

Merrifield South EPBC approval (2013/6913)

Annual Compliance Report: Year 3 (November 2023 to November 2024)

Draft Report

Prepared for MAB Corporation

7 February 2025

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- MAB Corporation: Tom Whittle
- Parks Victoria: Kate Churven and Steven Cantwell

Biosis staff involved in this project were:

- Sarah Hilliar (ecology)
- Karthika Jayakumar (ecology)
- Philip Gidley (mapping)
- Mitchell 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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Declaration of Accuracy

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	<i>Tom Whittle</i>
Full Name	Tom Whittle
Position	Development Manager
Organisation (inc. ABN)	MAB Property Developments (ABN 14 221 712 062)
Date	7 / 02 / 2025

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1 Introduction

1.1 Background

Biosis Pty Ltd (Biosis) was engaged by MAB Corporation (MAB), who are acting for the approval holder, Merrifield Corporation to undertake annual compliance monitoring in accordance with their approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) (EPBC approval 2013/6913). The requirement for the annual compliance report is prescribed under Condition 7 of the approval.

This report addresses each approval condition and documents compliance for Year 3 (9 November 2023 to 8 November 2024), including implementation of Woodland Reserve Management Plan, August 2017 (ABZECO 2017) (reserve management plan) as specified in Condition 3 of the approval.

This report is to be published on the MAB website within 3 months of 9 November 2024. This report has been prepared in accordance with the *Annual Compliance Report Guidelines: Reporting under the Environment Protection and Biodiversity Conservation Act 1999* (DCCEE 2023).

1.2 Description of Activity

The approved action involved the residential and commercial development of the land at 225 and 285 Donnybrook Mickleham.

The approval and associated conditions are in effect until 31 December 2034.

An offset site was created within the development and vested to the Victorian Government for management in perpetuity by Parks Victoria and shown in Figure 1. The offset site is managed for the protection of Golden Sun Moth habitat.

1.3 Previous non-compliance

In relation to the conditions of the approval, there have been cases of non-compliance that have been documented below. These breaches have been resolved and are documented here to provide context for this compliance report.

- The Department advised on 3 October 2024 that the approval holder had contravened condition 7 by not publishing compliance reports for the years 2022 and 2023.
- A warning was issued for matters relating to conditions 5, 11 & 12 as MAB did not:
 - notify the department within 10 days after the commencement of construction in writing of the actual date of commencement, being 9 November 2021, contravening condition 5.
 - substantially commenced the action after 5 years from the date of the approval without written agreement of the minister as required by condition 11.
 - publish management plans on Merrifield's website within 1 month of being approved. Management plans were uploaded to the website on 21 June 2024, contravening condition 12.

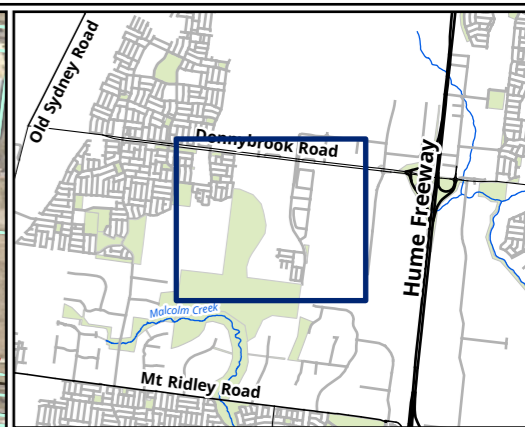
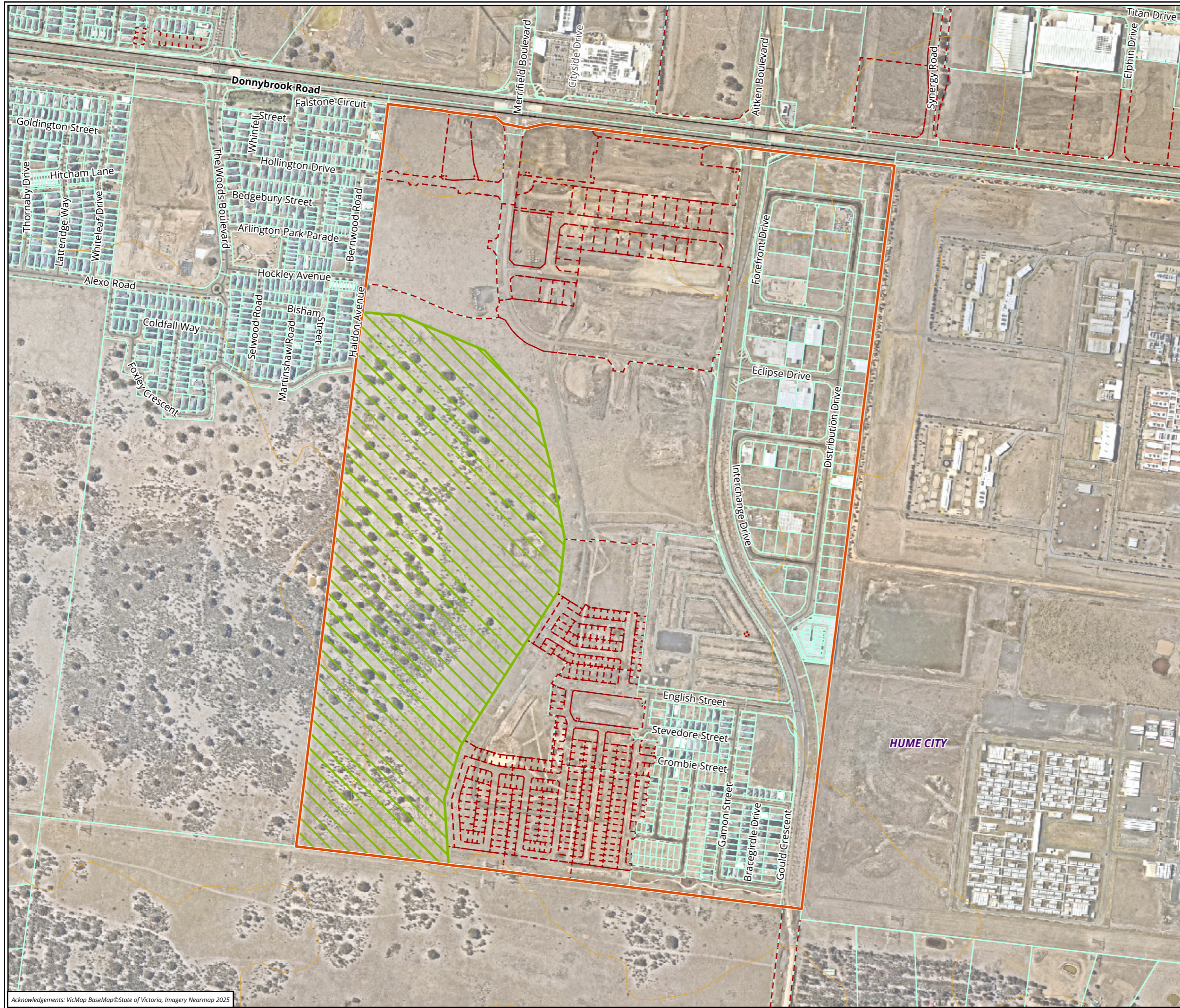
1.4 Activities undertaken during reporting period

During the period of 9 November 2023 to 8 November 2024, the following activities have been undertaken:

- The approval was extended from an expiry date of 31 December 2024 to 31 December 2034 under section 145D of the EPBC Act.
- Carrying out of management actions relating to the implementation of the reserve management plan, including:
 - Eucalypt thinning
 - Maintaining fences
 - Fire break maintenance
- Parks Victoria have commissioned the 10 year review of the reserve management plan by TREC.
- MAB have commissioned targeted surveys for Golden Sun Moth, vegetation assessment and review achievement of the management plan objectives by Biosis.
- Responding to written requests from the Department, providing compliance records and notifications.

1.5 New environmental risk

No new environmental risks have become apparent during this reporting period. Should new environmental risks be identified, a risk analysis and reporting will be undertaken, and the relevant management plans reviewed (if required).



- Legend**
- EPBC approval area
 - Mount Ridley northern conservation reserve - offset site
 - Current parcel boundary
 - Proposed parcel boundary

Figure 1 EPBC approval area

0 50 100 150 200
 Metres
 Scale: 1:7,500 @ A3
 Coordinate System: GDA2020 MGA Zone 55



Matter: 40874,
 Date: 07 February 2025,
 Prepared for: jH, Prepared by: PG, Last edited by: pgidley
 Layout: 40874_F1_EPBC_Area
 Project: P:\40800s\40874\Mapping\40874_DonnybrookRd_Mickleham.aprx

Acknowledgements: VicMap BaseMap © State of Victoria, Imagery Nearmap 2025

2 Compliance with EPBC approval conditions

This chapter addresses compliance with the EPBC conditions under EPBC 2013/6913 approval that were current throughout the reporting period. Compliance with the conditions are outlined in Table 1.

This section addresses the requirement in the *Annual Compliance Report Guidelines: Reporting under the Environment Protection and Biodiversity Conservation Act 1999* (DCCEE 2023) for a compliance table. Table 1 includes the full wording of all conditions under EPBC 2013/6913 approval, the condition reference number, a designation regarding compliance (highlighted green), non-applicability (highlighted green) or non-compliance (highlighted red), a summary of evidence and comments, and references to other parts of this compliance report which relate to the approval condition. It should be noted that some conditions are ongoing (highlighted orange) and relevant until completion of the action.

Table 1 Assessment of compliance with EPBC approval conditions 9 November 2023 – 8 November 2024 (Year 3)

Number	Current condition of approval	Compliance Year 3	Evidence / Comments
Part A Conditions specific to the action			
1.	To compensate for the loss of 54.55 hectares of Golden Sun Moth habitat, the approval holder must protect at least 33.45 hectares of Golden Sun Moth habitat on land identified as part of 285 Donnybrook Road Mickleham, Victoria. The approval holder must place an in perpetuity protection mechanism on the offset site prior to the commencement of construction. The approval holder must demonstrate to the Department that the offset site is protected in perpetuity prior to the commencement of construction.	Compliant	The offset area is secured in-perpetuity via a land transfer to the Victorian Government and its creation as reserve. The land transfer was finalised on 19 June 2017.
2.	The approval holder must provide the Department with offset attributes and a shapefile for the offset site prior to the commencement of construction.	Compliant	The department confirmed compliance with condition 2 on 11 October 2017.
3.	At least three months prior to the commencement of construction, the approval holder must prepare and submit to the Minister for approval, an offset management plan. The offset management plan must be approved by the Minister and then be implemented prior to the commencement of construction. At a minimum, the offset management plan must include:	Compliant	The <i>Woodland Reserve Management Plan version 1.6 2017</i> was approved on 11 October 2017 and prior to the commencement of construction.
	a. Baseline data and supporting evidence that documents the extent and condition of the habitat for the Golden Sun Moth at the offset site.		
	b. Illustrations and maps that clearly define the location of the boundaries of the offset site		
	c. detailed information, including proposed commitments and timelines regarding management arrangements that will be undertaken at the offset site, from the commencement of construction and then into the future, to ensure the ongoing rehabilitation and improvement of the offset site. This must be consistent with all the recommended habitat measures identified in the Approved Conservation Advice for <i>Synemon plana</i> (golden sun moth) and relevant EPBC Act policy statements and papers.		
	d. Information and commitments about monitoring and reporting on the improvements in habitat condition of the offset site and ongoing use of the site by the Golden Sun Moth.		
	e. Information and commitments about the ongoing maintenance of the offset site, including weed and pest control and the maintenance of fencing.		
	f. the offset management plan must be revised within ten years of the commencement of construction.	Not applicable	10 years have not elapsed since the commencement of construction.
4.	Prior to the commencement of construction, the approval holder must ensure the offset site is securely fenced so as to prevent dumping and entry of vehicles, except for vehicles conducting activities in accordance with the approved offset management plan.	Compliant	Fencing was installed prior to commencement of construction and the department confirmed compliance with condition 4 on 11 October 2017.
Part B Standard administrative conditions			
5.	Within ten days after the commencement of construction, the approval holder must advise the Department in writing of the actual date of commencement of construction.	Non-compliant	The commencement of the action occurred on 9 November 2021. MAB notified DCCEEW on 21 June 2024 at the request of the department that construction had commenced. The department confirmed that the contravention of condition 5 had been substantiated and a warning was issued on 3 October 2024. No further action is required.
6.	The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement all management plans required by the 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.	Non-compliant	Parks Victoria are responsible for implementing the reserve management plan. MAB requested the annual report outlined in section 5.3 of the reserve management from Parks Victoria by letter on 20 December 2024. Parks Victoria provided an email response on 30 January 2025 outlining management actions undertaken and proposed to be undertaken in 2024/25. No annual report by the reserve manager was prepared outlining the management actions and monitoring findings. Section 2.1 outlines the requirements of the reserve management plan and how these are being met.

Number	Current condition of approval	Compliance Year 3	Evidence / Comments
7.	Within three months of every twelve month anniversary of the commencement 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 specified in the conditions. 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. Potential or actual contraventions of the conditions of the approval must be reported to the Department in writing within 2 days of the approval holder becoming aware of the actual or potential contravention. All contraventions must also be included in the compliance reports.	Non - compliant	A compliance report for Year 1 and Year 2 has not been prepared or published. The department issued an infringement notice on 3 October 2024 for this contravention of condition 7. This report addresses compliance for Year 3 and this assessment will be published on the Merrifield project website by MAB.
8.	Upon the direction of the Minister, the approval holder must ensure that an independent audit of compliance with the conditions of the approval is conducted, and a report of the independent audit submitted to the Minister. The independent audit must be undertaken by a person approved for this purpose by the Minister prior to the commencement of the audit. The audit must be undertaken under criteria approved by the Minister. Audit criteria must be agreed to by the Minister. The audit report must address the approved audit criteria to the satisfaction of the Minister.	Compliant	No independent audits were requested by the Minister in Year 3.
9.	If the approval holder wishes to carry out any activity otherwise than in accordance with a management plan as specified in the condition, the approval holder must submit to the Department for the Minister's written approval a revised version of that management plan. The approval holder must not commence any activity not in accordance with the approved management plan unless and until the Minister has approved the varied management plan in writing. If the Minister approves the revised management plan, that management plan must be implemented in place of the management plan originally approved.	Compliant	No variations to the management plan have been sought.
10.	If the Minister believes that it is necessary to convenient for the better protection of the threatened species or migratory species to do so, the Minister may request that the approval holder make specified revisions to the management plan specified in the conditions and submit the revised management plan for the Minister's written approval. The approval holder must comply with such a request. The revised approved management plan must be implemented. Unless the Minister has approved the revised management plan, then the person taking the action must continue to implement the management plan originally approved, as the specified in the conditions.	Compliant	No direction has been provided by the Minister to the approval holder.
11.	If, at any time after five years from the date of this approval, the approval holder has not substantially commenced the action, then the approval holder must not substantially commence the action without the written agreement of the Minister.	Non-Compliant	The action commenced 9 November 2021. This date is longer than 5 years after the date of approval. The department confirmed that the contravention of condition 11 had been substantiated and a warning was issued on 3 October 2024. No further action is required.
12.	Unless otherwise agreed in writing by the Minister, the approval holder must publish all management plans referred to in these conditions of approval on the approval holder's website. Each management plan must be published on the website within one month of being approved.	Not applicable	The reserve management plan is available on the MAB website for the Merrifield estate - Woodland Reserve Management Plan Merrifield Melbourne .

2.1 Compliance with the Woodland Reserve Management Plan

Condition 3 and Condition 7 imply compliance with the endorsed reserve management plan. This section provides an assessment of compliance with the management actions outlined in the reserve management plan for the reporting period. The management plan year most closely aligns to year 9.

Parks Victoria is responsible for the implementation of the reserve management plan. Table 7.1 and 7.2 outline the management actions required to be undertaken by year and is summarised below:

Management actions undertaken	Compliance – Year 9 2023/24	Comment
Fuel Breaks – Establishment and Maintenance	Completed	In-house team at Parks Victoria
Site Assessment	Not completed	Not completed for 2023/24. TREC commissioned to undertake site assessment for 10 year review and management plan update.
Fencing – New Kangaroo Fencing	Completed	Completed in previous years -no further work required
Dam Filling and rehabilitation	Completed in previous years	No further work required
Weed Control – Artichoke Thistle	Not completed	
Weed Control – Woody Weeds	Not completed	
Weed Control – Grassy/herbaceous Weeds	Not completed	
Eucalypt Thinning	Completed	Invoice paid to Practical Ecology 13 May 2024
Fencing – Inspection and Repairs	Completed	Fence inspected weekly by Parks Victoria rangers. Fence repair carried out June 24 due to illegal access.
Targeted GSM Survey	Not completed.	TREC and Biosis commissioned for 24/25 flying season. Results to be provided when reporting completed in February 2025.
Slashing	Completed	Inhouse team at Parks Victoria
Prescribed Burn - mosaic and monitoring	Not completed	
Reporting	Not completed	Annual report not completed

Data source

Parks Victoria have provided an extract from the finance system with records of contractors paid for 23/24 and email communications.

Some management actions have been completed by Parks Victoria but notably weed control, monitoring and reporting have not been completed.

Parks Victoria have advised that they have delivery of works has been low this year as they have engaged a contractor to develop the revised reserve management plan required in year 10 and will roll out additional

works in Autumn 2025 with the benefit of the monitoring findings and revised management plan recommendations.

The revised management plan is due in February 2025.

MAB have also commissioned targeted surveys for Golden Sun Moth, vegetation condition and a review of the achievement of the management plan objectives in October 2024. The findings of these surveys and assessment will be completed in February 2025.

Initial findings are that weed coverage and biomass control objectives are being achieved (notwithstanding that an ecological burn was not undertaken in year 9), habitat extent and population density are being maintained. Particular attention will need to be given to ensuring that eucalypt thinning continues to be implemented as there is evidence of eucalypt thinning occurring, but the area of regenerating river red gums is expanding (Sarah Hilliar Senior Botanist, Biosis, *pers comm.*).

More information will be available when the review of the reserve management plan is finalised.

3 Future planning and management

The EPBC approval and associated conditions are in effect until December 2034.

The following actions are required for the ongoing management of the Mount Ridley Nature Conservation Reserve offset site:

- Continue implementation of land management activities outlined in the reserve management plan.
- Submit a revised reserve management plan to DCCEEW in accordance with condition 3 when completed during the next reporting period.

References

ABZECO 2017. *Woodland Reserve Management Plan*.

DCCEEW 2023. *Annual Compliance Report Guidelines*, Australian Government Department of Climate Change, Energy, the Environment and Water, Canberra.

