



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Notification of approval

Eastern Creek Business Hub Stage 3, Eastern Creek, NSW (EPBC 2020/8715)

This decision is made under section 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval. That provision 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 conditions.


Approved Action

person to whom the approval is granted (approval holder)	Frasers Property Retail Holdings Pty Limited ACN: 618 676 994
Action	To develop a retail factory outlet centre with supporting food and beverage tenancies, with ancillary entertainment and recreation usages on the Eastern Creek Quarter site, and realignment of Church Street and Rooty Hill Road South into a 4-way intersection, Eastern Creek, NSW [See EPBC Act referral 2020/8715 subject to the variation of the action accepted by the Minister under section 156B on 5 September 2022].

Approval decision

decision	My decision on whether or not to approve the taking of the Action for the purposes of the controlling provision for the Action is as follows.	
	Controlling Provision	Decision
	Listed threatened species and communities (section 18 and section 18A)	Approved
period for which the approval has effect	This approval has effect until 31 May 2034.	
conditions of approval	The approval is subject to conditions under the EPBC Act as set out in Annexure A.	

Person authorised to make decision

name and position	Kate Gowland Branch Head Environment Assessments (NSW, ACT) Branch
signature	
date of decision	22 May 2024

Annexure A

Note: Words appearing in **bold** have the meaning assigned to them at PART C – DEFINITIONS.

Part A – Action-specific conditions

LISTED THREATENED ECOLOGICAL COMMUNITIES

- 1) To avoid and mitigate **harm** as a result of the Action on **Cumberland Plain Woodland**, the approval holder must not:
 - a) **clear** outside of the **Action area**, except the portion of **Cumberland Plain Woodland** as represented in Attachment A by the zone shaded green designated '**Cumberland Plain Woodland Impacts Associated with the Lot 3 Retail Factory Outlet Centre**'; and
 - b) **clear** more than 1.16 hectares of **Cumberland Plain Woodland**.
 - 2) For the protection of **Cumberland Plain Woodland**, the approval holder must take the Action in accordance with the **NSW Approval** to the extent that the **NSW Approval** conditions relate to **Cumberland Plain Woodland**.
 - 3) To compensate for the **clearance** of **Cumberland Plain Woodland** in the **Lot 3 Retail Factory Outlet Centre**, the approval holder must comply with Conditions B7 and B8 of Schedule 4 of the **NSW Approval**.
 - 4) To confirm the number of **ecosystem credits** required to compensate for the **clearance** of **Cumberland Plain Woodland** in the **Rooty Hill South / Church Street / St Agnes Avenue intersection**, the approval holder must comply with Condition C22 of Schedule 2 of the **NSW Approval** to the extent that the **NSW Approval** condition relates to **Cumberland Plain Woodland**.
 - 5) The approval holder must **retire** the **ecosystem credits** for **Cumberland Plain Woodland** as determined in accordance with Condition C22 of Schedule 2 of the **NSW Approval** prior to the commencement of **construction** of the **Rooty Hill South / Church Street / St Agnes Avenue intersection**.
 - 6) Within 20 **business days** of **retiring** the **ecosystem credits** as required by Condition 5, the approval holder must provide to the **department** in writing:
 - a) The number of **ecosystem credits** required for **Cumberland Plain Woodland** in accordance with Condition C22 of Schedule 2 of the **NSW Approval**.
 - b) Confirmation, with evidence, of the **retirement** of the **ecosystem credits** for **Cumberland Plain Woodland** or a payment has been made to the NSW Biodiversity Conservation Fund.
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Part B – Administrative conditions

MODIFICATIONS TO STATE APPROVAL

- 7) The approval holder must notify the **department** in writing of any proposed change to the **NSW Approval** conditions that may relate to **protected matters** within 2 **business days** of formally proposing a change and within 5 **business days** of becoming aware of any proposed change.

- 8) The approval holder must notify the **department** in writing of any change to the **NSW Approval** conditions that may relate to **protected matters** within 10 **business days** of a change being finalised. This notification must include a copy of the finalised changes to the **NSW Approval** conditions.

COMMENCEMENT OF THE ACTION

- 9) The approval holder must notify the **department** electronically of the date of the **commencement of the Action**, within 5 **business days** following the **commencement of the Action**.
- 10) The approval holder must not **commence the Action** later than 5 years after the date of this approval decision.

COMPLIANCE RECORDS

- 11) The approval holder must maintain accurate and complete **compliance records**.
- 12) 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 by an independent auditor in accordance with section 458 of the **EPBC Act**, and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the **department's** website or through the general media.

- 13) The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guidelines for biological survey and mapped data* (Commonwealth of Australia, 2018), or as otherwise specified by the **Minister** in writing.
- 14) The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guide to providing maps and boundary data for EPBC Act projects* (Commonwealth of Australia, 2021), or as otherwise specified by the **Minister** in writing.
- 15) The approval holder must submit all **monitoring data** (including **sensitive ecological data**), surveys, maps, other spatial and metadata electronically to the **department** within 20 **business days** of each anniversary of the date of this approval decision.

ANNUAL COMPLIANCE REPORTING

- 16) The approval holder must prepare a **compliance report** for each 12-month period following the date of this approval decision, or as otherwise agreed to in writing by the **Minister**.
- 17) Each **compliance report** must be consistent with the *Annual Compliance Report Guidelines* (Commonwealth of Australia, 2023).
- 18) Each **compliance report** must include:
 - a) Accurate and complete details of compliance and any non-compliance with:
 - i) each condition attached to this approval decision, and
 - ii) if any **incident** occurred, each **incident**.

- b) One or more **shapefile** showing all **clearing of Cumberland Plain Woodland** undertaken within the 12-month period at the end of which that **compliance report** is prepared.
- 19) The approval holder must:
- a) Publish each **compliance report** on the **website** within 20 **business days** following the end of the 12-month period for which that **compliance report** is required.
 - b) Notify the **department** electronically, within 5 **business days** of the date of publication, that a **compliance report** has been published on the **website**.
 - c) Provide the weblink for the **compliance report** in the notification to the **department**.
 - d) Keep all published **compliance reports** required by these conditions on the **website** until the expiry date of this approval.
 - e) Exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**, or otherwise provided to a member of the public.
 - f) If **sensitive ecological data** is excluded or redacted from the published version, submit the full **compliance report** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website**.

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

REPORTING NON-COMPLIANCE

- 20) The approval holder must notify the **department** electronically, within 2 **business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance with these conditions.
- 21) The approval holder must specify in the notification:
- a) Any condition which has been or may have been breached.
 - b) A short description of the **incident** and/or potential non-compliance and/or actual non-compliance.
 - c) The location (including co-ordinates), date and time of the **incident** and/or potential non-compliance and/or actual non-compliance.

Note: If the exact information cannot be provided, the approval holder must provide the best information available.

- 22) The approval holder must provide to the **department** in writing, within 12 **business days** of becoming aware of any **incident** and/or potential non-compliance and/or actual non-compliance, the details of that **incident** and/or potential non-compliance and/or actual non-compliance with these conditions. The approval holder must specify:
- a) Any corrective action or investigation which the approval holder has already taken.
 - b) The potential **harm** of the **incident** and/or non-compliance on any **protected matter**.
 - c) The method and timing of any corrective action that will be undertaken by the approval holder.

INDEPENDENT AUDIT

- 23) The approval holder must ensure that an **independent audit** of compliance with these conditions is conducted for every three-year period following the **commencement of the Action** until this approval expires, unless otherwise specified in writing by the **Minister**.
- 24) For each **independent audit**, the approval holder must:
- a) Provide the name and qualifications of the nominated **independent** auditor, the draft audit criteria, and proposed timeframe for submitting the **audit report** to the **department** prior to commencing the **independent audit**.
 - b) Only commence the **independent audit** once the nominated **independent** auditor, audit criteria and timeframe for submitting the **audit report** have been approved in writing by the **department**.
 - c) Submit the **audit report** to the **department** for approval within the timeframe specified and approved in writing by the **department**.
 - d) Publish each **audit report** on the **website** within 15 **business days** of the date of the **department's** approval of the **audit report**.
 - e) Keep every **audit report** published on the **website** until this approval expires.
- 25) Each **audit report** must report for the three-year period preceding that audit report.
- 26) Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the *EPBC Act Independent Audit and Audit Report Guidelines* (Commonwealth of Australia, 2019).

COMPLETION OF THE ACTION

- 27) The approval holder must notify the **department** electronically 60 **business days** prior to the expiry date of this approval, that this approval is due to expire.
- 28) Within 20 **business days** after the **completion of the Action**, and, in any event, at least 20 **business days** before this approval expires, the approval holder must notify the **department** electronically of the date of the **completion of the Action** and provide **completion data**. The approval holder must submit any spatial data that comprises **completion data** as a **shapefile**.

Part C – Definitions

In these conditions, any bolded use of a word or term refers to the below definition of that word or term:

Action area means the location of the Action, represented in Attachment A by the zone enclosed by the solid red line designated 'Lot 3 Retail Factory Outlet Centre' and the zone enclosed by the solid blue line designated 'Rooty Hill South / Church Street / St Agnes Avenue intersection'.

Audit report means a written report of compliance and fulfilment of the conditions attached to this approval, objectively evaluated against the audit criteria approved by the **department**.

Business days means days that are not a Saturday, a Sunday or a public holiday in New South Wales.

Clear, clearance or clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation but does not include weeds (see the *Australian Weeds Strategy 2017-2027* [Commonwealth of Australia, 2017] for further guidance).

Commence the Action or Commencement of the Action means the date on which the first instance of any on-site **clearing, construction** or other physical activity associated with the Action is undertaken, but does not include minor physical disturbance necessary to:

- a) Undertake pre-clearance surveys or monitoring programs.
- b) Install signage and/or temporary fencing to prevent unapproved use of the **Action area**, so long as the signage and/or temporary fencing is located where it does not **harm** any **protected matter**.
- c) Protect environmental and property assets from fire, weeds, and feral animals, including use of existing surface access tracks.
- d) Install temporary site facilities for persons undertaking pre-commencement activities so long as these facilities are located where they do not **harm** any **protected matter**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met.

Completion of the Action means the date on which all activities associated with this approval have permanently ceased and/or been completed.

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 report/s means a written report of compliance with, and fulfilment of, the conditions attached to this approval.

Construction means:

- a) the erection of a building or structure that is, or is to be, fixed to the ground and wholly or partially fabricated on-site,
- b) the alteration, maintenance, repair or demolition of any building or structure,
- c) any work which involves breaking of the ground (including pile driving) or bulk earthworks,
- d) the laying of pipes and other prefabricated materials in the ground, and
- e) any associated excavation works.

Note: **Construction** does not include the installation of temporary fences and signage.

Cumberland Plain Woodland means the **EPBC Act** listed threatened community 'Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest'. Cumberland Plain Woodland includes **NSW Plant Community Type** 'Grey Box – Forest Red Gum, grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion'.

Department means the Australian Government agency responsible for administering the **EPBC Act**.

Ecosystem credits means biodiversity credits under the *Biodiversity Conservation Act 2016* (NSW).

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

Harm means to cause any measurable direct or indirect disturbance or deleterious change as a result of any activity associated with the Action.

Incident means any event which has the potential to, or does, **harm** any **protected matter**.

Independent means a person or firm who does not have any individual, financial*, employment* or family affiliation or any conflicting interests with the Action, the approval holder or the approval holder's staff, representatives, or associated persons.

*Other than for the purpose of undertaking the role for which an independent person is required.

Independent audit means an audit, conducted by an **independent** person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature, as detailed in the **EPBC Act Independent Audit and Audit Report Guidelines** (Commonwealth of Australia, 2019).

Lot 3 Retail Factory Outlet Centre means part of the Action to be undertaken in that area, represented in Attachment A by the zone enclosed by the solid red line designated 'Lot 3 Retail Factory Outlet Centre'.

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

Monitoring data means the data required to be recorded under the conditions of this approval.

NSW Approval means the NSW Government State Significant Infrastructure Approval for Eastern Creek retail outlet centre, made under section 4.38 of the *Environmental Planning and Assessment Act 1979* (NSW), for application number SSD-10457, granted on 24 April 2023 and any subsequent modifications to that Approval.

NSW Plant Community Types means the Plant Community Types vegetation classification as given meaning in the NSW BioNet Vegetation Information System classification database.

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

Retire, retiring or retirement means to retire biodiversity credits in accordance with the Biodiversity Offset Scheme under the *Biodiversity Conservation Act 2016* (NSW), such that the biodiversity credits can no longer be bought or sold.

Rooty Hill South / Church Street / St Agnes Avenue intersection means part of the Action to be undertaken in that area, represented in Attachment A by the zone enclosed by the solid blue line designated 'Rooty Hill South / Church Street / St Agnes Avenue intersection'.

Sensitive ecological data means data as defined in the *Sensitive Ecological Data – Access and Management Policy v1.0* (Commonwealth of Australia, 2016).

Shapefile means location and attribute information about the Action provided in an Esri shapefile format containing:

- a) '.shp', '.shx', '.dbf' files,

- b) a '.prj' file which specifies the projection or geographic coordinate system used, and
- c) 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 **Action Area**

Attachment A – Map of Action Area

