

16 June 2021

Dan Rush
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Dear Dan,

**Compliance with the EPBC Act approval requirements for Alliance Business Park, O'Herns Road Epping
Our ref: Matter 34308**

Biosis inspected the Edgars Creek corridor within Alliance Business Park on 1 December 2020. This review also draws on information collected during past inspections of the Edgars Creek corridor for Alliance Business Park.

The objectives of the assessment were to evaluate the condition of the creek corridor in relation to the approval conditions associated with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approvals (as described below) for the development of Alliance Business Park (Alliance) which is nearing completion.

EPBC Act approvals for Alliance Business Park were secured in two stages including:

- EPBC 2012-6298 for land previously known as 275 O'Herns Road
- EPBC 2017-7930 for land previously known as 165 - 195 O'Herns Road

A related EPBC Act approval, EPBC 2017-8008, was obtained by the Department of Transport for the development of O'Herns Road and its associated interchange with the Hume Freeway. All works associated with the road reserve of O'Herns Road and the two properties developed as part of Alliance Business Park have therefore been approved under the EPBC Act. EPBC 2017-8008 does not form part of this conditions compliance report and is not the responsibility of Alliance.

As part of the preliminary documentation process for EPBC 2017-7930, Biosis included an assessment of the projects compliance with EPBC 2012-6298 (included as Attachment 1).

Works associated with Alliance Business Park at 275 O'Herns Road began in 2012. These works were initiated after the EPBC Act approval (EPBC 2012-6298) was secured and were also covered by permits issued by the City of Whittlesea including Planning Permits 713586, 713987 (for 275 O'Herns Road – issued 23 August 2012 and 16 July 2013 respectively).

The development was later extended to include 165-195 O'Herns Road with the approval of EPBC 2017-7930 and planning permits 716886 and 716857 (issued 21 November 2017 and 17 April 2018 respectively with the latter amended 12 September 2018).

The two sections of the Edgars Creek corridor (i.e. the first within what was 275 O'Herns Road and the second within what was 165-195 O'Herns Road) are each subject to their own separate management plan.

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Biosis also conducted a review for MAB of the implementation of the Edgars Creek Management Plan for 275 O'Herns Road in April 2016. This review covered activities completed to that date in relation to works within that property and the relevant section of the Edgars Creek corridor.

Infrastructure construction works have now largely been completed in what was 275 O'Herns Road including the protective fencing bounding the creek corridor, boundary pathways within the corridor, establishment of interpretive signs and the construction of Scanlon Drive over Edgars Creek.

Works on the duplication of O'Herns Road over Edgars Creek (not being done by MAB) conducted on behalf of the Department of Transport are currently progressing. These works are covered by a separate EPBC Act approval (EPBC 2017-8008).

Alliance Business Park has transferred the Edgars Creek corridor previously associated with both 275 and 165 -195 O'Herns Road to the City of Whittlesea but will continue to manage the creek corridor until a yet to be agreed time. The plan for each section of the Edgars Creek corridor is scheduled to span a period of ten years from the date of commencement within each property.

Construction began at 275 O'Herns Road during August 2013 and therefore this plan is in effect until August 2023 although the requirement to managed the creek corridor for Growling Grass Frog is permanent.

EPBC 2012-6298

Biosis undertook a review of compliance with EPBC 2012-6298 in August 2017 as set out at Attachment 1. Our findings in this review continue to apply to this date, subject to the updates set out below. In summary, Biosis found no significant non-compliances with any condition of this approval. However, it is noted that work to complete compliance with condition 9 and 10 is still ongoing, and there has been a minor non-compliance with condition 11. We also note that the approval-holder has not complied with the reporting frequency required under condition 17 but this will be rectified in future.

Compliance with approval conditions noted in Attachment 1 has been maintained. Note that any ambiguity which may have existed in relation to works at the interface between what was 275 O'Herns Road and the road reserve for O'Herns Road in relation to **Condition 1** were resolved by the approval of EPBC 2017-8008.

Works on the eastern side of Edgars Creek associated with what was 275 O'Herns Road were only conducted after the approval of EPBC 2017-7930. With the construction of Jutland Way, the associated shared path and construction of the bridge crossing over Edgars Creek for the extension of Scanlon Drive, works associated with EPBC 2012-6298 have now been completed.

To the best of my knowledge and based on my site inspection, works approved under EPBC 2012-6298 have been contained within the project design submitted as part of the approval process. Therefore I have no reason to believe that the restrictions associated with **Condition 2** have been exceeded.

Matted Flax-lily salvage and translocation

Impacts to Matted Flax-lily *Dianella amoena* (MFL) were approved under both EPBC Act approvals as well as under two planning permits including 713987 and 716886. As required by these permits, a translocation plan was prepared and approved by DELWP (Department of Environment, Land, Water and Planning or its equivalent).

The MFL salvaged from both 275 and 165-195 O'Herns Road have recently been planted within the Epping Nature Conservation Reserve (ENCR), managed by the City of Whittlesea. MAB have a contract arrangement with the Conservation Management section for the City of Whittlesea for the management of a section of ENCR and Biosis is currently monitoring the site to ensure management actions ensure the long term survival of the translocated MFL plants in line with the objectives of the approved translocation plan.

Alliance Business Park is compliant with **Condition 4** of both referrals as a result of the implementation of the planting, management and monitoring program for MFL at ENCR initiated in September 2020.

Edgars Creek Management Plan

Management plans for the Edgars Creek corridor were completed and approved by the Department of Environment and Primary Industries (or equivalent) (DEPI) under the planning permits relevant to native vegetation impacts within Alliance Business Park. The Edgars Creek Management Plan for 275 O'Herns Road (Biosis 2013) is based on the Growling Grass Frog Management Plan identified in **Condition 9** of EPBC 2012-6298. It was adapted from this plan in response to planning permit conditions required by DEPI and includes and expands on all the requirements identified by the EPBC Act approved plan. It is therefore taken as the equivalent of the Growling Grass Frog Management Plan as identified in **Condition 9 and 10** of EPBC 2012-6298. Compliance with the Edgars Creek Management Plan for 275 O'Herns Road (Biosis 2013) therefore equates to compliance with the approved Growling Grass Frog Management Plan and the relevant planning permit condition.

The Edgars Creek Management Plans indicate the creek corridor needs to be protected by means of an on title agreement, zoning and/or planning overlay provisions. The Edgars Creek corridor is still zoned as a Comprehensive Development Zone without any overlays relating to the protection of the biodiversity values present. While the transfer of this land from Alliance to Council has been completed, the rezoning is to be included by Council as part of a package of other rezoning matters in the near future. However, the obligation to establish some level of legal protection still rests with both MAB Corporation and Alliance Business Park as part of the conditions of approval under the EPBC act (**Condition 9** of EPBC 2012/6298 and **Condition 6** of EPBC 2017/7390). While the transfer to Council and rezoning to a public land zone such as Public Park and Recreation Zone (PPRZ) or Public Conservation and Recreation Zone (PCRZ) is consistent with the protection requirements of the Edgars Creek Management plans (Biosis 2013 and 2017) and this process is in progress, until the rezoning is completed the obligation for such protection remains with the approval holders (MAB Corporation and Alliance Business Park). This responsibility remains with the approval holders even though the plan indicates that MAB is responsible for implementing the actions outlined in this plan until management of the creek corridor is handed over to the relevant responsible authority.

Fencing established along the length of the Edgars Creek corridor within Alliance Business Park has been established in a manner consistent with the Edgars Creek Management Plans (Photo 1).

Weed control works within the corridor have occurred, if only on an irregular basis, and have been effective in controlling woody weeds and some other noxious species (i.e. Spanish Artichoke *Cynara cardunculus*).

Biomass levels are not known to be monitored regularly but irregular site inspections by Biosis have generally noted acceptable conditions for Golden Sun Moth *Synemon plana* (GSM) and Growling Grass Frogs *Litoria raniformis* (GGF). However, the most recent site inspection noted high levels of ground-cover biomass which were not beneficial for either of these threatened species.

A single survey for GSM conducted in November 2020 detected a small number of individuals (two) within the creek corridor. This indicates the ongoing presence of the species at this location.

Irregular informal monitoring of the condition of the creek corridor and compliance with the management plan has occurred. However this does not provide the information required to demonstrate compliance with the plan. More formal and regular monitoring is currently being organised by Alliance to provide clearer information on compliance with the requirements of the creek management plan.

Revegetation works

Both approved management plans require some level of revegetation works although the extent of these is not clearly defined. The plan covering 275 O'Herns Road requires a more intensive revegetation effort to establish indigenous grasses and herbs around the retained remnant of native grassland. A similar revegetation requirement appears in the management plan for 165-195 O'Herns Road.

A total of 17 small planting cells were established within the creek corridor for 275 O'Herns Road. These areas were planted with a small number of trees propagated from locally collected material and other indigenous shrubs, grasses and herbs (Photo 2). This was completed in consultation with Biosis and is consistent with the requirements of Biosis (2013). These plantings are well established and have had protective fencing removed. However, as a result, kangaroos have been trampling shrubs and have killed a small number of shrubs.

Similar tree plantings are proposed for the creek corridor within 165 – 195 O'Herns Road. However site preparation and planting works have not begun at this stage. No other revegetation works have been undertaken. The revegetation component of the management plan describes a number of revegetation actions. While no clear timeframe is attached to this process it is an expectation of the plan that such activities would occur and by reasonable interpretation these actions would occur within the ten year timeframe of the plan. Revegetation will be addressed more formally in line with the current arrangements being organised by Alliance for other monitoring requirements of the plan.

Plan Review

The plan has not been subject to a formal review every 2 years since the start of the project but is considered to be still appropriate in its original form. A review of the plan will be conducted in the near future.

Compliance

MAB Corporation (the approval holder for EPBC 2012/6298) therefore remains partially compliant with **Condition 9**. This will change when the corridor is rezoned by Council. This process is in progress but may need a number of months for Council to complete and it is apparent that Council have taken ownership of this task. The plan also indicates that responsibility for the implementation of the plan passes with the ownership of the land.

While previously noted as compliant with **Condition 10**, current biomass levels throughout the creek corridor now indicate the project is only partially compliant with this condition. This issue is currently being addressed by the Alliance land management contractor.

Scanlon Drive Crossing over Edgars Creek

Condition 11 was not assessed under the previous review of compliance for EPBC 2012/6298 (Attachment 1) as no crossing works had been planned. The crossing of Edgars Creek by Scanlon Drive has now been constructed in a manner consistent with the requirements of Biosis (2013). Biosis provided advice to the design process for this crossing (Attachment 2).

The five box culverts installed are of a length and internal dimension consistent with similar crossing structures upstream in the Aurora Estate. It has been demonstrated that Growling Grass Frogs *Litoria raniformis* (GGF) do move through these types of culverts as they have been recorded doing so in the culverts at the Eaststone Avenue Edgars Creek crossing. The basalt wing walls of the culvert underpass for Scanlon Drive have also been well designed to direct frogs to the entrances of the culverts and to discourage frogs from moving from the creek and up onto Scanlon Drive, where they may be exposed to

the risk of roadkill. These are therefore equivalent to (and in fact are likely to be more effective than) the drift fencing recommended by Biosis in the management plan for 275 O'Herns Road (Photo 3).

Works on the Scanlon Drive bridge have only recently been completed and no revegetation works have been conducted to date. Revegetation of the constructed ponds up and down stream of the crossing is a requirement of Section 2.2.4 of the approved plan. Contracts for these revegetation works are currently being organised and will presumably be conducted as seasonal conditions permit.

A pile of basalt boulders was noted on the south eastern corner of the bridge crossing. Rather than remove these rocks it is considered beneficial to distribute these on the creek banks to provide additional habitat features for GGF. Growling Grass Frogs preferentially use areas of bare rock in and on the margins of occupied waterbodies and it is therefore appropriate to make use of any leftover rocks to improve the habitat (Photo 4).

Therefore the road crossing complies with best practice specifications for amphibian-friendly culverts in relevant literature from Australia and overseas. However, Biosis is not aware that detailed plans including maps and illustrations of all proposed culverts were supplied to the Commonwealth prior to the commencement of works. These will be supplied to DAWE in the near future.

As such MAB Corporation is considered partially compliant with **Condition 11** of the approval. While plans will be supplied in the near future, the condition as worded can now never be complied with and this is therefore considered to be a minor technical non-compliance.

The construction of the Scanlon Drive road crossing of Edgars Creek has only recently been completed. The reporting requirement of **Condition 11** therefore remains outstanding and cannot be assessed by this audit.

Condition 12 has been fully complied with.

The status of the remaining conditions reported by Biosis have not substantially changed (see Attachment 1). However MAB Corporation have not provided a public report of their compliance with the conditions of approval within three months of every 12 month anniversary of the commencement of construction. Attachment 1, completed in mid-2017 is the only known reporting of compliance in line with this approval. MAB has now commissioned a consultant to report on compliance as required and this will be made available on a designated website in the near future.

Additional reports on the status of GSM at the external offsets have been provided for the Ninyeunook offset site but are yet to be provided for the Birregurra offset site. These will be put on the Biosis website as they are provided.

This report has been prepared to address the requirements of **Condition 17**. The commencement date for construction at 275 O'Herns Roads was August 2013. MAB Corporation is therefore compliance with this condition for 2021 and has put processes in place to remain compliant in the future.

EPBC 2017-7930

This is the first assessment of compliance for this approval and therefore each condition is reproduced and an assessment of compliance follows.

The creek corridor for Edgars Creek through Alliance business Park is clearly defined and has both pathways and fencing established along its margins as anticipated by the relevant creek management plans.

Works within 165-195 O'Herns Road have established the creek corridor. The creek corridor was marked as a no go zone prior to construction but works began before the installation of temporary fencing. As such the contractor impacted native vegetation, threatened species habitat and the stability of Edgars Creek within this zone contrary to the requirements of **Conditions 1 and 6** of EPBC 2017-7930. This non-compliance was reported to DAWE in September 2019. Remediation management for the areas adversely impacted is being organised in line with the general requirements of the Edgars Creek Management Plan.

Works relating to the implementation of the creek management plans have been conducted although are not comprehensive or complete. Management process are being established to ensure ongoing compliance with the relevant conditions.

In summary, Biosis found no significant non-compliances with any condition of this approval that have not otherwise been reported to DAWE.

Condition 1: *The approval holder must not clear more than the following in the project area:*

- a. 20.53 ha of Golden Sun Moth habitat*
- b. 9.89 ha of Matted Flax-lily habitat*
- c. 1.608 ha of NTGWP.*

All areas of retained habitat were associated with either the woodland reserve or the Edgars Creek corridor. The woodland reserve was retained as designated by the project design provided as part of the approved preliminary documentation.

The extent of the approved creek corridor to be retained was marked by a surveyor prior to the commencement of works. However, this area was not delineated with secure temporary fencing or signage prior to the commencement of works. As a result the contractor entered the protected creek corridor along much of its perimeter.

Part of the confusion in relation to the location of the protected creek corridor was exacerbated by stormwater design changes required by Melbourne Water. This required an expansion in the footprint of the originally proposed stormwater management area and the inclusion of an additional structure to the west of the original stormwater infrastructure footprint. These changes, although prescribe by Victorian authorities, were not communicated to the Department of Agriculture, Water and the Environment (DAWE).

The net result of these actions was an increased impact of 0.806 hectares of GSM habitat and 0.534 hectares of MFL habitat including the loss of one individual proposed to be otherwise retained as part of the approved development (Attachments 3 and 4).

No additional impacts to areas of Natural Temperate Grassland of the Victorian Volcanic Plain (NTGWP) occurred as a result of these works.

The project is therefore not compliant with **Condition 1**. This transgression was reported to DAWE by mail and email on 20 September 2019. When notification was made, the approval holder proposed corrective action and an amendment to the approval to bring the approval holder back into compliance with this condition, and are awaiting feedback from DAWE.

Areas of the creek corridor accidentally impacted by the contractor are proposed to be rehabilitated by the land management contractor. This will involve ongoing control of noxious weeds and revegetation of land disturbed within the corridor using locally indigenous species.

Condition 2: *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. The Offset Strategy must:*

- a. provide a written description and map that clearly defines the location and boundaries of the proposed offset area(s) for Golden Sun Moth habitat; Matted Flax-lily habitat; and NTGWP offsets*
- b. detail the minimum offset areas and evidence that the offset areas are in accordance with the EPBC Act Environmental Offsets Policy*
- c. include timelines and mechanisms for legally securing the offset areas and offset outcomes.*

The offset strategy was submitted to DAWE and approved on 25 January 2019 (Attachment 5).

Alliance Business Park (the approval holder) has therefore complied with **Condition 2**. No additional reporting on this condition is required.

Condition 3: *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. The Offset Management Plan(s) must:*

- a. be prepared by a suitably qualified expert*
- b. be prepared in accordance with the Department's Environmental Management Plan Guidelines, and the EPBC Act Environmental Offsets Policy*
- c. provide a written description and map that clearly defines the location and boundaries of the offset area(s), consistent with the Offset Strategy approved under condition 2. This must be accompanied with the offset attributes and shapefiles*
- d. a survey and description of the current condition (prior to any management activities) of the offset area proposed, including existing vegetation (the baseline condition)*
- e. detail management actions, regeneration and/or revegetation strategies (i.e. weed, grazing and/or fire management) to be undertaken on the offset area(s) to improve and extend Golden Sun Moth habitat, Matted Flax-lily habitat and NTGWP, including:*
 - i. a description and timeframe of measures that will be implemented to improve the condition and extent of Golden Sun Moth habitat, Matted Flax-lily habitat and NTGWP within the offset area(s)*
 - ii. performance and completion criteria for evaluating the management of the offset areas, and criteria for triggering remedial action*
 - iii. a program to monitor and report on the effectiveness of these measures, and progress against the performance and completion criteria*
 - iv. a description of potential risks to the successful implementation of the plan, a description of the measures that will be implemented to mitigate against these risks and a description of the contingency measures that will be implemented if defined triggers arise*
 - v. details of who is responsible for monitoring, reviewing and implementing the plan.*

Offset plans were submitted to DAWE and approved in March 2019.

Alliance Business Park (the approval holder) has therefore complied with **Condition 3**. Ongoing compliance requirements only relate to the implementation of the approved plans.

Condition 4: *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. The Matted Flax-lily Translocation Plan must include but is not limited to the following requirements:*

- a. selection criteria to determine appropriate nursery (if required) and recipient site(s) for the translocation Matted Flax-lily*
- b. a map and description of the chosen recipient site(s) and surrounding land uses, including evidence of consultation with the manager of the recipient site*
- c. pre-clearance surveys for the project area*
- d. protocols and timeframes for the salvage and translocation of the impacted Matted Flax-lily*
- e. post-translocation management actions for the nursery (if required) and recipient site(s), including protection measures for the translocated Matted Flax-lily*
- f. roles and responsibilities (clearly stating who is responsible for activities)*
- g. translocation failure risk assessment*
- h. a monitoring and adaptive management program for at least five years after translocation of the Matted Flax-lily plants, which must include:*
 - i. Performance indicators (clear and concise criteria against which achievement of outcomes are to be measured), which are capable of accurate and reliable measurement*
 - ii. Outcomes (time bound outcomes as measured by performance indicators), including milestones (interim outcomes) where applicable*
 - iii. Monitoring requirements (timing and frequency of monitoring to detect changes in the performance indicators, to determine if outcomes are being achieved, and to inform adaptive management)*
 - iv. Trigger values for corrective actions*
 - v. Corrective actions to be implemented if trigger values are reached, including timeframes, and how environmental incidents will be managed.*

The translocation plan was submitted to DAWE and approved on 12 February 2019 (Attachment 6).

Alliance Business Park (the approval holder) has therefore complied with **Condition 4**. Ongoing compliance requirements only relate to the implementation of the approved plan.

Condition 5: *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.*

Pre-clearing surveys were conducted for MFL and the result of this survey supplied to DAWE (then the Department of the Environment and Energy - DoEE).

Alliance Business Park (the approval holder) has therefore complied with **Condition 5**. No additional reporting on this condition is required.

Condition 6: 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, including but not limited to:

- a. Prior to the commencement of the action, the approval holder must establish the designated no-go zone, including signage and fencing within 20 m of the corridor to prevent sediment transfer and restrict access until construction is complete
- b. After the construction phase is complete, the no-go zone must be protected by permanent fencing that restricts access to the no-go zone
- c. Hygiene controls must be implemented for all vehicles or personnel entering within 30 metres of Edgars Creek.

Construction works around the Edgars Creek Corridor have recently been completed. As indicated in the response to **Condition 1**, prior to the commencement of the action, the creek corridor was delineated by a surveyor. However, temporary protective fencing and signage was not installed prior to the contractor accessing land adjacent to this protected area and the contractor ignored the surveyors peg markers. This resulted in disturbances within the designated no-go zone. Works included machinery entering the creek corridor and sections of Edgars Creek and the movement of sediment into the creek.

Eventually soil stockpiled in the protected area was removed and protective temporary fencing established in the correct location with appropriate signage.

The design of stormwater infrastructure established adjacent the creek at Edgars Road is different to that outlined by Biosis (2017). While this was a Melbourne Water requirement, the footprint of these works was larger than that identified in the creek management plan and the approved project footprint identified by EPBC 2017-7930. While these works did not impact any patches of native vegetation, they are not in compliance with the conditions of approval.

Works were therefore not compliant with **Condition 6 (a)**.

Construction works within 165 – 195 O’Herns Road are now complete. Works have included the installation of permanent fencing to protect the creek corridor no go zone. Alliance Business Park is therefore compliant with **Condition 6(b)**.

No documentation is available on any hygiene controls implemented by the contractor. Therefore compliance with **Condition 6(c)** could not be evaluated.

Implementation of the approved Edgars Creek management plan (Biosis 2017) has commenced in the form of woody weed control works. The creek corridor within 165-195 O’Herns Road has had substantial woody weed works completed. However the cover of woody weeds is still apparent and more works are required to remove this element from the creek corridor.

It is our understanding that works for the control of woody weeds is ongoing and the existing mature individuals will be removed in the near future.

Infestations of other noxious weeds are also apparent. Species such as Spanish Artichoke *Cynara cardunculus* are still present as scattered occurrences but these have clearly been subject to recent control works (Photo 2).

The creek corridor supports a substantial cover of Chilean Needle-grass *Nasella neesiana*. This significant weed is also a food plant for GSM. Management of this species can practically only be restricted to biomass control as the infestation is intractable.

While the creek corridor supports scattered occurrences of Serrated Tussock *Nassella trichotoma*, control works have targeted this species and a minimal on-going effort should keep this species under control.

The only other common noxious weed is Patersons Curse *Echium plantagineum*. This species is dominant in areas of the creek corridor, predominantly where the contractor has disturbed the surface soil within the protected area. These areas will require ongoing control and revegetation works to mitigate the dominance of this noxious weed.

Other noxious species such as Saffron Thistle *Carthamus lanatus*, still have scattered occurrences across the creek corridor.

Other works outlined within the approved Edgars Creek management plan to be completed include establishing a level of legal protection for the creek corridor (currently being organised by Council), revegetation of stormwater infrastructure (to be initiated soon), biomass control, general revegetation works within the creek corridor and water quality monitoring. Alliance is in the process of ensuring all these matters are appropriately managed.

Overall, Alliance Business Park is partially compliant with **Condition 6**. Alliance is initiating works to conduct the corrective actions required to respond to non-compliance with this condition.

Other issues

The construction of Jersey Drive intruded into the floodplain of Edgars Creek. This area was filled to elevate the roadway and associated shared pathway on its northern boundary.

When in flood Edgars Creek is not restricted to following in its' main channel at this location and part of the flood flow is diverted into another channel which now follows the northern edge of Jersey Drive. The narrowing of the floodplain at this site and the removal of vegetation in association with the construction of Jersey Drive has resulted in significant channel erosion along this flood path (Photos 5, 6 and 7).

While the erosion has the potential to undermine the shared path and eventually the road, the sediment movement during flood flows also influences both water quality and habitat condition for GGF. As such remediation works are required in this area. This is likely to include the placement of rocks and revegetation works as the erosion is within the protected creek corridor. DAWE would need to be informed of the proposed works and approve these mitigation measures as they are not included in the approved Edgars Creek Management Plan.

Condition 7: *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.*

The audit is not aware of Alliance Business Park providing DAWE written advice of the actual date the action commenced. However, Biosis is aware that site works commenced in about mid-2019 (July or August).

Compliance with **Condition 7** is therefore undetermined.

Condition 8: *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.*

Biosis is aware of some documentation in relation to the implementation of the Edgars Creek Management Plan. Alliance will provide the documentation it has to a soon to be commissioned updated audit program.

Condition 9: *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.*

This audit has occurred outside the required reporting period. It is our understanding that non-compliance with **Conditions 1 and 6** was been reported to DAWE by mail and email addressed to the known assessing officer (Alexandra Cooper) on 20 September 2019.

This review report will be provided to DAWE at the time of publication on the relevant website in compliance with **Condition 9**.

Alliance is therefore has not complied with **Condition 9** until 2021 but issues of non-compliance are being attended to and Alliance will ensure future reporting requirements are completed as required.

Conditions 10 to 16 are administrative conditions which have not been activated by either the approval holder or the Commonwealth Minister administering the EPBC Act (or their delegate).

Condition 17: *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.*

The preliminary documentation for Alliance Business Park was initially available for public viewing on the Biosis website. While taken down for a short period of time these documents are again on the Biosis website.

Alliance is therefore currently compliant with **Condition 17**.

Please contact me on 0429 808 732 if you have any enquiries in relation to this assessment.

Yours sincerely

Steve Mueck
Senior Consultant Botanist

References

Biosis 2013. Alliance Business Park, 275 O'Herns Road, Epping: Edgars Creek Management Plan. Report for MAB. Author: Daniel Gilmore and Steve Mueck, Biosis Pty Ltd, Melbourne

Biosis 2017. 165 - 195 O'Herns Road, Epping: Edgars Creek Management Plan. Report for Alliance Business Park. Author: Daniel Gilmore and Steve Mueck, Biosis Pty Ltd, Melbourne. Project No. 25346.

Photos



Photo 1: Barrier fencing and shared pathway along the western boundary of the creek corridor within 275 O'Herns Road.



Photo 2: Trees and shrubs were planted in small areas along the creek corridor (275 O'Herns Rd).



Photo 3: The creek crossing at Scanlon Drive.



Photo 4: A pile of rocks has been left after works on the crossing of Scanlon Drive (far side of the creek)



Photo 5: Erosion on the margin of the creek corridor within 165-195 O'Herns Road.



Photo 6: Erosion on the margin of the creek corridor within 165-195 O'Herns Road.



Photo 7: Sediment deposition into Edgars Creek as a result of erosion on the margin of the creek corridor within 165-195 O'Herns Road.

Attachment 1

Attachment 2

Attachment 3

Attachment 4

Attachment 5

Attachment 6