

**Alliance Business Park EPBC 2017/7930**

# Compliance Report

**11 September 2023 – 11 September 2024**

Final Report

Prepared for MAB Corporation Pty Ltd

19 November 2024

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- MAB Corporation Pty Ltd: Tom Foley
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Biosis staff involved in this project were:

- Mitch Deaves (quality assurance)

*Biosis acknowledges the Aboriginal and Torres Strait Islander peoples as Traditional Custodians of the land on which we live and work.*

*We pay our respects to the Traditional Custodians and Elders past and present and honour their connection to Country and ongoing contribution to society.*

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# Contents

<b>Contents.....</b>	<b>ii</b>
<b>1 Introduction .....</b>	<b>1</b>
1.1 Description of activities .....	1
1.2 New environmental risk.....	1
1.3 Declaration of accuracy.....	2
<b>2 Compliance table.....</b>	<b>1</b>
2.1 Correcting non-compliances .....	1
<b>References.....</b>	<b>1</b>
<b>Appendices.....</b>	<b>2</b>
<b>Appendix 1 Email confirmation of annual compliance report .....</b>	<b>3</b>
<b>Tables</b>	
Table 1 EPBC approval compliance table.....	1
Table 2 EPBC approval non-compliance table.....	1

# 1 Introduction

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## 1.1 Description of activities

Biosis Pty Ltd (Biosis) was commissioned by MAB Corporation Pty Ltd (MAB) to prepare an annual compliance report for the Alliance Business Park development at 165-195 O'Herns Road, Epping (EPBC 2017/7930).

EPBC 2017/7930 was granted on 25 September 2018 to Alliance Business Park Pty Ltd (a subsidiary of MAB) and remains in effect until August 2038. The approval is to *expand the Alliance Business Park to the east by establishing industrial, commercial and retail development at 165-195 O'Herns Road, Epping Victoria*. An earlier approval was granted in 2013 to MAB for the first portion of the Alliance Business Park development, located at 275 O'Herns Road, Epping (2012/6298). Together, the two approvals facilitated the construction of the Alliance Business Park.

Condition 17 of the approval requires the approval holder to prepare a compliance report for each 12 month period following the date of commencement of the action. Construction commenced on 11 September 2019 and this report officially covers the period from 11 September 2023 – 11 September 2024.

Current activities undertaken during this period covered by this report include:

- Carrying out of management actions relating to the implementation of Offset Management Plans (OMPs) for the three offset sites including:
  - Weed and pest management.
  - Monitoring and reporting.
- Responding to written requests from the Department, providing compliance records and notifications.

## 1.2 New environmental risk

The Department of Climate Change, Energy, the Environment and Water (DCCEEW) conducted an audit in September 2024 to assess compliance with the requirements and conditions of the approval. The audit identified the following non-compliance, which may present new environmental risks:

- Formal monitoring for the presence of pest animals (including systematic spotlight surveying) has not occurred annually in November for the Sievers Lane, Glenhope offset site.
- The boundary of the Sievers lane, Glenhope offset site has not been delineated with posts marking.
- Annual monitoring and reporting have not been undertaken at the Shelford-Mt Mercer Road, Shelford offset site in accordance with the Offset Management Plan.
- Annual monitoring and reporting have not been undertaken at the Hamilton Road, New Gisborne offset site in accordance with the Offset Management Plan.

The Offset Management Plans and landowner obligations will be reviewed as part of the upcoming Year 4 audit, scheduled to take place in October 2024.

### 1.3 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 \_\_\_\_\_

Position \_\_\_\_\_

Organisation \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

## 2 Compliance table

This section addresses the requirement in the *Annual Compliance Report Guidelines* (DoE, 2014) for a compliance table. Table 1 includes the full wording of all conditions under EPBC 2017/7930 approval, the condition reference number, a designation regarding compliance or non-compliance, a summary of evidence and comments, and references to other parts of this compliance report which relate to the approval condition.

**Table 1 EPBC approval compliance table**

Condition number	Condition	Is the project compliant with this condition?	Evidence / comments
1	<p><i>The approval holder must not clear more than the following in the project area:</i></p> <p><i>a. 20.53 ha of Golden Sun Moth habitat</i></p> <p><i>b. 9.89 ha of Matted Flax-lily habitat</i></p> <p><i>c. 1.608 ha of NTGWP.</i></p>	Non-compliant	<p>Further vegetation clearing has occurred beyond the areas authorised under EPBC 2017/7930, resulting in an increased impact of 0.806 hectares of GSM habitat and 0.534 hectares of MFL habitat, including the loss of one individual proposed for retention. These impacts have resulted due to the following:</p> <ul style="list-style-type: none"> <li>Contractor non-compliance. MAB reported this to the Department in September 2019 and remediation works were completed in accordance with the general requirements of the Edgars Creek Management Plan.</li> <li>Unplanned erosion along Edgars Creek. Rehabilitation works are proposed to avoid further erosion (Biosis 2024).</li> </ul> <p>Biosis has calculated the impacts and resultant offsets and this is currently under consideration by DCCEEW officers, including those from the 'Compliance and 'Post Approvals Section' teams and we await their response.</p>
2	<p><i>The approval holder must submit for approval by the Minister an Offset Strategy for the loss of 20.53 ha of Golden Sun Moth habitat; 9.89 ha of Matted Flax-lily habitat; and 1.608 ha of NTGWP. The approval holder must not commence the action until the Offset Strategy has been approved by the Minister. Once approved, the approved Offset Strategy must be implemented.</i></p>	Compliant	<p>An Offset Strategy was prepared and submitted to the Department in January 2019. The Offset Strategy was approved on 25 January 2019. No additional reporting on this condition is required.</p>

<p><b>3</b></p>	<p><i>The approval holder must, within 2 months of approval of the Offset Strategy specified in condition 2, submit an Offset Management Plan(s) for approval by the Minister. The approval holder must not commence the action until the Offset Management Plan(s) has been approved by the Minister. Once approved, the approved Offset Management Plan(s) must be implemented.</i></p>	<p>Partially non-compliant</p>	<p>Three offset sites were secured, and the following offset management plans were submitted and approved by the Department:</p> <ul style="list-style-type: none"> <li>• <i>Sievers Lane, Glenhope, Victoria: Golden Sun Moth Offset Management Plan (EPBC 2017/7930), dated 12 March 2019 (Biosis 2019a).</i></li> <li>• <i>Alliance Business Park EPBC Act Offset Management Plan: 250-290 Hamilton Road, New Gisborne (EPBC 2017/7930), dated 12 March 2019 (Biosis 2019b).</i></li> <li>• <i>Alliance Business Park EPBC Act Offset Management Plan: Shelford-Mt Mercer Road Shelford (Thurlgona) (EPBC 2017/7930), dated 13 March 2019 (Biosis 2019c).</i></li> </ul> <p>The OMPs were approved by the Department in March 2019.</p> <p>The three OMPs have not been implemented in full in accordance with the management commitments. More detail is provided in Table 2 below.</p>
<p><b>4</b></p>	<p><i>The approval holder must submit a Matted Flax-lily Translocation Plan for the salvage of all Matted Flax-lily plants to be removed as part of the action, and translocation of those plants to the recipient sites. The approval holder must not commence the action until the Matted Flax-lily Translocation Plan has been approved by the Minister. Once approved, the approved Matted Flax-lily Translocation Plan must be implemented.</i></p>	<p>Compliant</p>	<p>A Matted Flax-lily Translocation Plan was prepared and approved by the Department on 12 February 2019 (Biosis 2019d).</p> <p>The Translocation Plan is being implemented as intended and the following actions have been undertaken:</p> <ul style="list-style-type: none"> <li>• 23 Matted Flax-lily plants were translocated to the Epping North Conservation Reserve in September 2020.</li> <li>• Biosis has prepared annual monitoring reports for the first, second and third-year post-translocation.</li> <li>• Year 4 monitoring will take place between 1 October 2024 and 1 March 2025, in accordance with the Translocation Plan.</li> </ul>
<p><b>5</b></p>	<p><i>Pre-clearance surveys, as required under condition 4, must be undertaken by a suitably qualified expert within one month prior to any translocation activities being undertaken. The approval holder must document the results of the surveys. Any additional Matted Flax-lily plants identified during the pre-clearance surveys that were not previously recorded must be salvaged and translocated in accordance with the approved Matted Flax-lily Translocation Plan.</i></p>	<p>Compliant</p>	<p>Pre-clearance surveys for Matted Flax-lily were undertaken on 11 January 2019.</p>

6	<i>For the life of the approval and for the protection of Growling Grass Frogs, Golden Sun Moth habitat and Matted Flax-lily habitat, the approval holder must establish the Edgars Creek Corridor. The Edgars Creek Corridor must be managed for the life of the approval in accordance with the Edgars Creek Management Plan.</i>	Compliant	Year 1 management actions have been completed in accordance with the Edgars Creek Management Plan. Year 2 TBC. Year 3 management actions are currently being undertaken.
7	<i>Within 14 days after the commencement of the action, the approval holder must advise the Department in writing of the actual date of commencement of the action.</i>	Compliant	MAB wrote to the Department on 20 September 2019 (9 days following commencement of the action) as part of the non-compliance reporting associated with Condition 1. Among other items, the letter advised that works had commenced at the site pursuant to EPBC approval 2017/7930.
8	<i>The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement any management plans required by this 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 will be posted on the Department's website. The results of audits may also be publicised through the general media.</i>	Compliant	Accurate records have been kept of all management activities associated with the relevant conditions of approval.
9	<i>Within 3 months of every 12 month anniversary of the commencement of the action, the approval holder must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of the management plans specified in the conditions. Documentary evidence providing proof of the date of publication and noncompliance 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. Reports must continue to be published until such time as advised by the Minister in writing.</i>	Partially non-compliant	A compliance report was prepared for 2021 and 2022. No compliance reports were prepared for 2019-20 and 2023.  This report has been prepared to address the requirements of Condition 9. The commencement date for the action at 165-195 O'Herns Road was 11 September 2019. MAB is therefore compliant with this condition for 2024 and has put processes to remain compliant in the future.
10	<i>Upon the direction of the Minister, the approval holder must ensure that an independent audit of compliance with the</i>	Not applicable	



	<i>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.</i>		
<b>11</b>	<i>The approval holder may choose to revise a management plan or monitoring program approved by the Minister under conditions 4 and 6 without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised plan or monitoring program would not be likely to extend the timeframe for plan objectives, reduce conservation outcomes or have a new or increased impact.</i>	Not applicable	
<b>12</b>	<i>The approval holder may revoke their chose under condition 11 at any point in time by notice to the Department. If the approval holder revokes the choice to implement a revised plan, program or strategy without approval under section 143A of the EPBC Act, the management plan approved by the Minister must be implemented.</i>	Not applicable	
<b>13</b>	<i>Condition 11 does not apply if the revisions to the approved plan, include changes to environmental offsets provided under the plan, in relation to a matter protected by a controlling provision for the action, 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 a new or increased impact.</i>	Not applicable	
<b>14</b>	<i>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 management plan would be likely to have a new of increased impact, then:</i>	Not applicable	

	<p>a. <i>Condition 11 does not apply, or ceases to apply, in relation to the revised plan;</i></p> <p>b. <i>The approval holder must implement the management plan approved by the Minister.</i></p> <p><i>To avoid any doubt, this condition does not affect any operation of conditions 11, 12 and 13 in the period before the day the notice is given.</i></p> <p><i>At the time of giving notice the Minister may also notify that, for a specified period of time, condition 11 does not apply for one or more specified plans or programs required under the approval.</i></p>		
15	<p><i>Conditions 11, 12, 13 and 14 are not intended to limit the operation of section 143A of the EPBC Act, which allows the person taking the action to submit a revised plan, program or strategy to the Minister for approval.</i></p>	Not applicable	
16	<p><i>If, at any time after 5 years from the date of this approval, the approval holder has not commenced the action, then the approval holder must not commence the action without the written agreement of the Minister.</i></p>	Not applicable	The action commenced on 11 September 2019.
17	<p><i>Unless otherwise agreed to in writing by the Minister, the approval holder must publish all management plans referred to in these conditions of approval on its website. Each management plan must be published on the website within one month of being approved by the Minister or being submitted under Condition 11. Management Plans must remain published for the life of the approval, or until such time as advised by the Minister in writing.</i></p>	Partially non-compliant	<p>The management plans were not published on MAB's website within one month of approval.</p> <p>This instance of non-compliance has been rectified as part of this annual compliance review and MAB has put processes in place to remain compliant in the future. All management plans are available on MAB's website.</p>

## 2.1 Correcting non-compliances

Table 2 specifies all conditions under EPBC 2017/7930 approval that are subject to non-compliance, the condition reference number, and a summary of corrective measures to be implemented.

**Table 2 EPBC approval non-compliance table**

Condition number	Description of non-compliance	Corrective measure
1	<p>Further vegetation clearing has occurred beyond the areas authorised under EPBC 2017/7930, resulting in an increased impact of 0.806 hectares of GSM habitat and 0.534 hectares of MFL habitat.</p>	<p>The contractor non-compliance was reported to the Department on 20 September 2019.</p> <p>Biosis has calculated the impacts and resultant offsets of the additional vegetation clearing. Two additional Offset Management Plans are being prepared to rectify the impacts to GSM and MFL.</p> <p>A rehabilitation plan has been prepared, which incorporates measures to avoid further erosion (Biosis 2024). The 2025 annual compliance report will include a progress update on the remediation works undertaken.</p> <p>The matter is still with DCCEEW for assessment.</p>
3	<p>The three OMPs have not been implemented in full in accordance with the management commitments. MAB entered into a Credit Trading Agreement (CTA) for each of the three offset sites in accordance with EPBC 2017/7930. Clause 8 (Offset Management Plan) of all three agreements outlines landowner responsibilities, including the obligation to undertake ongoing management, species surveys (where relevant) and annual monitoring in accordance with the relevant OMP. Non-compliance with these OMP's is described below.</p> <p>Sievers Lane, Glenhope, Victoria: Golden Sun Moth Offset Management Plan</p> <ul style="list-style-type: none"> <li>The Department's compliance audit report noted that the boundary of the offset site was unable to be clearly identified. However, the boundary can be delineated electronically and workers can determine their location using a table or their phone.</li> </ul> <p>250-290 Hamilton Road, New Gisborne Offset Management Plan</p>	<p>Landowner non-compliance was reported to the Department in October 2024.</p> <p>Biosis, on behalf of MAB, has made attempts to obtain the missing landowner reports as part of its 2022 Year 1 audit, 2023 annual compliance reporting and the 2024 Department compliance audit.</p> <p>MAB has put processes in place to remain compliant in the future. Biosis, on behalf of MAB, are scheduled to undertake a Year 4 audit in October - November 2024 and will discuss annual reporting requirements and ongoing management requirements with the landowners.</p>

Condition number	Description of non-compliance	Corrective measure
	<ul style="list-style-type: none"> <li>• One annual report was prepared for the 2021 – 2022 (Year 2) reporting period. No other annual landowner reports have been provided.</li> <li>• Control of rabbits has not been successful.</li> </ul> <p>Offset Management Plan: Shelford-Mt Mercer Road Shelford (Thurlgona)</p> <ul style="list-style-type: none"> <li>• Year 1 annual report prepared, including GSM monitoring during the 2020-21 flight season and vegetation monitoring in spring 2020.</li> <li>• Year 2 and 3 annual reports were prepared, however did not include the results of any GSM monitoring. It is unclear whether GSM monitoring has been undertaken in Years 2-3.</li> <li>• The Department’s compliance audit report noted that the boundary of the offset site was unable to be clearly identified. However, the boundary can be delineated electronically and workers can determine their location using a table or their phone.</li> </ul>	
9	Annual compliance reports were not prepared for 2019, 2020 and 2023.	This report has been prepared to address the requirements of Condition 9. MAB is therefore compliant with this condition for 2024 and has put processes to remain compliant in the future.
17	The management plans were not published on MAB’s website within one month of approval.	This instance of non-compliance has been rectified as part of this annual compliance review and MAB has put processes in place to remain compliant in the future. All management plans are available on MAB’s website.

## References

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Biosis 2019a. *Sievers Lane, Glenhope, Victoria: Golden Sun Moth Offset Management Plan (EPBC 2017/7930)*, Report prepared for Alliance Business Park Pty Ltd. Author: Mueck, S., Biosis Pty Ltd, Melbourne, VIC. Project no. 28455.

Biosis 2019b. *Alliance Business Park EPBC Act Offset Management Plan: 250-290 Hamilton Road, New Gisborne (EPBC 2017/7930)*, Report prepared for Alliance Business Park Pty Ltd. Author: Mueck, S. Biosis Pty Ltd, Melbourne, VIC. Project No. 28455.

Biosis 2019c. *Alliance Business Park EPBC Act Offset Management Plan: Shelford – Mt Mercer Road Shelford (Thurlgona) (EPBC 2017/7930)*, Report prepared for Alliance Business Park Pty Ltd. Author: Mueck, S. Biosis Pty Ltd, Melbourne, VIC. Project No. 28455.

Biosis 2019d. *Alliance Business Park, 165 - 195 O'Herns Road, Epping: Matted Flax-lily Translocation Plan*, Report for Alliance Business Park Pty Ltd. Mueck, S., Biosis Pty Ltd, Melbourne. Project No. 28455.

Biosis 2024. *Edgars Creek South, Epping: Land Rehabilitation Plan*, Prepared for MAB Corporation. Author: Davis-Tope, J., Biosis Pty Ltd, Melbourne, VIC. Project no. 38934.

# Appendices

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## Appendix 1 Email confirmation of annual compliance report

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