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# Annual Compliance Report 2022- 2023 Residential Development, Appin Road, Gilead, NSW (EPBC 2015/7599)

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**Prepared for Lendlease Communities (Figtree Hill) Pty Ltd**

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## ACKNOWLEDGEMENTS

This document has been prepared by Eco Logical Australia Pty Ltd for Lendlease communities (Mt Gilead) Pty Ltd.

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## Glossary of terms

Abbreviation	Description
Action	As defined in the final decision notice for EPBC 2015/7599 Construction of a residential development including water and sewage infrastructure, community centre, small kiosk/store, internal roads and open space recreation areas on Lots 1-5 DP 1240836 and Lot 61 DP 752042, Gilead.
Approval Holder	Lendlease Communities (Mt Gilead) Pty Ltd
APZ	Asset Protection Zone
BCT	NSW Biodiversity Conservation Trust
CAR	Corrective Action Report
CCC	Campbelltown City Council
CEEC	Critically Endangered Ecological Community
CEMP	Construction Environmental Management Plan
CPW	Cumberland Plain Woodland
Development Area	Development Areas as shown in Figures 1
DAWE	former Department of Agriculture, Water and the Environment
DCCEE&W	Commonwealth Department of Climate Change, Energy, the Environment and Water
DotE	former Commonwealth Department of the Environment (now DCCEE&W)
DotEE	former Commonwealth Department of the Environment and Energy (now DCCEE&W)
DPE	NSW Department of Planning and Environment
EEC	endangered ecological community
ELA	Eco Logical Australia
EMP	Environmental Management Plan
EPBC Act	Commonwealth Environment Protection & Biodiversity Conservation Act 1999
ESCP	Erosion and Sediment Control Plan
HBT	Hollow Bearing Tree
KMP	Koala Management Plan
MNES	Matters of National Environmental Significance
On-site Offset Areas	Offset Areas as shown in Figure 1
Protected Matters	Listed threatened species and ecological communities under the EPBC Act
RFEF	River-Flat Eucalypt Forest
SSTF	Shale Sandstone Transition Forest
SWMS	Safe Work Method Statement
TPZ	Tree Protection Zone

## Declaration of Accuracy

I declare that:

1. To the best of my knowledge, all the information contained in, or accompanying this Compliance Report is complete, current and correct.
2. I am duly authorised to sign this declaration on behalf of the approval holder.
3. I am aware that:
  - a. Section 490 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) makes it an offence for an approval holder to provide information in response to an approval condition where the person is reckless as to whether the information is false or misleading.
  - b. Section 491 of the EPBC Act makes it an offence for a person to provide information or documents to specified persons who are known by the person to be performing a duty or carrying out a function under the EPBC Act or the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth) where the person knows the information or document is false or misleading.
  - c. The above offences are punishable on conviction by imprisonment, a fine or both.

Signed



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Full name

**Robert Keir Humphries, Eco Logical Australia Pty Ltd**

Signed

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Full name

**Mark Iain Anderson, Lendlease Communities (Figtree Hill) Pty Ltd**

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# 1. Introduction

## 1.1 Project background

In 2015, Lendlease proposed a residential development of approximately 1,700 lots at Gilead. The proposal (EPBC 2015/7599) was referred to the then Department of the Environment and Energy (DotEE) in October 2015 and was determined to be a Controlled Action in relation to Matters of National Environmental Significance (MNES) and to be assessed by Preliminary Documentation.

Accordingly, a Preliminary Documentation Environmental Assessment Report was submitted and was placed on public exhibition between 20 December 2017 and 2 February 2018. Following updates to the report to reflect responses to public submissions in August 2018, the then DotEE granted approval on 21 December 2018 (**Appendix A**).

Condition 16 of the approval requires the approval holder (Lendlease Communities (Mt Gilead) Pty Ltd) now Lendlease Communities (Figtree Hill) Pty Ltd to prepare a 'Compliance report' for each 12 month period following the date of 'commencement of the action'. The Compliance report must be prepared within 60 days following the relevant 12 month period.

The action commenced on **13 January 2021** and thus the annual compliance report must be prepared by **14 March** each year.

Eco Logical Australia (ELA) has been commissioned by Lendlease Communities ( Figtree Hill) Pty Ltd (Lendlease) to prepare the first Annual Compliance Report, this report, to assess compliance with the conditions for the period **13 January 2022 – 12 January 2023** as set out in the approved action '*Construction of a residential development including water and sewerage infrastructure, a community centre, a small kiosk / store, internal roads and two open space and recreation reserve lots*'.

## 1.2 Project status

## 1.3 Reason for this compliance report

Condition 16 of the approval for EPBC 2015/7599 requires the approval holder (Lendlease Communities (Mt Gilead) Pty Ltd) to prepare a 'Compliance report' for each 12 month period following the date of 'commencement of the action'.

This report has been prepared in compliance with condition 16.

This report has been prepared for the period from **30 June 2022 – 13 January 2023**. The reduction of the reporting period is a result of the extension of the previous reporting period (13 January 2021 – 30 June 2022) due to a significant period where no works were able to be undertaken due to legal action in the NSW Land & Environment Court and the requirements of NSW Health Orders regarding Covid-19.

## 1.4 Commencement and staging of works

The project commenced with tree clearing and bulk earthworks in the Stage 1 area on 13 January 2021 (Figure 1).

Works were suspended on the 13 January when Lendlease gave an undertaking to cease all works due to pending legal action in the NSW Land & Environment Court. Following resolution of the legal proceeding in September 2021 and relaxation of NSW Health Orders works recommenced in January 2022.

By the end of the previous reporting period works undertaken primarily consisted of sediment and erosion control measures, fencing, bulk and detailed earthworks (**Figure 2**).

During this reporting period (30 June 2022 – 13 January 2023) works undertaken within the action area included civil works, installation of utilities, retaining walling and road construction. Conservation and revegetation works continued within the Conservation Areas (**Figure 3**).

### 1.5 Variations

In September 2019 a variation was lodged to amend Condition 7 in order to address the absence of a National Koala Recovery Team to endorse the Koala Management Plan, as envisaged when these conditions were approved.

Current condition 7	Varied condition 7
Prior to the <b>commencement of the action</b> , the approval holder must prepare and implement a Koala Management Plan for the proposed action area to the satisfaction of the <b>Minister</b> . This must include provisions for the approval holder to contribute at least \$50,000 each year for five years to fund activities outlined in the plan. The approval holder must provide the <b>Department</b> with <b>evidence</b> of the Koala Recovery Team's endorsement of the Koala Management Plan prior to the <b>commencement of the action</b> . The first year's contribution must be made within 20 business days from the <b>commencement of the action</b> .	Prior to the <b>commencement of the action</b> , the approval holder must submit a Koala Management Plan for the <b>proposed action area</b> to the <b>Minister</b> . The Koala Management Plan must include provisions for the approval holder to contribute at least \$50,000 each year for five years to fund activities outlined in the plan. The approval holder must not <b>commence the action</b> until the <b>Minister</b> has approved the Koala Management Plan in writing. The approval holder must implement the approved Koala Management Plan. The first year's contribution to fund activities outlined in the plan must be made within 20 business days from the <b>commencement of the action</b> .

This variation was approved on 20 September 2019 (**Appendix B**).



Figure 1: Condition 1 Development Area and Stages



Figure 2: Extent of works completed as at 15 June 2022 (Source NearMap)



Figure 3: Extent of works completed as at 09 January 2023 (Source NearMap)

## 2. Compliance reporting

A summary of the approved conditions and their respective compliance status, outcomes achieved and whether further action is required is presented in Table 1.

**Table 1: Compliance with conditions of approval**

Number	Condition	Compliance	Date due	Details
<b>Impacts</b>				
1	The approval holder must ensure that clearing of protected matters within the proposed action area is limited to the area marked as 'development area' in Figure 1.	Yes	Ongoing	All works on site undertaken as per approval
<b>Compensation measures</b>				
2	To offset the impacts on 3.3 ha of SSTF and 0.55 ha of CPW, the approval holder must ensure that 8 ha of SSTF and 1.2 ha of CPW is secured within on-site offset areas prior to the commencement of the action.	Yes	Complete	The Macarthur-Onslow (BA208) and Noorumba- Gilead Biobank site (BA209) was registered on 23 January 2019 ( <b>Appendix C and D</b> ). All SSTF and CPW credits (equating to 11.98 ha of SSTF and 6.27 ha of CPW) were retired in October 2019 ( <b>Appendix E</b> ).
3	To offset the impacts on 1.79 ha of SSTF, the approval holder must secure a minimum of 4 ha of SSTF at the Fernhill Central West biobanking site prior to the commencement of the action.	Yes	Complete	34 HN556 SSTF ecosystem credits (equivalent to 4 ha) were purchased from the Fernhill Central West biobanking site (BA117) and retired in October 2019 (see <b>Appendix E</b> ).
4	To compensate for impacts to 0.85 ha of SSTF not compensated through offsetting through conditions 2 and 3, the approval holder must secure 0.85 ha of SSTF within the Council Reserve Biobank site prior to the commencement of Stage 2 of the action.	Yes	Completed	On May 2020 the Department endorsed the Biodiversity Offset Strategy ( <b>Appendix F</b> ), this strategy compensated for impacts to 0.85 ha of SSTF not compensated through offsetting through conditions 2 and 3 through securing an additional 7 biobanking credits from the Fernhill Central West Biobank site (equivalent to 0.85 ha of SSTF).  7 biobanking credits from the Fernhill Central West Biobank site

Number	Condition	Compliance	Date due	Details						
				(equivalent to 0.85 ha of SSTF) were retired on 13 May 2020.						
5	To compensate for impacts to the Koala, the approval holder must acquire or retire no less than 150 Biodiversity Credits for the Koala from the Appin West offset site prior to the commencement of the action.	Yes	Complete	150 Koala species credits were purchased from the Appin West biobanking site (BA215) and retired in October 2019 (see <b>Appendix E</b> ).  A further 151 Koala credits wee retired from BA239 (Noorumba reserve Biobank site) to comply with NSW approval conditions.						
6	Within 10 business days of securing the relevant offsets specified in Conditions 2-5, the approval holder must provide the Department with evidence of when the offsets were secured and what mechanism was used to secure the offsets.	Yes	10 business days after commencement	Copies of the registered Biobank Agreements for BA 208 and 209 were provided to the Post Approvals team in July 2019 ( <b>Appendix C and D</b> ).  The Biobank Agreement for the Hillsborough Biobank site (BA490) was executed by DPE on 20 August 2022 ( <b>Appendix G</b> ). Once formally registered a copy will be provided to the department.						
7	Prior to the commencement of the action the approval holder must prepare and implement a Koala Management Plan for the proposed action area to the satisfaction of the Minister.	Yes	On-going	The Minister approved the KMP (Version 5 dated 21 November 2019) on 12 December 2019 ( <b>Appendix H</b> ).  <b>Activities funded during the reporting period</b>  <b>Koala Detection Program</b> <table><tr><td>Environmental Training</td><td>\$2,500</td></tr><tr><td>Conservation Works</td><td>\$316,575</td></tr><tr><td>TOTAL</td><td>\$387,795</td></tr></table>	Environmental Training	\$2,500	Conservation Works	\$316,575	TOTAL	\$387,795
Environmental Training	\$2,500									
Conservation Works	\$316,575									
TOTAL	\$387,795									
This must include provisions for the approval holder to contribute at least \$50,000 each year for five years to fund activities outlined in the plan.										
The first years contribution must be made within 20 business days form the commencement of the action.										
Construction Environmental Management Plan										
8	At least three months prior to the commencement of the action, the approval holder must submit a construction environmental management plan (CEMP) for the Ministers approval to avoid and	Yes	On-going	The Minister approved the CEMP (Version 5 dated 21 November 2019) on 12 December 2019 ( <b>Appendix H</b> ).						

Number	Condition	Compliance	Date due	Details
	mitigate potential indirect impacts on protected matters in the on-site offset areas and the Council Reserve as a result of construction. If the Minister approves the CEMP, then the approved CEMP must be implemented.		On-going	The CEMP has been implemented as part of on-going works.
9	The approval holder must not commence the action unless the Minister has approved the CEMP in writing			The Minister approved the CEMP in writing (Version 5 dated 21 November 2019) on 12 December 2019 ( <b>Appendix H</b> ). The action commenced in January 2021.
<b>Notification of date of commencement of the action</b>				
11	The approval holder must notify the Department in writing of the date of commencement of the action and the date of each stage of the action within 10 business days after the date of commencement of the action or the relevant stage of the action			Notice of the commencement of works was issued to the DAWE on 19/01/2021.  LL to provide copy of notification letter ( <b>Appendix I</b> ).
<b>Compliance records and reporting</b>				
13	The approval holder must maintain accurate and complete compliance records	Yes	Ongoing	
14	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	Yes	Not relevant	No requests were made for copies of compliance records during the reporting period.
16	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 via email that a compliance report has been published on the website within five business days of the date of publication	Yes	15 March 2023	This report serves as the second compliance report.

Number	Condition	Compliance	Date due	Details
	c. keep all compliance reports publicly available on the website until this approval expires			
17-18	The approval holder must notify the department (as soon as practical and no later than two business days after becoming aware) in writing of any incident, non-compliance with the conditions, or non-compliance with the commitments made in plans.	Yes	On-going	Not relevant as no incidents or occurrence of non-compliance during the reporting period.
<b>Preparation and publication of plans</b>				
15	<p>The approval holder must:</p> <p>a. submit plans electronically to the Department for approval by the Minister</p> <p>b. publish each plan on the website within 20 business days of the date the plan is approved by the Minister</p> <p>c. exclude or redact sensitive ecological data from plans published on the website</p> <p>d. keep plans published on the website until the end data of the approval</p>	Yes	On-going	<p>The Koala Management Plan was published on the Lendlease website in January 2020</p> <p>The Construction Environment Management Plan was published on the Lendlease website on in January 2020</p> <p>The Year 1 Compliance Report (this report) will be published on the Lendlease website in August 2022</p>
<b>Independent audit</b>				
19	The proponent must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister	Yes	On-going	No written requests for independent audits during the reporting period.
<b>Revision of action management plans</b>				
22-27	The approval holder may, at any time, apply to the Minister for a variation to an action management plan approved by the Minister	Yes	Not applicable	No request to vary approved plans made during the reporting period.
<b>Completion of Action</b>				

Number	Condition	Compliance	Date due	Details
28	Within 30 days of the completion of the action, the approval holder must notify the Department in writing and provide completion data	Yes	On Completion	Action not yet complete

**Table 2: Compliance with commitments and obligations in registered Biobank Agreements**

Number	Condition	Compliance	Date due	Details
1	<p>The registered Biobanking Agreements for BA 208 and BA 209 require the land owner to implement and report on the management actions within the Agreements on the 12 month anniversary of the first payment date each year i.e. 19<sup>th</sup> October.</p> <p>The BCT amended the Annual Report date for Year 1 to 31 January 2021 due to implications associated with covid restrictions, with the Year 2 and subsequent reports reverting back to 19<sup>th</sup> October each year</p>	Yes	Ongoing	<p>The Year 1 Annual reports for BA 208 and 209 were submitted on 29 January 2021.</p> <p>The BCT undertook a site audit on 11 March 2021 and issued a satisfactory Year 1 audit report on 30 March 2021.</p> <p>The year 2 Annual reports for BA 208 and BA 209 were submitted to the BCT in March 2022</p>
2	The Hillsborough Biobank site (BA 490) does not yet require the commencement of works.	Yes	Ongoing	Action not yet required

**Table 3: Compliance with commitments in approved Koala Management Plans**

Number	Condition	Compliance	Date due	Details
5.1.2	All Project personnel and contractors will undergo environmental induction training before commencing work on site	Yes	Ongoing	All project personnel have undertaken environmental inductions
5.1.3	Appointment of a Project Ecologist for the duration of clearing works to ensure conditions relating to biodiversity management of the site are fully implemented and complied with.	Yes	Nov 2020	Project ecologists were present onsite during all clearing, including pre-clearance surveys
	Commitment to prepare and implement a Construction Environmental Management Plan	Yes	Nov 2019	CEMP was approved in Nov 2019
	Temporary and permanent protective fencing to be erected around all areas identified for conservation within the development area, including within Open Space areas and Biobank Sites prior to clearing activities commencing to minimise any inadvertent damage	Yes	2016	Fencing was installed to all conservation areas in 2016.
5.1.4	Landscaping and revegetation within the Open Space/Recreation areas will include tree species which are part of the Endangered Ecological Communities recorded within the study area (Cumberland Plain Woodlands; Shale Sandstone Transition Forest and River-flat Eucalypt Forest) and which have been identified as primary or secondary Koala Tree Feed Species in the NSW Koala Recovery Plan	Not yet required	Not yet required	Landscape and revegetation works have not commenced

### 3. Incidents of non-compliance and reporting non-compliance

Nil within the reporting period.

### 4. Conclusion

On behalf of Lendlease Communities (Figtree Hill) Pty Ltd, ELA has prepared this Compliance Report to fulfil condition 16, and in doing so, all conditions of the Approval (EPBC 2015/7599) and subsequent approvals (plans and other agreements).

Since the commencement of the action there has been no incidents of non-compliances, including in this past year.

## Appendix A – Final Decision Notice EPBC 2015/7599

Provided as a separate Pdf document.

## Appendix B – Variation to Condition 7 EPBC 2015/7599

Provided as a separate Pdf document.

## Appendix C – Registered Biobanking Agreement for Macarthur-Onslow Biobank site (BA 208)

Provided as a separate Pdf document

## Appendix D - Registered Biobanking Agreement for Noorumba - Gilead Biobank site (BA 209)

Provided as a separate Pdf document

## Appendix E BioBanking credit retirement report (October 2019)

Provided as a separate Pdf document

## Appendix F - Approval of Biodiversity Offset Strategy

Provided as a separate Pdf document

## Appendix G – Registered Hillsborough Biobank site (BA490)

Provided as a separate Pdf document.

## Appendix H Minister's approval of KMP and CEMP

Provided as a separate Pdf document

## Appendix I – Letter to Minister notifying commencement of Action

Provided as a separate Pdf document

