

Compliance Report

Australand C&I Land Holdings Pty Ltd

Commercial Development at 410 Cooper Street &
315 OHerns Road, Epping, Victoria

EPBC 2018/8617

Date: 24/08/2021

Version 1.0

Fraser's Property Industrial

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Version Control

Approval Number	EPBC 2018/8617
Approval Holder	Australand C&I Land Holdings Pty Ltd as trustee for Frasers Property C&I Land Holdings (Epping No. 1) Trust
Author	J Roan
Approved Action	To subdivide properties at 410 Cooper Street and 315 OHerns Road Epping Victoria and to develop the site into an industrial estate
ABN	74 650 067 849
Version	1.0

Declaration of Accuracy

In making this declaration, I am aware that sections 490 and 491 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed: 

Full Name: John Roan

Position: Planning Manager

Organisation: 74 650 067 849

Date: 24/08/2021

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1.0 Purpose of Report

The purpose of this document is to report on compliance with the conditions of the EPBC approval for the Project (EPBC 2018/8167) and to satisfy Condition 12 of that approval, which states:

The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:

- a) publish each compliance report on the website within 60 business days following the relevant 12 month period;
- b) notify the Department by email that a compliance report has been published on the website within five business days of the date of publication, and provide a link to the location of the published report;
- c) keep all compliance reports publicly available on the website until this approval expires;
- d) exclude or redact sensitive ecological data from compliance reports published on the website; and
- e) where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication.

The reporting period is for the first year of the action starting from 28 January 2020.

2.0 Description of Activities

The site covers approximately 62.8 hectares and is bound by OHerns Road to the north, Cooper Street to the south, Hume Freeway to the east and a quarry to the west. The landscape is generally flat, with no ridges, crests or waterways within or immediately adjacent to the site. There were no patches of remnant native grassland and the vegetation entirely comprised introduced noxious weed Chilean needle - grass *Nassella neesina*.

The impact site has approval to create an industrial estate involving:

- the removal of topsoil deposits for the construction of road/infrastructure corridors;
- site leveling works;
- sewer, water main and storm water drainage construction and associated trenching areas already cleared of topsoil deposits;
- pavement works for pathways; and
- construction of buildings on the lots together with car parking fencing and landscaping.

The approved action involves the removal of 54.36 hectares of Golden Sun Moth habitat with offset obligations met with two proposed offset sites supporting known habitat for the species.

Works undertaken during the current reporting period

The action commenced on 28 January 2020 and no more than 33.66 hectares of Golden Sun Moth habitat were impacted. It is proposed that the balance of the approval to remove 20.76 hectares of Golden Sun Moth habitat will occur in late 2021.

Since commencement of the activity the first stage of the industrial subdivision has been completed to the south of the approval site and involves the construction of a signalised intersection, estate roads and street landscaping. One warehouse facility has also been completed in the southeast corner of the estate.



Staging and locality plan

3.0 Approvals Conditions Compliance Table

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
Part A – Conditions specific to the action			
1	The approval holder must not impact more than 54.36 ha of habitat for Golden Sun Moth.	Compliant	No more than 54.36ha of habitat for golden sun moth has been impacted.
2	The approval holder must not commence the action prior to written evidence being provided to the Department that either the Warrambeen offset site or the Buangor offset site has been legally secured.	Non-Compliant	<p>On 9 June 2021 the approval holder submitted the year one monitoring report for the Warrambeen offset site and the Buangor offset site to Department.</p> <p>On 13 July 2021, the approval holder received a letter from the Department noting that it had not received written evidence that the either the Warrambeen offset site or the Buangor offset site had been legally secured.</p> <p>The approval holder replied to the Department by letter dated 29 July 2021 (29 July Letter) and email dated 30 July 2021 that:</p> <ul style="list-style-type: none"> on 29 November 2019, the approval holder’s consultant notified the Department that implementation of the Golden Sun Moth <i>Synemon plana</i> Offset Management Plan: 222 Challicum Road, Buangor, Victoria (EPBC 2018/8167) - Prepared for Frasers Property Australia Pty Ltd - dated September 2019 (Buangor offset site) had commenced; on 19 January 2020, the Landowner Agreement (registered instrument AS956210D) between the Secretary for the Department of the Environment Land and Water and Tierra Land Holdings Pty Ltd (Buangor Landowner Agreement) in respect of Golden Sun Moth Habitat at Challicum Road, Buangor VIC 3375 (Buangor offset site) was signed by all parties; on 23 January 2020, an application for recording the Buangor Landowner Agreement under section 72 of the <i>Conservation Forests and Lands Act 1987</i> was made and the Buangor Landowner Agreement recorded on title for the Buangor offset site on 4 February 2020; and

Condition
No. / Ref

Condition

Is the project compliant
with this condition?

Evidence/Comments

- on 28 January 2020, work commenced in an area less than 33.60 ha of habitat at the impact site. This work initially comprised the placement of site sheds and some earth works - work in this area is continuing for the first stage of the industrial subdivision.

The approval holder was non-compliant with the condition because it had commenced the action but failed to notify the Department that the Buangor offset site had been legally secured until 29 July 2021.

The 29 July Letter also notified the Department that:

- on 29 November 2019, the approval holder's consultant notified the Department that implementation of the Golden Sun Moth *Synemon plana* Offset Management Plan: Paddock and East Creek 815 Gumley Road, Mount Mercer, Victoria (EPBC 2018/8167) - Prepared for Frasers Property Australia Pty Ltd - dated September 2019 (**Warrambeen offset site**) had commenced;
- on 4 September 2020, the Deed of Covenant for the Conservation of Land (registered instrument AT627763M (as a representative example of the instruments recorded on the other titles for the Warrambeen offset site)) between the Trust for Nature (Victoria) and Warrambeen Trading Company Pty Ltd was signed by all parties (**Warrambeen Deed**) and an application for notification of the Warrambeen Deed under section 3A of the *Victorian Conservation Trust Act 1972* was made and recorded on titles for the Warrambeen offset site on 23 September 2020; and
- the approval holder intended to commence works in the balance of the habitat at the impact site in August 2021 and gave an undertaking to notify the Department promptly after this has occurred,

Written evidence has now been provided to the Department that both the Warrambeen offset site and the Buangor offset site have been legally secured.

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
3	The approval holder must not impact more than 33.60 ha of habitat for Golden Sun Moth prior to written evidence being provided to the Department that the Buangor offset site has been legally secured.	Non-Compliant	<p>On 9 June 2021 the approval holder submitted the year one monitoring report for the Buangor offset site to Department and for the Warrambeen offset site to the Trust.</p> <p>On 13 July 2021, the approval holder received a letter from the Department noting that it had not received written evidence that the either the Warrambeen offset site or the Buangor offset site had been legally secured.</p> <p>The approval holder replied to the Department by letter dated 29 July 2021 (29 July Letter) and email dated 30 July 2021 that:</p> <ul style="list-style-type: none"> • on 29 November 2019, the approval holder's consultant notified the Department that implementation of the Golden Sun Moth <i>Synemon plana</i> Offset Management Plan: 222 Challicum Road, Buangor, Victoria (EPBC 2018/8167) - Prepared for Frasers Property Australia Pty Ltd - dated September 2019 (Buangor offset site) had commenced; • on 19 January 2020, the Landowner Agreement (registered instrument AS956210D) between the Secretary for the Department of the Environment Land and Water and Tierra Land Holdings Pty Ltd (Buangor Landowner Agreement) in respect of Golden Sun Moth Habitat at Challicum Road, Buangor VIC 3375 (Buangor offset site) was signed by all parties; • on 23 January 2020, an application for recording the Buangor Landowner Agreement under section 72 of the <i>Conservation Forests and Lands Act 1987</i> was made and the Buangor Landowner Agreement recorded on title for the Buangor offset site on 4 February 2020; and • on 28 January 2020, work commenced in an area less than 33.60 ha of habitat at the impact site. This <i>work</i> initially comprised the placement of site sheds and some earth works - work in this area is continuing for the first stage of the industrial subdivision. <p>The approval holder was non-compliant with the condition because it had commenced the action in more than 33.60 ha of habitat for Golden Sun Moth but failed to notify the Department that the Buangor offset site had been legally secured until 29 July 2021.</p>

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
4	<p>The approval holder must not impact more than 20.76 ha of habitat for Golden Sun Moth prior to written evidence being provided to the Department that the Warrambeen offset site has been legally secured.</p> <p>Note: the impact allowances under condition 3 and 4 allows for an impact to occur once the commensurate offset has been legally secured.</p>	Compliant	<p>Written evidence has now been provided to the Department that the Buangor offset site has been legally secured.</p> <p>On 29 July 2021 the approval notified the Department that:</p> <ul style="list-style-type: none"> on 29 November 2019, the approval holder's consultant notified the Department that implementation of the Golden Sun Moth <i>Synemon plana</i> Offset Management Plan: Paddock and East Creek 815 Gumley Road, Mount Mercer, Victoria (EPBC 2018/8167) - Prepared for Frasers Property Australia Pty Ltd - dated September 2019 (Warrambeen offset site) had commenced; on 4 September 2020, the Deed of Covenant for the Conservation of Land (registered instrument AT627763M (as a representative example of the instruments recorded on the other titles for the Warrambeen offset site)) between the Trust for Nature (Victoria) and Warrambeen Trading Company Pty Ltd was signed by all parties (Warrambeen Deed) and an application for notification of the Warrambeen Deed under section 3A of the <i>Victorian Conservation Trust Act 1972</i> was made and recorded on titles for the Warrambeen offset site on 23 September 2020; and the approval holder intended to commence works in the balance of the habitat at the impact site (not more than 20.76 ha) in August 2021 and gave an undertaking to notify the Department promptly after this has occurred. <p>The approval holder has not impacted the area of 20.76ha of Golden Sun Moth habitat corresponding with the Warrambeen offset site. Work is programmed to commence on the 20.76Ha of habitat in September 2021.</p>
5	<p>The approval holder must ensure that the offset management plan for each offset site is implemented for the life of the approval commencing from the date that the respective offset site has been legally secured.</p>	Compliant	<p>On 29 November 2019, the approval holder's consultant notified the Department that implementation of:</p> <ul style="list-style-type: none"> the Golden Sun Moth <i>Synemon plana</i> Offset Management Plan: 222 Challicum Road, Buangor, Victoria (EPBC 2018/8167) - Prepared for Frasers Property Australia Pty Ltd - dated September 2019 (Buangor OMP); and

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
6	The approval holder must ensure that the environmental conditions specified at Attachment B are achieved at each offset site within 5 years of the date that the offset site is legally secured.	Not Applicable	<ul style="list-style-type: none"> the Golden Sun Moth <i>Synemon plana</i> Offset Management Plan: Paddock and East Creek 815 Gumley Road, Mount Mercer, Victoria (EPBC 2018/8167) - Prepared for Frasers Property Australia Pty Ltd - dated September 2019 (Warrambeen OMP), had commenced. <p>The Buangor OMP is secured and managed in perpetuity under the Buangor Landowner Agreement (registered instrument AS956210D) with the Department.</p> <p>The Buangor OMP operates for a term of 10 years. Tierra Land Holdings Pty Ltd (Buangor Landowner) is required to submit a management implementation report annually to the Department for each year of the 10 years of the Buangor OMP.</p> <p>The Warrambeen OMP is secured and managed in perpetuity under the Deed of Covenant (registered instrument AT627763M (as a representative example of the instruments recorded on the other titles for the Warrambeen offset site)) with Trust for Nature (Victoria) (Trust).</p> <p>The Warrambeen OMP operates for a term of 10 years. Warrambeen Trading Company Pty Ltd (Warrambeen Landowner) is required to prepare an annual written report demonstrating completion of management actions for the preceding year.</p> <p>Management implementation reports in respect of year 1 of the Buangor OMP and the Warrambeen OMP were submitted to the Department and the Trust, respectively, on 9 June 2021.</p>
7	<p>Within 3 months after the 5 year anniversary of each offset site being legally secured the approval holder must submit to the Minister for approval, and then publish on a website, a report prepared by a suitably qualified ecologist in respect of that offset site that:</p> <p>a) describes the ecological condition of the offset site, including Golden Sun Moth habitat, and providing</p>	Not Applicable	This condition is required to be satisfied within 3 months of 28 January 2025.

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
	<p>evidence demonstrating which of the environmental conditions required under condition 6 at that offset site have been achieved; and</p> <p>b) for each environmental condition required under condition 6 for that offset site for which it cannot be demonstrated that it has been achieved, the report must:</p> <ul style="list-style-type: none"> i. include a review of the effectiveness of relevant management practices; ii. specify commitments as to the additional actions that will be implemented to ensure the environmental conditions are subsequently achieved; iii. set out the timeframe within which those environmental conditions will be achieved; and iv. if any environmental conditions cannot be achieved before the completion of the action, include commitments to provide commensurate compensatory offsets. 		
Part B – Standard administrative conditions			
8	<p>Notification of date of commencement of the action</p> <p>The approval holder must notify the Department in writing of the date of commencement of the action within 10 business days after the date of commencement of the action.</p>	Non-compliant	<p>Action commenced on 30.6ha of habitat for golden Sun Moth corresponding with the Buangor offset site on 28 January 2020 but the Department was not notified until 30 July 2021.</p> <p>The approval holder has undertaken to notify the Department of the commencement of action on 20.76 ha of habitat for golden Sun Moth corresponding with the Warrambeen offset site within 10 business days of the date of commencement of the action.</p>
9	<p>Compliance records</p> <p>The approval holder must maintain accurate and complete compliance records.</p>	Compliant	<p>Year one management implementation reports have been prepared and submitted in respect of the Buangor OMP and the Warrambeen OMP.</p> <p>This compliance report will be updated following action of any approval condition, published on the approval holder's website and provided to the Department.</p>
10	<p>If the Department makes a request in writing, the approval holder must provide electronic copies of compliance records to the Department within the timeframe specified in the request.</p>	Compliant	<p>The approval holder will provide this compliance report by email to the Department by 24 August 2021 in accordance with the Department's specified timeframe.</p>

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
	<p>Note: Compliance records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the Department's website or through the general media.</p>		
11	<p>Monitoring data</p> <p>The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under conditions of this approval, is prepared in accordance with the Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department in accordance with the requirements of the offset management plan(s).</p>	Note	<p>Population and habitat monitoring reports were prepared and submitted to the Department on 9 June 2021 and demonstrate that the year 1 actions under the Buangor MP and the Warrambeen OMP have been implemented.</p> <p>The reports contain survey data of the Golden Sun Moth populations on the Buangor Offset Site and the Warrambeen Offset Site and are in accordance with the Department's guidelines.</p>
12	<p>Annual compliance reporting</p> <p>The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:</p> <ol style="list-style-type: none"> a) publish each compliance report on the website within 60 business days following the relevant 12 month period; b) notify the Department by email that a compliance report has been published on the website within five business days of the date of publication, and provide a link to the location of the published report; c) keep all compliance reports publicly available on the website until this approval expires; d) exclude or redact sensitive ecological data from compliance reports published on the website; and e) where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication. 	Compliant	<p>As directed by the Department in correspondence dated 10 August 2021, this compliance report will be provided to the Department and published on the approval holder's website.</p> <p>The Department will be notified that the compliance report has been published on the approval holder's website by 29 August 2021.</p>
	<p>Note: Compliance reports may be published on the Department's website.</p>		

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
13	<p>Reporting non-compliance</p> <p>The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:</p> <ul style="list-style-type: none"> a) the condition which is or may be in breach; b) a short description of the incident and/or non-compliance; and c) the location (including shapefiles), date and time, to the extent that these can be determined, of the incident and/or non-compliance. 	Compliant	<p>The approval holder's failure to notify the Department that the Buangor offset site had been legally secured before commencing action in the impact site has been the subject of discussion with the Department.</p> <p>The approval holder is taking affirmative action by the provision of this compliance report by 24 August 2021 and also by publishing it on the approval holder's website.</p>
14	<p>The approval holder must provide to the Department the details of any incident or non-compliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying:</p> <ul style="list-style-type: none"> a) any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future; b) the potential impacts of the incident or non-compliance; and c) the method and timing of any remedial action that will be undertaken by the approval holder. 	Compliant	<p>The approval holder's failure to notify the Department that the Buangor offset site had been legally secured before commencing action in the impact site has been the subject of discussion with the Department.</p> <p>The approval holder is taking affirmative action by the provision of this compliance report by 24 August 2021 and also by publishing it on the approval holder's website.</p>
15	<p>Independent audit</p> <p>The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister.</p>	Not applicable	There has been no request for an Audit by the Minister.
16	<p>For each independent audit, the approval holder must:</p> <ul style="list-style-type: none"> a) provide the name and qualifications of the independent auditor and the draft audit criteria to the Department; 	Not applicable	There has been no request for an Audit by the Minister.

Condition No. / Ref	Condition	Is the project compliant with this condition?	Evidence/Comments
b)	only commence the independent audit once the audit criteria have been approved in writing by the Department; and		
c)	submit an audit report to the Department within the timeframe specified in the approved audit criteria.		
17	The approval holder must publish the audit report on the website within 10 business days of receiving the Department's approval of the audit report and keep the audit report published on the website until the end date of this approval.	Not applicable	There has been no request for an Audit by the Minister.
18	<p>Completion of the action</p> <p>Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data.</p>	Not applicable	The action has not been completed.