberwell, VIC 3123, Australia		PH: (03) 9915 2111 • Fax: (03) 9615 2545 enquiries@ecologicalresearch.com.au www.ecologicalresearch.com.au



Appendix 1B: Proposed EPBC project areas		
Project: Modena Estate Precinct 2 (2011/6063)		
Client: DFC (Project Management) Pty Ltd		
Project No.: 7045	Date: 13/04/2017	Created By: S.47F
BL&A Brett Laine & Associates Pty Ltd. <small>Environmental Research & Management</small>		
<ul style="list-style-type: none"> Experience Knowledge Solutions 	Suite 5, 61 - 63 Camberwell Road Hawthorn East, VIC 3123 PO Box 337, Camberwell, VIC 3103, Australia	Ph: (03) 9455 2111 / Fax: (03) 9463 7568 enquiries@ecolo@bllresearch.com.au www.ecologicalresearch.com.au



Appendix 2: EPBC Act Offset Guide – Project Area A1

Impact calculator				Offset calculator																		
Protected matter attributes	Quantum of impact		Units	Protected matter attributes	Total quantum of impact	Units	Proposed offset	Time horizon (years)	Start area and quality	Future area and quality without offset	Future area and quality with offset	Raw gain	Confidence in result (%)	Adjusted gain	Net present value (adjusted hectares)	% of impact offset	Minimum (90%) direct offset requirement met?					
Ecological communities				Ecological Communities																		
Area of community (NTGVWP)	Area	6.053	Hectares	Area of community (NTGVWP)	2.42	Adjusted hectares	Karabeal Project Area A1 Offset	Risk-related time horizon (max. 20 years)	20	Start area (hectares)	23.1	Risk of loss (%) without offset	20%	Risk of loss (%) with offset	3%	3.93	95%	3.73	1.00	2.43	100.49%	Yes
	Quality	4	Scale 0-10						Future area without offset (adjusted hectares)		18.5	Future area with offset (adjusted hectares)	22.4									
	Total quantum of impact	2.42	Adjusted hectares					Time until ecological benefit	7	Start quality (scale of 0-10)	7	Future quality without offset (scale of 0-10)	6	Future quality with offset (scale of 0-10)	8							
Threatened species habitat				Ecological Communities																		
Area of threatened species habitat (SLL)	Area	6.053	Hectares	Area of threatened species habitat (SLL)	2.42	Adjusted hectares	Karabeal Project Area A1 Offset	Risk-related time horizon (max. 20 years)	20	Start area (hectares)	23.1	Risk of loss (%) without offset	20%	Risk of loss (%) with offset	3%	3.93	95%	3.73	3.58	5.42	223.81%	Yes
	Quality	4	Scale 0-10						Future area without offset (adjusted hectares)		18.5	Future area with offset (adjusted hectares)	22.4									
	Total quantum of impact	2.42	Adjusted hectares					Time until ecological benefit	7	Start quality (scale of 0-10)	7	Future quality without offset (scale of 0-10)	6	Future quality with offset (scale of 0-10)	8							

Appendix 3: EPBC Act Offset Calculator justification of values

Offset guide attribute	Value for NTGVVP	Value for SLL habitat	Justification
Area of habitat	3.745 hectares	3.745 hectares	Based on the area removed as calculated by BL&A using a GIS analysis reflect in the proposed Project Areas figure in Appendix 1.
Quality	4	4	A weighted average habitat condition score has been used as the quality score, determined using the following formula: $\text{Quality} = \frac{\text{SUM (HZ score * HZ removal area within Project Area A1)}}{\text{Total removal area}}$ Habitat condition scores for the removal site were assessed using the habitat hectares method (Parkes <i>et al</i> 2003; DSE 2004), and can be found in Report 7045 (6.13) (BL&A 2014).
Time over which loss is averted	20 years	20 years	The offset sites will be protected with a Section 69 agreement under the <i>Conservation, Forests and Lands Act 1987</i> (Vic.), which will result in perpetual protection of the offset site for the purpose of conservation. The offset site will be actively managed for conservation outcomes for ten years, and as such it is expected that the loss can confidently be considered to be averted for 20 years.
Area of offset	23.1 hectares	23.1 hectares	This offset area is the area available at the Karabeal offset site following allocation to Project Area B.
Risk of loss (%) without offset	20%	20%	The offset site occurs in a relatively remote area of Victoria; however without the proposed offset threats including inappropriate grazing regimes, weed invasion, domination by a small number of species and biomass accumulation pose a real threat to NTGVVP and SLL habitat within the offset site.
Risk of loss (%) with the offset	3%	3%	The residual risk of protecting a property in perpetuity is considered to be 3%.
Time until ecological benefit	7 years	7 years	It is expected that within seven years management actions such as weed control and ecological burning would have resulted in a measurable improvement to quality.
Start quality	7	7	A weighted average habitat condition score has been used as the quality score, determined using the following formula: $\text{Quality} = \frac{\text{SUM (HZ score * HZ protection area within Karabeal Project Area A1 Offset)}}{\text{Total protected area}}$ Habitat condition scores for the Karabeal offset site were assessed using the habitat hectares method (Parkes <i>et al</i> 2003; DSE 2004)
Future quality without offset	6	6	A one-point decrease in the quality of the offset site could be expected without implementation of the offset through changes in vegetation and habitat quality including weed invasion, domination by a small number of species, removal of species diversity through inappropriate grazing and biomass accumulation.
Future quality with offset	8	8	A one-point increase in the quality of the offset site could be expected with implementation of the offset through changes in vegetation and habitat quality including weed control, increase in species diversity through removal of grazing and biomass management through ecological burning.
Confidence in results of offset covenant	95 %	95%	A Section 69 agreement under the <i>Conservation, Forests and Lands Act 1987</i> (Vic.) agreement will be entered into for the offset site. This type of agreement has been demonstrated to adequately secure offset sites. As this type of agreement is permanent (lasting forever) and secure (that is, they are difficult to change or alter), there is 95% confidence that the offset site will be protected in perpetuity.
Confidence in results for the improvement in vegetation quality	70 %	70%	There is evidence that grassland communities benefit from management (Williams <i>et al</i> 2015); however, a 70% confidence in the results for improvement in vegetation quality is considered reasonable to allow for inherent ecological variation that may affect the success of management actions.



s 47F

F

From: s 47F <[redacted]@ecologicalresearch.com.au>
Sent: Wednesday, 26 July 2017 12:46 PM
To: s 47F
Cc: s 47F <[redacted]@denniscorp.com.au>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

s 47F

Hi s 47F

Apologies for the slow reply on this – I thought I'd passed it on to the client but had neglected to do so. Dennis Family Corporation are happy with this latest proposed consolidated notice, provided on 13th June 2017.

s 22 [redacted]

For project planning purposes, could you please give us an indication of when you anticipate being able to review:

- s 22 [redacted]
- The Project Area A1 OMP?

Regards,

s 47F [redacted]
s 47F [redacted]

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 | PO Box 337, Camberwell VIC 3124
(03) 9815 2111 s 47F [redacted]
[redacted]@ecologicalresearch.com.au



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From: s 47F [redacted]@environment.gov.au]
Sent: Thursday, 13 July 2017 2:05 PM
To: s 47F [redacted]@ecologicalresearch.com.au>
Cc: s 47F [redacted]@environment.gov.au>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]
Importance: High

Hello s 47F

Thank you for your email and your time on the phone yesterday afternoon. s 47F [redacted] and I have considered your proposed changes and engaged in another discussion over Condition 14, bearing in mind the issues and concerns that you raised with me yesterday.

We have further revised condition 14 – see attached. We have no concerns with your proposed minor edit to condition 6. We have also identified and corrected a further error found in the definitions.

Please advise if you are happy to proceed with the attached changes.

Kind regards,

s 47F

Post Approvals Section
Assessments and Governance Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F

From: s 47F [mailto:s 47F@ecologicalresearch.com.au]
Sent: Wednesday, 12 July 2017 2:51 PM
To: s 47F [mailto:s 47F@environment.gov.au]
Cc: s 47F [mailto:s 47F@environment.gov.au]; s 47F [mailto:s 47F@denniscorp.com.au]
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

Hi s 47F

Please find attached our proposed changes to the revised Consolidated Notice.

The first change to Condition 6 is minor and consistent with other conditions, but we are not overly concerned about this.

The second is an important change to Condition 14 – seen to be aimed at protecting values within **both** Project Areas D and C1. The use of the phrase ‘within 6 months’ is taken to mean ‘within 6 months prior to...’ and linking this trigger with the entire *project area* would jeopardise the intended commencement date in Project Area A1 of August 2017. The suggested change refers to both Project Areas D & C1 throughout the condition wording and it is proposed this be triggered by commencement within 100 metres of either project area (noting that the proponent intends to fence these areas at the outset).

Happy to discuss by phone if this helps.

Regards,

s 47F

s 47F

Suite 5, 61–63 Camberwell Road, Hawthorn East VIC 3123 | PO Box 337, Camberwell VIC 3124
Ph (03) 9815 2111
s 47F [mailto:s 47F@ecologicalresearch.com.au]

BL&A  **Brett Lane & Associates Pty. Ltd.**
Ecological Research & Management
Experience Knowledge Solutions

From: s 47F [mailto:s 47F@environment.gov.au]
Sent: Thursday, 6 July 2017 2:16 PM
To: s 47F [mailto:s 47F@ecologicalresearch.com.au]

Cc: s 47F [redacted]@environment.gov.au>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]
Importance: High

Hello s 47F [redacted]

I have attached a revised Consolidated Notice for your agreement. All edits are in track-changes.

Apologies for the delay.

Kind regards,

s 47F [redacted]
Post Approvals Section
Assessments and Governance Branch
Environment Standards Division
Department of the Environment and Energy
Tel: +61 2 6274 s 47F [redacted]

From: s 47F [redacted]@ecologicalresearch.com.au]
Sent: Tuesday, 4 July 2017 9:09 AM
To: s 47F [redacted]@environment.gov.au>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

Thanks s 47F [redacted] – I hear you!

s 47F [redacted] t
[redacted] t

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From: s 47F [redacted]@environment.gov.au]
Sent: Tuesday, 4 July 2017 8:22 AM
To: s 47F [redacted]@ecologicalresearch.com.au>
Cc: s 47F [redacted]@environment.gov.au>
Subject: RE: EPBC 2011/6063 - Burnside Development [SEC=UNCLASSIFIED]

Hi s 47F [redacted],

Thank you for the revised Appendix A. Apologies, the revisions to the Consolidated Notice are still underway – too many competing demands! Hopefully by COB tomorrow, if not sooner.

Regards,

s 47F [redacted]
Post Approvals Section
Compliance and Enforcement Branch
Environment Standards Division

Risk and Prioritisation Template

EPBC No. *2011/6063* Brief: *Variations and Consolidated Notice* Date received: *18/04/2017*

Risk			
	High	Medium	Low <input checked="" type="checkbox"/>

Priority			
	High <input checked="" type="checkbox"/>	Medium	Low

Type of work (tick or highlight all applicable)

No QA Cover Sheet required	QA Cover Sheet required	
Approve Expert	Variation - specific	Management Plan Approve New
Approve Peer Reviewer	Variation - RMP	Management Plan Approve Revision
Approve person - other	Variation - OBC	Late Commencement
Consolidated Notice	Transfer of Approval	Correction Notice
		Extension of Approval Period (Statutory Timeframe)

Risk

Risk considerations	Comments
Is this ranked in NESTRA? (Refer to tracking sheet as this automatically assigns the Nestra ranking)	<i>Yes</i>
Complexity	<i>No, although a lot of conditions are being varied</i>
Is this an issue that is new or unusual, and therefore needs particular attention or consideration?	<i>N/A</i>
Is there stakeholder/ Minister's office/ public or media interest?	<i>N/A</i>
Other Risk? (Provide comment)	<i>N/A</i>

Prioritisation (only one of the shaded criterion needs to apply to designate the piece of work as urgent)

	Tick if applicable
Is there Ministerial or SES interest in expediting this piece of work?	
Does the piece of work have a statutory timeframe?	
Is the approval holder at significant risk of losing money, laying off staff or delaying construction through no fault of their own, whilst waiting for a decision?	✓
Have we had the piece of work for longer than 6 weeks?	✓
Is the piece of work attracting public and/or media interest?	
Is the delegate going away for a period of time which may mean a piece of work becomes critical while away?	
Is there any delay in processing the work and if so, is it the fault of the Department?	✓
Is it a relatively simple piece of work that will mean very real benefits in terms of cutting down angst, constant communications etc if we do it now instead of later?	
Other reason? (Provide comment)	

Clearance Process

Clearance processes are determined according to the level of risk. In normal circumstances, the following clearance levels should be followed:

Risk Rating	Level of Clearance Required
High Risk	Pieces of work that are high risk or require special consideration are passed through a two-stage clearance process (EL1-EL2) before being passed to the delegate.
Medium Risk	Pieces of work that are rated as medium risk are reviewed by a second PAS EL1 before being passed to the delegate.
Low Risk	Pieces of work that are rated as low risk are reviewed by the Team Leader (PAS EL1) who is responsible for that jurisdiction before being passed to the delegate.