

## APPROVAL

### Oakdale West Estate commercial development, NSW (EPBC 2017/7952)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

#### Details

<b>Person to whom the approval is granted (approval holder)</b>	Goodman Property Services (Aust) Pty Ltd
<b>ABN of approval holder</b>	40 088 981 793
<b>Action</b>	The project seeks to facilitate the development of the Oakdale West precinct, 6 kilometres (km) east of Horsley Park in western Sydney, into a regional warehousing and distribution hub. Oakdale West represents the third stage of development within the broader Oakdale estate [See EPBC Act referral 2017/7952].

#### Approval decision

My decisions on whether or not to approve the taking of the action for the purposes of each controlling provision for the action are as follows.

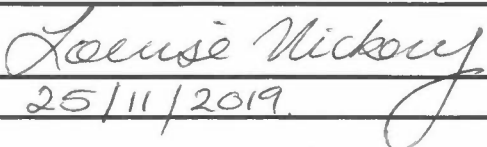
#### Controlling Provisions

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

#### Period for which the approval has effect

This approval has effect until 31 December 2039

#### Decision-maker

<b>Name and position</b>	Louise Vickery Assistant Secretary Environment Approvals and Wildlife Trade Branch Department of the Environment and Energy
<b>Signature</b>	
<b>Date of decision</b>	25/11/2019

#### Conditions of approval

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

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## ANNEXURE A – CONDITIONS OF APPROVAL

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### Part A – Conditions specific to the action

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1. The approval holder must not **clear** more than 2.06 hectares (ha) of Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community (**CPW**), and must not **clear** any **CPW** outside the area designated as the 'development site' in the map at **Attachment A**.
2. To compensate for the loss of 2.06 ha of **CPW**, the approval holder must, within 12 months of the date of this decision, or as otherwise agreed in writing by the **Minister**:
  - a. **Retire 70 like-for-like credits** under the **NSW FBA** and provide offset **shapefiles**; or
  - b. **Retire** the equivalent of 70 **like-for-like credits** under the *Biodiversity Conservation Act 2016* (NSW), as converted by **DPIE EES** in a statement of assessment of reasonable equivalence of biodiversity credits, a copy of which must be provided to the **Department** before **like-for-like** credits are **retired**, and provide offset **shapefiles**; or
  - c. Fund a Biodiversity Conservation Action for **CPW** under the *Biodiversity Conservation Act 2016* (NSW) in accordance with the Biodiversity Conservation Regulation 6.2 (2) (c) (NSW), which has been approved by **DPIE EES**.

**Note:** The variation rules under the *Biodiversity Conservation Regulations 2017* (section 6.4) (NSW) must not be applied.

Offset obligations for **CPW** under the EPBC Act must not be discharged through payment into the Biodiversity Conservation Fund (NSW) without prior written approval from the **Minister**.

3. The approval holder must inform the **Department** in writing within five (5) business days of any changes to the **NSW conditions of consent**.
4. Within three (3) months of the **commencement of the action**, the approval holder must provide **shapefiles** of the final project area and the precise areas of **CPW** being **cleared**.

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### Part B – Standard administrative conditions

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#### Notification of date of commencement of the action

4. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within five (5) **business days** after the date of **commencement of the action**.
5. If the **commencement of the action** does not occur within five (5) years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

#### Compliance records

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

**Note:** **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

### Annual compliance reporting

7. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been 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** and provide the weblink for the **compliance report** within five (5) **business days** of the date of publication;
  - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
  - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
  - e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within five (5) **business days** of publication.

**Note:** Compliance reports may be published on the **Department's** website.

### Reporting non-compliance

8. The approval holder must notify the **Department** in writing of any: **incident** or non-compliance with the conditions. The notification must be given within seven (7) days after becoming aware of the **incident** or non-compliance. The notification must specify:
  - a. any condition which is or may be in breach;
  - b. a short description of the **incident** and/or non-compliance; and
  - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
9. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions as soon as practicable and no later than ten (10) **business days** after becoming aware of the **incident** or non-compliance, specifying:
  - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
  - b. the potential impacts of the **incident** or non-compliance; and
  - c. the method and timing of any remedial action that will be undertaken by the approval holder.

### Independent audit

10. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
11. For each **independent audit**, the approval holder must:
  - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
  - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
  - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
12. 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.

## Completion of the action

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

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## Part C - Definitions

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

**Business day(s)** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

**Clear / Clearing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).

**Commencement of the action** (also **commence the action**) means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs;
- ii. install signage and /or temporary fencing to prevent unapproved use of the project area;
- iii. protect environmental and property assets from fire, weeds and pests, including use of existing surface access tracks;
- iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.

**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

**Completion of the action** means the time at which all approval conditions (except condition 13) have been fully met.

**Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

**Compliance reports** means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions;
- ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
- iii. which include a **shapefile** of any **clearance** of any **protected matters**, or their habitat, undertaken within the relevant 12 month period.

**Construction** means the undertaking of any preparatory works, earthworks, erection of any infrastructure, the formation of any hardstand surfaces, or the first instance of any use of heavy duty equipment for earthworks, the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the erection of temporary fences and signage.

**CPW** means Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community, listed as critically endangered under the **EPBC Act** on 9 December 2009, defined in the *Approved Conservation Advice for Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community* (Department of the Environment, Water, Heritage and the Arts, 2009). and the equivalent plant community types (PCTs), which are:

- i. PCT 724 Broad-leaved Ironbark – Grey Box – *Melaleuca decora* grassy open forest on clay/gravel soils of the Cumberland Plain, Sydney Basin Bioregion.
- ii. PCT 849 Grey Box – Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion.
- iii. PCT 850 Grey Box – Forest Red Gum grassy woodland on shale of the southern Cumberland Plain, Sydney Basin Bioregion.

**DPIE EES** means the Department of Planning, Infrastructure and Environment’s Environment, Energy and Science group, formerly known as the Office of Environment and Heritage.

**Department** means the Australian Government department responsible for the administration of the **EPBC Act**.

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

**Incident** means any event which has the potential to, or does, impact on **protected matters**.

**Independent** means a person that does not have an individual or by employment or family affiliation, any conflicting or competing interest with the approval holder, the approval holder’s staff, representatives or associated persons; or the project, including any personal, financial, business or employment relationship, other than receiving payment for undertaking the role for which the condition requires an independent person.

**Independent audit:** means an audit conducted by an **independent** and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019).

**Like-for-like credits** has the meaning given under the *Biodiversity Conservation Act 2016* (NSW) (BC Act).

**Minister** means the Australian Government minister responsible for administering the **EPBC Act**, and includes a delegate of the **Minister**.

**NSW FBA** means the New South Wales Framework for Biodiversity Assessment published by the Office of Environment and Heritage (2018).

**NSW conditions of consent** means the document recording the final approval for the Oakdale West Estate commercial development by the delegate of the NSW Minister for Planning and Public Spaces, dated 13 September 2019 and titled ‘Development Consent, Section 4.38 of the *Environmental Planning and Assessment Act 1979*’.

**Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

**Retire / retired / retiring** means to change the status of a credit such that the credit can no longer be bought or sold.

**Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

**Shapefile** means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain ‘.shp’, ‘.shx’, ‘.dbf’ files and a ‘.prj’ file that specifies the projection/geographic coordinate system used. **Shapefiles** must also include an ‘.xml’ metadata file that describes the shapefile for discovery and identification purposes.

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

#### **ATTACHMENTS**

**Attachment A** Map of construction footprint where proposed action will take place



## Attachment A

Extent of Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest to be removed within the construction footprint, labelled in this figure as the development site.

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