

O'HERNS ROAD AND HUME FREEWAY INTERCHANGE PROJECT, VICTORIA

Compliance Assessment Report No. 04

(31 October 2021 to 31 October 2022)

EPBC Approval No. 2017/8008

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Prepared for

Audit and Assurance Section

Compliance and Enforcement Branch

Environment Assessment and Compliance Division

Department of Climate Change, Energy, the Environment and Water

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TERMS, ABBREVIATIONS AND DEFINITIONS

The terms, abbreviations and definitions that have been used in this document is listed in the below table.

Table 1: List of Terms and Abbreviations

Terms / Abbreviation	Definition
DELWP	Department of Environment, Land, Water and Planning
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
GSM	Golden Sun Moth
GGF	Growling Grass Frog
GGFCMP	Growling Grass Frog Conservation Management Plan
GSMOMP	Golden Sun Moth Offset Management Plan
Ha	Hectare
MRPV	Major Road Projects Victoria
MTIA	Major Transport Infrastructure Authority
DCCEEW	Department of Climate Change, Energy, the Environment and Water (the Department)
TFN	Trust for Nature
MNES	Matters of National Environmental Significance

Executive Summary

The final approval to Referral No. 2017/8008 under the EBPC Act was given to Major Road Projects Victoria (MRPV, formerly VicRoads and Major Road Projects Authority) on 17th June 2019 with respect to the construction of the O'Herns Road and Hume Freeway Interchange Project (the Project).

Under Condition 21 of the decision notice, an annual compliance report is required to be published on MRPV's website. The report must address compliance with each of the conditions of the approval, including implementation of any management plans as specified in the conditions.

This compliance report addresses the current status of the Project against the conditions of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) Approval No. 2017/8008. This is the fourth compliance report prepared for the O'Herns Road and Hume Freeway Interchange Project and relates to the period 31st October 2021 to 31st October 2022.

MRPV has complied with all conditions referenced in the EPBC Act approval 2017/8008 for this annual reporting period.

1 Introduction

1.1 Purpose of this Report

This report details compliance with the conditions of Approval No. 2017/8008 under the EPBC Act in accordance with Condition No. 21 of the decision notice.

1.2 Project Background

O'Herns Road is an east-west route in the growing suburb of Epping. The Project aims to alleviate congestion on existing local roads and the northern suburbs of Melbourne by adding new lanes to an existing section of O'Herns Road and by providing an alternative access onto the Hume Freeway. The Project is jointly funded by the Australian Government and the State Government of Victoria.

The Project includes:

- A new diamond interchange with direct access to the Hume Freeway;
- New traffic light intersections at Edgars Road, Gateway Boulevard and Koukoura Drive;
- One new lane in each direction on O'Herns Road between the Hume Freeway and Redding Rise;
- One new lane in each direction on the Hume Freeway between O'Herns Road and Cooper Street; and
- Continuation of on-road bicycle lanes on O'Herns Road from Redding Rise and connecting to the existing Galada Tamboore Pathway.

A Project map is provided in Appendix A of this report.

1.3 EPBC Act Requirements

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) has several objectives including the protection of matters of national environmental significance (MNES) such as nationally threatened species and ecological communities and heritage places.

A decision issued on September 29, 2017, determined that the proposed action was a 'controlled action' requiring assessment and approval under the EPBC Act. The relevant controlling provision under the Act is the Project's impact on listed threatened species and communities (Sections 18 and 18A). In particular:

- Impact on the critically endangered Golden Sun Moth *Synemon plana*; and
- Potential impact on the vulnerable Growling Grass Frog *Litoria raniformis*.

The Project was subsequently approved by the Department as a controlled action on June 17, 2019. The approval to Referral No. 2017/8008 under the EPBC Act was given to the Department of Transport (ABN 69 981 208 782) with respect to the construction of the Project. As an entity of Department of Transport, MRPV is responsible for the delivery of the Action.

2 Project Status

The O'Herns Road project achieved Practical Completion status as of late August 2021. Major works have been completed and accepted, and the Project has opened to traffic.

While major works are now complete, there are some minor activities to be undertaken which include landscaping earth mound works and weed management.

3 Performance and Compliance (EPBC 2017/8008)

Table 2: EPBC Act Approval Notice 2017/8008 compliance results.

Condition	Subject	Conditions of the Approval	Compliance Status	Comments / Evidence
1	Conditions specific to the action	The approval holder must ensure that the proposed action is undertaken within the Project area	Compliant	<p>Amendments to the activity area were approved by the Department on April 15, 2020. The changes did not increase the impact to MNES. In total, 6.9Ha of GSM habitat was removed.</p> <p>The Impact Area is specified and shown in the Contract documentation and procedures for avoiding disturbance outside the impact area are included in the Contractors' Environmental Management Strategy.</p> <p>The road is in operation and while major works are now complete, there are some minor activities to be undertaken which include landscaping earth mound works and weed management. All temporary controls such as no-go zone fencing has been removed.</p>
2	Conditions specific to the action	The approval holder must not cause impacts to more than 10.88 hectares of Golden Sun Moth (GSM) habitat within the Project area	Compliant	<p>The Project impact area, which limits the construction footprint to 10.88 hectares of GSM habitat, will be implemented and maintained throughout the life of the Project.</p> <p>The current extent of disturbance to confirmed GSM habitat is approximately 6.9Ha.</p>
3	Conditions specific to the action	The approval holder must construct the culverts in accordance with the preliminary documentation and the Growling Grass Frog (GGF) Conservation Management Plan	Compliant	<p>Construction of culverts are completed, landscaping works within the area are currently underway.</p> <p>The requirements of the GGF Conservation Management Plan (GGFCMP) have been assessed through ongoing environmental site inspections and audits.</p>
4	Conditions specific to the action	The approval holder must implement the GGF Conservation Management Plan for the life of the approval	Compliant	<p>Requirements of the GGFCMP have been implemented as follows:</p> <ul style="list-style-type: none"> • Design meets the intent and objectives of the GGFCMP. • Salvage and release protocol has been developed and approved by DELWP and was implemented with surveys conducted prior to any activity within the protected zone. • Temporary fencing was in place delineating the creek corridor with no-go-zone signage fixed to fencing. • An Edgars Creek induction package was developed and delivered to all persons on site. • Open trenches were monitored daily for GGFs. • Watercarts were active on site along O'Herns Road adjacent to Edgars Creek to minimise dust. • Sediment controls including sediment fencing and rock/geofabric were in place. • Daily/weekly inspections were completed of fencing and sediment control measures. • Flow of Edgars Creeks has been maintained. • Connectivity for GGFs has been maintained along Edgars Creek • Activity within the protection zone was limited to construction activity only with non-essential vehicles and unused plant being parked outside the creek area. • Other requirements of the GGFCMP including the requirements according to section 'Biomass control in terrestrial areas' have been implemented in the upon the completion of the final minor construction activities. <p>As noted above, the requirements of the GGFCMP have been assessed through previous environmental site inspections and audits.</p>
5	Environmental Offsets	<p>To compensate for the loss of 10.88 hectares of GSM habitat, prior to commencement of the action, the approval holder must:</p> <p>Enter into a written bond agreement with Trust for Nature to hold funds in trust for the purpose of securing and managing an offset area of at least 78.8 hectares of Golden Sun Moth habitat at Sievers Lane, Glenhope, Victoria as identified in</p>	Compliant	<p>The Bond Agreement with Trust for Nature (TFN) was executed on July 2, 2019. A copy of this agreement was provided to the Department on July 8, 2019.</p> <p>A sum of \$6,000,000 (excluding GST) was sent to TFN on July 17, 2019.</p>

Condition	Subject	Conditions of the Approval	Compliance Status	Comments / Evidence
		<p>Appendix 4 of the Preliminary Documentation, or another offset area agreed to by the Minister in writing. A copy of the bond agreement must be provided to the Department within seven days following execution.</p> <p>Provide a sum of \$6,000,000 (excluding GST) to Trust for Nature to be held until such time as the offset area is identified and secured in accordance with condition 6a, at which time that sum will form the basis of the payment to purchase environmental services for the offset area.</p>		<p>Upon completion of condition 6, the bond payment was released and provided back to MRPV June 28, 2021.</p>
6	Environmental Offsets	<p>To provide for the conservation and enhancement of GSM habitat the approval holder must:</p> <ul style="list-style-type: none"> a. Within 12 months of the date of this approval, execute a Credit Trading Agreement for the provision of environmental services at the offset area. The approval holder must not execute a Credit Trading Agreement until the Minister has approved the Offset Management Plan (OMP) required under condition 8 b. The Department must be provided with a copy of the signed Credit Trading Agreement within 4 weeks following its execution. c. Within 12 months of the date of signing the Credit Trading Agreement, provide written evidence to the Department that the signed conservation covenant for the offset area has been registered on the title of the offset area. d. The Department must be provided with a copy of the signed conservation covenant within 4 weeks following registration on the title of the offset area 	Compliant	<p>The Credit Trade Agreement (CTA) was executed on June 17, 2020. A copy of this agreement was provided to the Department on June 30, 2020.</p> <p>On the March 12, 2021 MRPV was informed by TFN that the conservation covenant had been signed and registered to the land title for the offset site associated with EPBC approval 2017/8008.</p> <p>The Department was provided a copy of the signed conservation covenant April 6, 2021.</p>
7	Environmental Offsets	<p>Within 14 days of the offset, required under condition 6, being secured the approval holder must provide the Department with:</p> <ul style="list-style-type: none"> a. Written evidence demonstrating that the offset has been secured b. Shapefiles and offset attributes that clearly define the location and boundaries of the offset area 	Compliant	<p>Written evidence demonstrating that the offset had been secured under condition 6a was given to the Department on June 30, 2020 by providing a copy of the CTA executed on June 17, 2020. Notification of the signing and registration of the conservation covenant was also given to the Department on April 6, 2021 in accordance with condition 6d.</p> <p>Shapefiles and attributes clearly defining the location and boundaries of the offset were provided to the Department as part of the GSM Offset Management Plan (GSMOMP) submitted on September 9, 2019 and approved on May 28, 2020.</p> <p>The shapefiles and attributes were again provided to the Department on the February 20, 2020.</p> <p>Accordingly, the Department had this information at the time that a copy of the CTA was provided on June 30, 2020, and at the time that the conservation covenant was entered into and registered as advised to the Department on April 6, 2021.</p>
8	Environmental Offsets	<p>The approval holder must submit to the Department an OMP for the offset area. The OMP must:</p> <ul style="list-style-type: none"> a. Be prepared by a suitably qualified person, and be consistent with the Department's Environmental Management Plan Guidelines and the EPBC Act Environmental Offset Policy b. Demonstrate how the offset area and environmental services will compensate for the loss of 10.88 hectares of GSM habitat consistent with the EPBC Act Environmental Offsets Policy c. include, but not be limited to <ul style="list-style-type: none"> i. a description of the offset area including location, size, condition, environmental values present and surrounding land uses; 	Compliant	<p>GSMOMP was submitted to the Department on September 9, 2019, and was approved by the Department on May 28, 2020.</p>

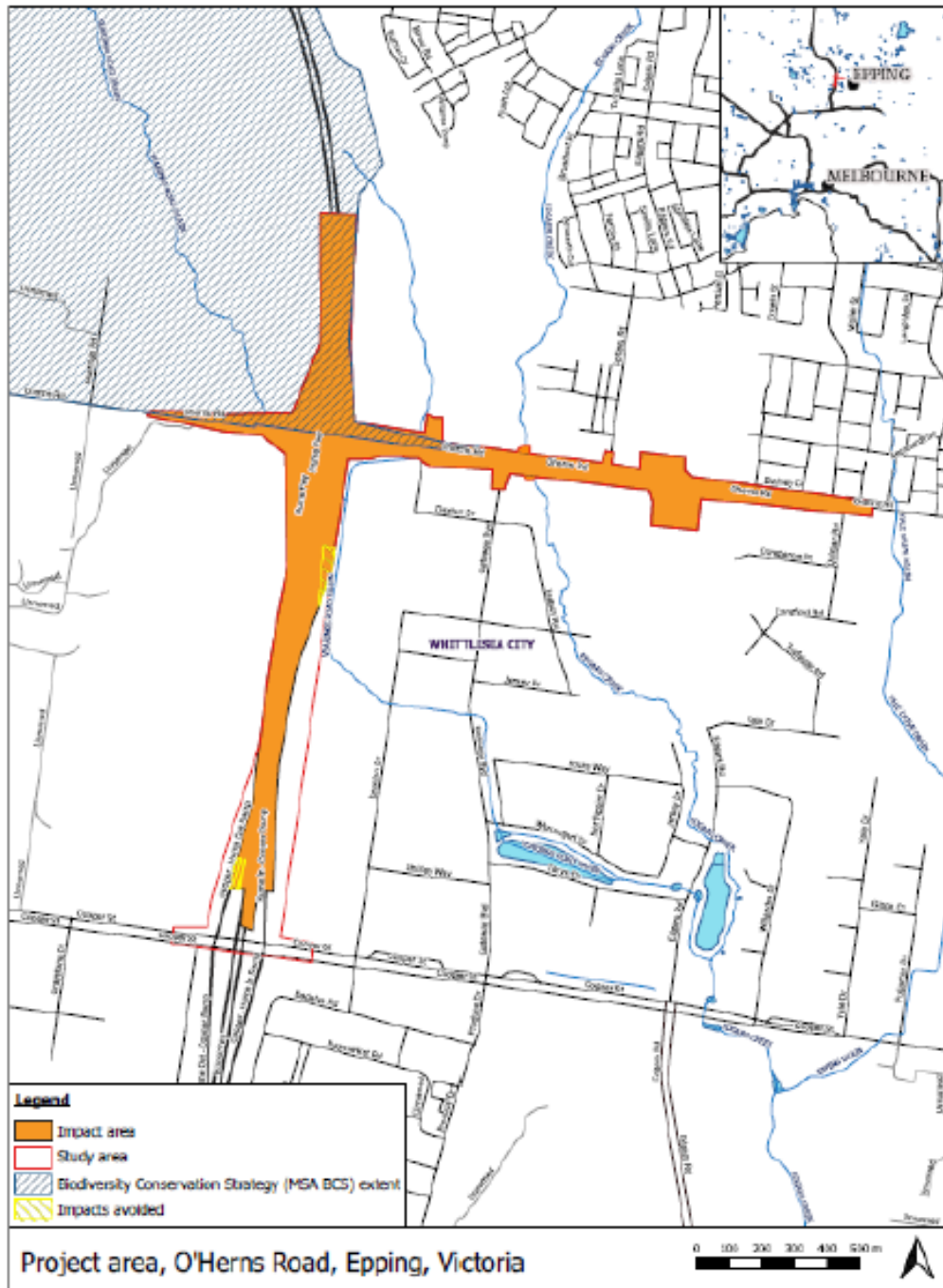
Condition	Subject	Conditions of the Approval	Compliance Status	Comments / Evidence
		<ul style="list-style-type: none"> ii. baseline data and other supporting evidence that documents the presence and baseline quality of the Golden Sun Moth habitat within the offset area; iii. maps and shapefiles of the offset area; iv. specific objectives to demonstrate Golden Sun Moth habitat quality improvement over the life of the approval; v. specific management actions, and timeframes for implementation, to be carried out to meet the specific objectives to improve the quality of the Golden Sun Moth habitat within the offset area; vi. key performance indicators to demonstrate the improvement to the quality of Golden Sun Moth habitat; vii. the nature, timing and frequency of monitoring to determine the success of management actions against key performance indicators; viii. indicative corrective actions that will be implemented in the event monitoring activities indicate key performance indicators are not or are unlikely to be achieved; ix. the roles and responsibilities for implementing the management actions; x. Evidence of consistency with relevant conservation advices, recovery plans and/or threat abatement plans; xi. Commitments to maintain or improve the extent and quality of habitat and populations of other EPBC Act listed threatened species and ecological communities in the offset area. 		
9	Environmental Offsets	The approval holder must ensure the offset area is managed in accordance with the OMP, as required by condition 8, for the life of the approval commencing from the day the offset area is secured.	Compliant	<p>As above; Ongoing action.</p> <p>The offset area is being managed by the landowner in accordance with the approved GSMOMP.</p> <p>Year 1 OMP management commitments have been met and discussed in Year 1 annual report. The Year 1 annual report was provided to MRPV and TFN December 23, 2021.</p> <p>Year 1 annual compliance statement 2021 is provided in Appendix B.</p>
10	Revision of Management Plans	The approval holder may, at any time, apply to the Minister for a variation to a management plan approved by the Minister under condition 4 and condition 8, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the EPBC Act. If the Minister approved a revised management plan then, from the date specified, the approval holder must implement the new management plan in place of the previous management plan	Compliant	<p>On the April 28, 2022, MRPV notified the Department of proposed changes and justification to revise Section 3.10 of the GSMPOMP.</p> <p>On the May 11, 2022, MRPV and the Department had a meeting to discuss the proposed changes and justification to Section 3.10 of the GSMOMP. On the May 17, 2022, the Department acknowledged and noted the proposed changes to the GSMOMP.</p> <p>MRPV provided a copy of the revised GSMOMP on May 18, 2022, and on the May 23, 2022, the Department acknowledged that revised GSMOMP must be implemented in place of the previous GSMOMP.</p>
11	Revision of Management Plans	The approval holder may choose to revise a management plan approved by the Minister, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the new management plan would not be likely to have a new or increased impact	Not Applicable	As above.
12	Revision of Management Plans	<p>If the approval holder makes the choice under condition 11 to revise an action management plan without submitting for approval, the approval holder must:</p> <ul style="list-style-type: none"> a. notify the Department in writing that the approved management plan has been revised and provide the Department with: <ul style="list-style-type: none"> i. an electronic copy of the new management plan; 	Not Applicable	As above; As per condition 10.

Condition	Subject	Conditions of the Approval	Compliance Status	Comments / Evidence
		<ul style="list-style-type: none"> ii. an electronic copy of the new management plan marked up with track changes to show the differences between the approved management plan and the RAMP; iii. an explanation of the differences between the approved action management plan and the new management plan; iv. the reasons the approval holder considers that taking the action in accordance with the new management plan would not be likely to have a new or increased impact; and v. written notice of the date on which the approval holder will implement the new management plan (implementation date), being at least 20 business days after the date of providing notice of the revision of the action management plan, or a date agreed to in writing with the Department. <p>b. subject to condition 11, implement the new management plan from the new management plan implementation date</p>		
13	Revision of Management Plans	The approval holder may revoke their choice to implement a new management plan under condition 12 at any time by giving written notice to the Department. If the approval holder revokes the choice under condition 12, the approval holder must implement the previous action management plan by the Minister	Not Applicable	Noted.
14	Revision of Management Plans	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 new management plan would be likely to have a new or increased impact, then: <ul style="list-style-type: none"> a. condition 11 does not apply, or ceases to apply, in relation to the new management plan, and b. the approval holder must implement the management plan specified by the Minister in the notice 	Not Applicable	Noted.
15	Revision of Management Plans	At the time of giving the notice under condition 14, the Minister may also notify that for a specified period of time, condition 11 does not apply for one or more specified management plan	Not Applicable	Noted.
16	Notification of date of commencement of the action	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	Compliant	Notification was sent to the Department on September 4, 2019, advising that the action commenced on September 2, 2019.
17	Notification of date of commencement of the action	If the commencement of the action does not occur within 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	Compliant	The action commenced on September 2, 2019; the Department was notified on September 4, 2019.
18	Compliance records	The approval holder must maintain accurate and complete compliance records	Compliant	Ongoing; records of compliance are maintained through MRPV's electronic file storage system.
19	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	Not Applicable	Noted – records will be supplied upon request.
20	Preparation and publication of plans	The approval holder must: <p>Publish each plan on its website within 20 business days of the finalisation of the plan, unless otherwise agreed to in writing by the Minister</p>	Compliant	The finalisation of the GSMOMP and GGFCMP were previously reported in Compliance Report 1 and Compliance Report 2 respectively and are available on MRPV's website. The recent revised GSMOMP has also been published on MRPV's website.
21	Annual compliance reporting	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:	Compliant	This report is published on MRPV's website.

Condition	Subject	Conditions of the Approval	Compliance Status	Comments / Evidence
		<ul 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; 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 		
22	Reporting non-compliance	<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 the 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; and b. a short description of the incident and/or non-compliance. 	Compliant	Noted, no non-conformances noted during the reporting period.
23	Reporting non-compliance	<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	Noted, no non-conformances noted during the reporting period.
24	Independent audit	The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister	Not Applicable	Noted, no audits have been requested during the reporting period.
25	Independent audit	<p>For each independent audit, the approval holder must:</p> <p>Provide the name and qualifications of the independent auditor and the draft audit criteria to the Department;</p> <p>Only commence the independent audit once the audit criteria have been approved in writing by the Department; and</p> <p>Submit an audit report to the Department within the timeframe specified in the approved audit criteria.</p>	Not Applicable	Noted, no audits have been requested during the reporting period.
26	Independent audit	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	Noted.
27	Completion of the action	Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data	Not Applicable	While major works have been completed, there are minor works yet to be completed. It is anticipated the Project will be completed at the end of the next reporting period.

4 Appendix A – Project Map

Attachment A



5 Appendix B – Year 1 Annual Monitoring Compliance Statement 2021



CASSINIA
ENVIRONMENTAL

COMPLIANCE STATEMENT 2021

Golden Sun Moth Offset, Sievers Lane, Glenhope, Victoria
EPBC 2017/8008, Trust for Nature Reference: C2050_02
Landowner of Offset Site: Kinrara Pty Ltd
Approval Holder: Major Roads Project Victoria

The following management actions were undertaken between Oct 2020 and Nov 2021, in accordance with requirements for Year 1 of the management plan, specified in Table 7 of the OMP.

1. SUMMARY OF ACTIONS: Year 1

- Weed control, fencing maintenance, stock control
- Establishment of vegetation monitoring quadrats and annual monitoring completed
- Establishment of photopoints and recording of annual photopoints
- Baseline monitoring of Golden Sun Moth completed 2018
- Annual Report submitted to Trust for Nature, 23 December 2021.

2. TRACKING OF RESULTS WITH MANAGEMENT PERFORMANCE TARGETS AND COMPLETION CRITERIA

Key Performance Criteria (Section 3.4.2)	Tracking to Completion
Continuous improvement in average site condition as described in 3.4.1	Yes
Effective threat abatement, including control of stock grazing, weeds and pests as specified in 3.8	Yes
Completion of scheduled management actions (Section 3.8 and Tables 4 & 6)	Yes
Completion of scheduled monitoring activities (Section 3.9 and Table 6)	Yes
Completion of scheduled reports and audits (Section 3.10, 3.11 and Table 7)	Yes

3. DECLARATION

I hereby declare that the information contained within this statement and related reports are accurate and complies with all the reporting requirements under the Offset Management Plan.

Kim Cornford
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www.cassinia.com

Date: 23 March 2021