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GUNNERSEN ALLEN METALS  
PTY LTD

**EPBC 2017/7914  
APPROVAL  
REQUIREMENTS**

ANNUAL  
COMPLIANCE  
MONITORING

**wsp**

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## EPBC 2017/7914 APPROVAL REQUIREMENTS

### Annual Compliance Monitoring

Gunnersen Allen Metals Pty Ltd

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REV	DATE	DETAILS
0	31/03/2021	Draft for comment
1	15/06/2021	Final

	NAME	DATE	SIGNATURE
Prepared by:	Justin Pegg	15/06/2021	
Reviewed by:	Zoe Steven	31/03/2021	
Approved by:	Nic McCaffrey	16/06/2021	

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EPBC 2017/7914

Reporting period: 06/02/2020 – 05/02/2021

Our ref: PS123857-ECO-REP-ACR Rev1.docx

Your ref: EPBC 2017/7914

By email and post  
post.approvals@environment.gov.au

17 June 2021

Public

Audit and Assurance Section  
Compliance and Enforcement Branch  
Environment Assessment and Compliance Division  
Department of the Environment  
GPO Box 787, Canberra ACT 2601

Dear Sir/Madam

**EPBC 2017/7914 APPROVAL REQUIREMENTS**  
**Annual Compliance Monitoring**

This Report is to detail year two of Annual Compliance with EPBC Act Approval (EPBC 2017/7914) between 06/02/2020 – 05/02/2021.

I hope this satisfies your requirements on this matter. If clarification or further information is sought, please contact me on 03 8662 6260 or justin.pegg@wsp.com.

Yours faithfully

Justin Pegg  
Associate Ecologist



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# 1 ANNUAL COMPLIANCE REPORTING

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## 1.1 PROJECT – ACTION, AND APPROVAL UNDER THE EPBC ACT

EMKC AU Industrial 1 Pty Ltd received approval on 01 June 2018 for impacts on two Matters of National Environment Significance (MNES) listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) at 10 Gordon Luck Avenue, Altona North, Victoria. This approval was subsequent to EPBC Act referral 2017/7914. This approval is currently being transferred to Gunnersen Allen Metals Pty Ltd ACN 609 806 939, the transfer is understood to be pending the submission of this Annual Compliance Report.

The approved action was for the purpose of developing 10 Gordon Luck Avenue, Altona North, Victoria into an industrial land estate, and associated infrastructure. Residual impacts were to 1.613 hectares of 'Natural Temperate Grassland of the Victorian Volcanic Plain' (NTGVVP) listed as Critically Endangered under the EPBC Act, and to 9.91 hectares of Golden Sun Moth *Synemon plana* (GSM) habitat. GSM is listed as Critically Endangered under the EPBC Act.

The action commenced on 6 February 2019, and was completed on 30 July 2020.

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## 1.2 COMPLIANCE REPORT

Condition 7 of the approval was to provide DAWE with an Annual Compliance Report, to be submitted within 3 months of the anniversary the date of commencement/approval, being 5 May 2020. This date was bypassed and the Annual Compliance Report was not completed for year 1. This Annual Compliance Report is to detail compliance with year two, up to 5 February 2021.

The Annual Compliance Report is provided in Table 1.1 below. This Annual Compliance Report has been undertaken as per the *Federal Annual Compliance Reporting Guidelines* (DoE, 2014).

EPBC Act Decision notice 2017/7914 is provided for reference at Appendix A.

As required by the *Annual Compliance Reporting Guidelines* (DoE, 2014), the declaration of accuracy is attached as Appendix B.

Table 1.1 Approval conditions compliance

CONDITION OF APPROVAL	REQUIREMENT	COMPLIANT/NON-COMPLIANT	EVIDENCE SUPPORTING CLAIMS REGARDING COMPLIANCE OF NON-COMPLIANCE
1	<p>1. The approval holder must:</p> <p>a. ensure construction remains within the designated project area;</p> <p>b. not clear more than 1.613 ha of NTGWP; and</p> <p>c. not clear more than 9.91 ha of GSM habitat.</p>	Compliant	Clearance was undertaken in accordance with the EPBC Approval. There was no NTGVVP, or GSM habitat to be retained within the project area.
2	<p>Prior to commencement of the action, to compensate for the loss of up to 1.613 ha of NTGWP and 9.91 ha of GSM, the approval holder must provide documentary evidence to the Department that the impact has been offset in accordance with the Melbourne Urban Development Policy.</p> <p>Note: For clarity, 1.613 ha of NTGVVP and 9.91 ha of GSM habitat refers to the impact area of the proposed action.</p>	Compliant	EMKC AU Industrial 1 Pty Ltd, were invoiced (No. DELWP0058894) \$657,827.5 by the Department of Environment Land Water and Planning – DELWP. This was paid by cheque dated 1 February 2019. Receipt for payment through has been cited by WSP – Unique Sequence No: 343214/07/15681
3	To avoid impacts on NTGWP and GSM habitat in areas adjacent to the project area, including the Laverton Grassland Flora Reserve, the approval holder must implement the Construction Environmental Management Plan at the project area until construction is complete.	Compliant	A Construction Environmental Management Plan – CEMP, was prepared for 10 Gordon Luck Avenue, Altona North, dated August 2017.
4	Within 14 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.	Compliant	Department of Environment and Energy – DoEE, were notified of commencement of the action by letter dated 18 February 2019. The action commenced 6 February 2019. This letter was delivered by email. This letter was addressed to James Barker – Assistant Secretary, Assessments and Governance Branch.
5	Within 14 days after the completion of construction activities the approval holder must notify the Department in writing of the actual date of completion.	Compliant	DoEE were notified of completion of the action on 30 July 2019, by letter dated 30 July 2019. This letter was delivered by email. This letter was addressed to Valerie Hush, Assistant Director, Environment Audit Section, Office of Compliance.

CONDITION OF APPROVAL	REQUIREMENT	COMPLIANT/NON-COMPLIANT	EVIDENCE SUPPORTING CLAIMS REGARDING COMPLIANCE OF NON-COMPLIANCE
6	The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval 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 may be posted on the Department's website. The results of audits may also be publicised through the general media.	Compliant	Records reported of activities relevant to conditions of approval kept by EMKC. EMKC can provide upon request.
7	<p>Within 3 months of every 12 month anniversary of the commencement of the action, and until that anniversary after the completion of construction, the approval holder must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans; and reports on the progress of achieving condition 5.</p> <p>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. Reports must remain published for the life of the approval.</p>	Partially Compliant	<p>Year one of Annual Compliance Report was not undertaken, however, the requirement for year two of Annual Compliance Report is hereby satisfied.</p> <p>As detailed above, condition 5 was satisfied.</p> <p>Annual Compliance Report to be hosted at <a href="http://www.em-kc.com/blog">www.em-kc.com/blog</a></p>
8	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.	Not applicable	Not requested by Minister

CONDITION OF APPROVAL	REQUIREMENT	COMPLIANT/NON-COMPLIANT	EVIDENCE SUPPORTING CLAIMS REGARDING COMPLIANCE OF NON-COMPLIANCE
9	<p>The approval holder may choose to revise a management plan approved by the Minister under Condition 3 without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised plan would not be likely to have a new or increased impact. If the person taking the action makes this choice they must:</p> <ul style="list-style-type: none"> <li>i) Notify the Department in writing that the approved plan has been revised and provide the Department with an electronic copy of the revised plan</li> <li>ii) Implement the revised plan from the date that the plan is submitted to the Department</li> <li>iii) For the life of this approval, maintain a record of the reasons the approval holder considers that taking the action in accordance with the revised plan would not be likely to have a new or increased impact.</li> </ul>	Not applicable	Plans not required to be revised by approval holder.
10	<p>The approval holder may revoke their choice under Condition 9 at any time by notice to the Department. If the approval holder revokes the choice to implement a revised plan without approval under section 143A of the Act, the plan approved by the Minister must be implemented.</p>	Not applicable	Plans not required to be revised by approval holder.
11	<p>Condition 9 does not apply if the revisions to the approved plan include changes to environmental offsets required under Condition 2 unless otherwise agreed in writing by the Minister. This does not otherwise limit the circumstances in which the taking of the action in accordance with a revised plan would, or would not, be likely to have new or increased impacts.</p>	Not applicable	Plans not required to be revised by approval holder.



CONDITION OF APPROVAL	REQUIREMENT	COMPLIANT/NON-COMPLIANT	EVIDENCE SUPPORTING CLAIMS REGARDING COMPLIANCE OF NON-COMPLIANCE
12	<p>a. If the Minister gives a notice to the approval holder that the Minister is satisfied that the taking of the action in accordance with the revised plan would be likely to have a new or increased impact, then:</p> <p style="padding-left: 40px;">i) Condition 9 does not apply, or ceases to apply, in relation to the revised plan</p> <p style="padding-left: 40px;">ii) The person taking the action must implement the plan approved by the Minister.</p> <p>b. To avoid any doubt, this Condition does not affect any operation of Conditions 9, 10 or 11 in the period before the day the notice is given.</p> <p>c. At the time of giving the notice the Minister may also notify that for a specified period of time that Condition 9 does not apply for one or more specified plans required under the approval.</p>	Not applicable	Plans not required to be revised by approval holder.
13	Conditions 9, 10, 11 and 12 are not intended to limit the operation of section 143A of the EPBC Act which allows the approval holder to submit a revised plan to the Minister for approval.	Not applicable	Plans not required to be revised by approval holder.
14	If, at any time after five years from the date of this approval, the approval holder has not commenced construction, then the approval holder must not commence the action without the written agreement of the Minister.	Compliant	Action commenced 6 February 2019 – within 5 years of approval 1 June 2018.

# REFERENCES

DOE 2014. Annual Compliance Report Guidelines. *In*: ENVIRONMENT, D. O. T. (ed.). Commonwealth of Australia.

# APPENDIX A

EPBC APPROVAL 2017/7914





**Approval**

**Industrial Development, 10 Gordon Luck Avenue, Altona, Victoria (EPBC 2017/7914)**

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

**Proposed action**

<b>person to whom the approval is granted</b>	EMKC AU INDUSTRIAL 1 PTY LTD
<b>proponent's ACN</b>	614 395 461
<b>proposed action</b>	To develop an industrial land estate including associated infrastructure at 10 Gordon Luck Avenue, Altona North, Victoria [See EPBC Act referral 2017/7914].

**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 May 2028.

**Decision-maker**

<b>name and position</b>	James Barker Assistant Secretary Assessments and Governance Branch
<b>signature</b>	
<b>date of decision</b>	1 / 6 / 2018

## Conditions attached to the approval

1. The **approval holder** must:
  - a. ensure **construction** remains within the designated **project area**;
  - b. not clear more than 1.613 ha of **NTGVVP**; and
  - c. not clear more than 9.91 ha of **GSM** habitat.
2. Prior to **commencement** of the action, to compensate for the loss of up to 1.613 ha of **NTGVVP** and 9.91 ha of **GSM**, the **approval holder** must provide documentary evidence to the **Department** that the impact has been **offset** in accordance with the **Melbourne Urban Development Policy**.

*Note: For clarity, 1.613 ha of NTGVVP and 9.91 ha of GSM habitat refers to the impact area of the proposed action.*

3. To avoid impacts on **NTGVVP** and **GSM** habitat in areas adjacent to the **project area**, including the Laverton Grassland Flora Reserve, the approval holder must implement the **Construction Environmental Management Plan** at the **project area** until **construction** is complete.

## Administrative conditions

4. Within 14 days after the **commencement** of the action, the person taking the action must advise the **Department** in writing of the actual date of **commencement**.
5. Within 14 days after the completion of **construction** activities the approval holder must notify the **Department** in writing of the actual date of completion.
6. The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval 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 may be posted on the **Department's** website. The results of audits may also be publicised through the general media.
7. Within 3 months of every 12 month anniversary of the **commencement** of the action, and until that anniversary after the completion of **construction**, the approval holder must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans; and reports on the progress of achieving condition 5. 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. Reports must remain published for the life of the approval.
8. 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**.

9. The **approval holder** may choose to revise a management plan approved by the **Minister** under Condition 3 without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the revised plan would not be likely to have a **new or increased impact**. If the person taking the action makes this choice they must:
- i) Notify the **Department** in writing that the approved plan has been revised and provide the **Department** with an electronic copy of the revised plan
  - ii) Implement the revised plan from the date that the plan is submitted to the **Department**
  - iii) For the life of this approval, maintain a record of the reasons the **approval holder** considers that taking the action in accordance with the revised plan would not be likely to have a **new or increased impact**.
10. The **approval holder** may revoke their choice under Condition 9 at any time by notice to the **Department**. If the **approval holder** revokes the choice to implement a revised plan without approval under section 143A of the Act, the plan approved by the **Minister** must be implemented.
11. Condition 9 does not apply if the revisions to the approved plan include changes to environmental offsets required under Condition 2 unless otherwise agreed in writing by the **Minister**. This does not otherwise limit the circumstances in which the taking of the action in accordance with a revised plan would, or would not, be likely to have **new or increased impacts**.
12. a. If the **Minister** gives a notice to the **approval holder** that the **Minister** is satisfied that the taking of the action in accordance with the revised plan would be likely to have a **new or increased impact**, then:
- i) Condition 9 does not apply, or ceases to apply, in relation to the revised plan
  - ii) The person taking the action must implement the plan approved by the **Minister**.
- b. To avoid any doubt, this Condition does not affect any operation of Conditions 9, 10 or 11 in the period before the day the notice is given.
- c. At the time of giving the notice the **Minister** may also notify that for a specified period of time that Condition 9 does not apply for one or more specified plans required under the approval.
13. Conditions 9, 10, 11 and 12 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the **approval holder** to submit a revised plan to the **Minister** for approval.
14. If, at any time after five years from the date of this approval, the approval holder has not **commenced construction**, then the approval holder must not **commence** the action without the written agreement of the **Minister**.

## Definitions:

**Approval holder** – the person to whom the approval is granted, or to whom the approval is transferred under s 145B of the **EPBC Act**.

**Commencement** – the date any **construction** or on-site preparatory activity is first undertaken, including inclusive of clearing of vegetation.

**Construction** means the activities comprising the proposed action, including, but not limited to, any activity resulting in the direct disturbance or clearance of **NTGVVP** and/or **GSM** habitat, earthworks and/or clearing for any other works associated with development, and preparatory works such as: clearing of vegetation; erection of any onsite temporary structure; and the use of heavy duty equipment for the purpose of breaking ground for fencing, buildings or infrastructure, including any works for the creation of vegetation buffers.

**Construction Environmental Management Plan** is the Ecology and Heritage Partners' document *Construction Environmental Management Plan: 10 Gordon Luck Avenue, Altona North, Victoria* (August 2017), or any subsequent version as approved by the **Minister** under section 143A of the **EPBC Act**.

**DELWP** is the Victorian Government Department of Environment, Land, Water and Planning.

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

**EPBC Act** is the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth).

**GSM** – Golden sun moth (*Synemon plana*) a listed threatened species under the **EPBC Act** (as identified in yellow in **Annexure A**).

**Melbourne Strategic Assessment** is a Victorian urban development program providing for Melbourne's forecast population growth, endorsed by the **Minister**.

**Melbourne Urban Development Policy** is 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, which provides for offsets of impacts of relevant projects in accordance with the **Melbourne Strategic Assessment**.

**Minister** is the Minister administering the **EPBC Act** and includes a delegate of the Minister.

**New or increased impact** – means a new or increased impact on any matter protected by the controlling provisions for the action, when compared to the plan that has been approved by the Minister.

**NTGVVP** – the ecological community natural temperate grassland of the Victorian volcanic plain listed threatened ecological community under the **EPBC Act** (as identified in purple cross hatching in **Annexure B**).

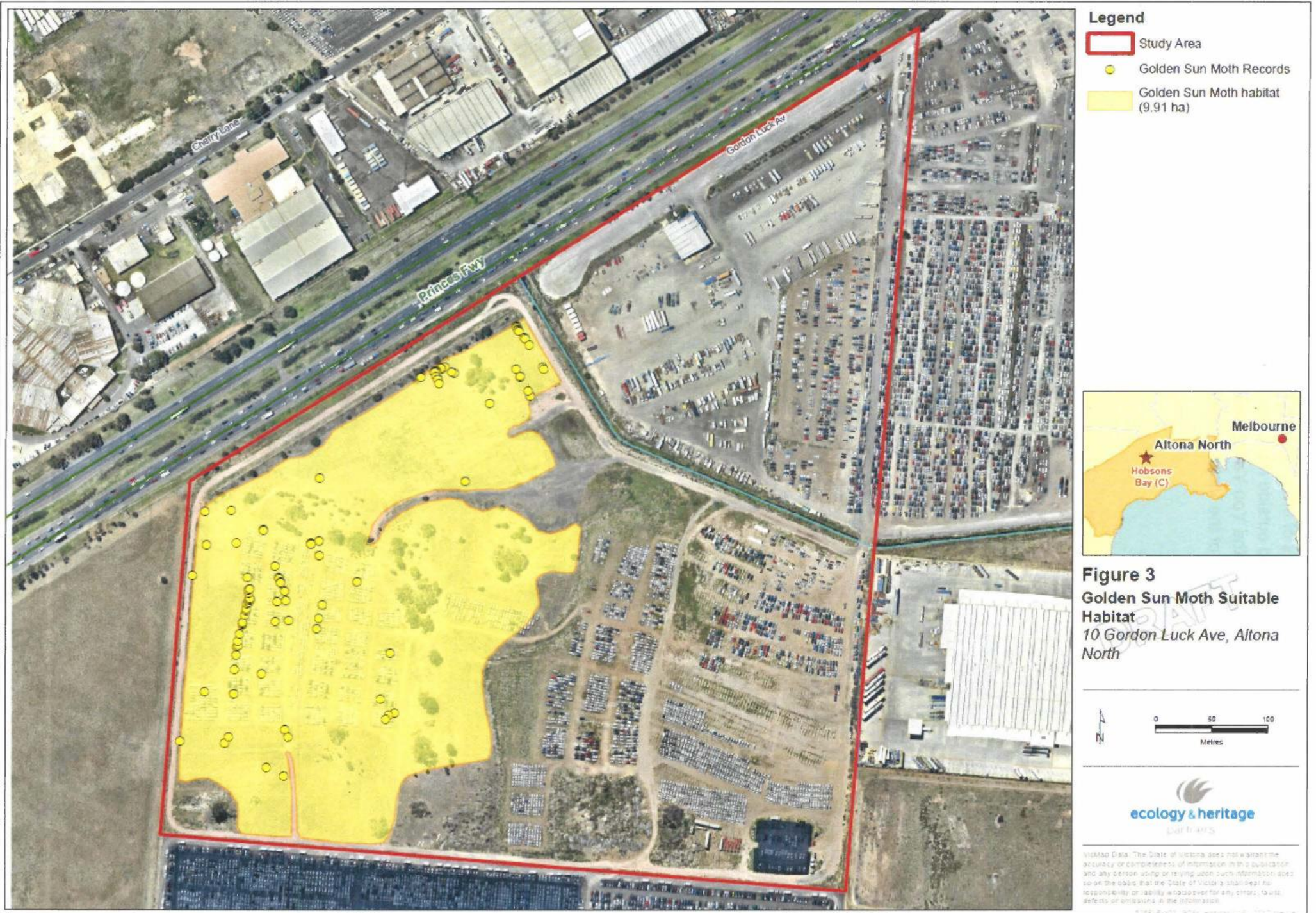
**Offset** - payment of the amount set out in an invoice from **DELWP** to compensate for the impacts of the proposed action, as evidenced by a receipt from **DELWP** acknowledging payment.

**Project area** as identified in red as the study area in **Annexure A**.

**Western Grassland Reserves** – Dedicated reserves provided for under the Melbourne Strategic Assessment to protect endangered native grasslands and threatened species and

mitigate potential significant impacts of urban development on matters protected by the EPBC Act. Comprised of two areas of land outside the Urban Growth Boundary south-east of Melton and west of Werribee that connect the You Yangs area to the Werribee River across the volcanic plains, designated as part of the Victorian planning scheme amendment VC6.





**Annexure B – NTGVVP at the project area**



# APPENDIX B

## DECLARATION OF ACCURACY



## 491 Providing false or misleading information to authorised officer etc.

- (1) A person is guilty of an offence if the person:
- (a) provides information or a document to another person (the recipient); and
  - (b) knows the recipient is:
    - (i) an authorised officer; or
    - (ii) the Minister; or
    - (iii) an employee or officer in the Department; or
    - (iv) a commissioner;performing a duty or carrying out a function under this Act or the regulations; and
  - (c) knows the information or document is false or misleading in a material particular.
- (2) The offence is punishable on conviction by imprisonment for a term not more than 1 year, a fine not more than 60 penalty units, or both.

Note: Subsection 4B(3) of the Crimes Act 1914 lets a court fine a body corporate up to 5 times the maximum amount the court could fine a person under this subsection.

The declaration below should be attached to the compliance report and signed by the approval holder. If the approval holder has sub-contracted the project (or part thereof), or the preparation of the compliance report, the responsibility for accuracy still lies with the approval holder:

### 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 (please print) **Justin Murray Pegg**

Position (please print) **Associate Ecologist**

Organisation (please print including ABN/ACN if applicable) **WSP Australia Pty Ltd ABN: 80 078 004 798**

Date **15/06/2021**