

# La Trobe University EPBC approval compliance report: Year 1 and Year 2 (November 2021 to November 2023)

Final Report

Prepared for La Trobe University

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# 1 Introduction

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## 1.1 Background

Biosis Pty Ltd (Biosis) was engaged by La Trobe University to undertake annual compliance monitoring in accordance with their approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC approval 2018/8343). The requirement for the annual compliance report is prescribed under Condition 13 of the approval EPBC 2018/8343 for La Trobe University.

This compliance report addresses relevant conditions of the approval and reports on compliance with those conditions for Year 1 (15 November 2021 to 14 November 2022) and Year 2 (15 November 2022 to 14 November 2023), including implementation of the following documents:

- La Trobe University Sports Precinct Stage 3: EPBC Act Matted Flax-lily Salvage and Translocation Plan (MFLSTP) (Biosis 2020a) as specified in Condition 4c of the approval.
- La Trobe University Sports Park Precinct Stage 3 Conservation Plan (CMP) (Biosis 2020b) as specified in Condition 6 of the approval.

This report does not address the conditions of the La Trobe University Sports Precinct Stage 3: EPBC Act Offset Management Plan (OMP) (Biosis 2020c) as specified in Condition 2 of the approval. Compliance with this document is addressed in the La Trobe University monitoring and compliance reporting for 2021 and 2022 (Biosis 2021, Biosis 2023).

## 1.2 Objectives of the audit

The objectives of the compliance monitoring are to:

- Address each approval condition (EPBC 2018/8343) and document compliance or otherwise.
- Address implementation of the approved La Trobe University MFLSTP and CMP and document compliance or otherwise.

## 1.3 About the development

The approved action involved the development of the Stage 3 Sporting Precinct at the La Trobe University, Bundoora campus (study area) on a portion of land otherwise known as 906 Plenty Road, Bundoora (Figure 1). The study area is within the Victorian Volcanic Plain bioregion, the City of Darebin, and the Yarra River Basin.

Biosis conducted the initial flora and fauna assessment for the La Trobe University Sports Precinct in 2018 and identified 23 Matted Flax-lily *Dianella amoena* individuals (Biosis 2019) (Figure 2). Matted Flax-lily is a matter of national environmental significance (MNES) and is listed as endangered under the Commonwealth *Environment Protection Biodiversity and Conservation Act 1999* (EPBC Act).

The proposed works were referred to the Australian Government Minister for the Environment on 20 December 2018 (Referral 2018/8343). On 1 February 2019 the proposed works were declared a controlled action by the Department of Climate Change, Energy, the Environment and Water (DCCEEW) and required assessment based on preliminary documentation. The action was approved subject to conditions on 25 February 2021. The approval and associated conditions are in effect until April 2035.

A first party 2.81 hectare offset area was established by La Trobe University to meet the quantity and quality requirements for an offset of Matted Flax-lily habitat as determined by DCCEEW under the EPBC Act, in association with the approval conditions for referral EPBC 2018/8343 (Figure 3). This offset site is managed for the protection of native vegetation and Matted Flax-lily habitat in accordance with the approved CMP and MFLSTP.

**Figure 1    Location of the study area**

**Figure 2   Ecological features of the study area**

**Figure 3 First party offset site, La Trobe University, Bundoora**



## 2 Compliance with EPBC approval conditions

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Table 1 provides an assessment of compliance with each of the EPBC approval conditions for Year 1 (15 November 2021 to 14 November 2022) and Year 2 (15 November 2022 to 14 November 2023) and identifies whether the condition has been satisfactorily met, i.e., whether compliant (highlighted green), ongoing (highlighted orange) or non-compliant (highlighted red). It should be noted that many conditions are ongoing and relevant until completion of the action.

**Table 1 Assessment of compliance with EPBC approval conditions 15 November 2021 – 14 November 2022 (Year 1) and 15 November 2022 – 14 November 2023 (Year 2)**

Number	Condition	Notes on compliance	Compliance Year 1	Compliance Year 2
<b>Part A Conditions specific to the action</b>				
1.	The approval holder must: a. not clear more than 23 Matted Flax-lily plants within the action area b. not clear Matted Flax-lily habitat outside the action area	<p><b>Year 1</b></p> <p>a. Forty-nine Matted Flax-lily plants were cleared from within the study area on 12 November 2021. A pre-clearance survey was undertaken on 22 September 2021 prior to clearance as per condition 4a of the EPBC approval conditions. All Matted Flax-lily individuals recorded during this survey were salvaged and translocated as per condition 4b of the EPBC approval conditions.</p> <p>b. On 13 September 2022, 0.09 hectares of Matted Flax-lily habitat was cleared from outside of the action area. This breach was discovered during an internal audit by Symal Pty Ltd on 20 September 2022 and DCCEEW was notified of this non-compliance on 21 September 2022 by La Trobe University. La Trobe University undertook the following actions following the non-compliance incident:</p> <ul style="list-style-type: none"> <li>La Trobe University purchased offset credits through the Victorian Native Vegetation Credit Register.</li> <li>'No-go zone' fencing signage was attached to fences around the perimeter of the action area.</li> <li>La Trobe University ensured all mapping was up to date and all workers were aware of 'no-go zones'.</li> <li>The Construction Environmental Management Plan was updated to include the small area of land that was offset with the purchase of credits.</li> </ul> <p>DCCEEW provided a response on 4 November 2022 to state that the contravention of condition 1b had been substantiated.</p> <p><b>Year 2</b></p> <p>a. No Matted Flax-lily individuals were cleared from within the action area.</p> <p>b. No Matted-flax lily habitat was cleared outside the action area.</p>	Non-compliant	Compliant
2.	The approval holder must secure the offset area and commence implementing the Offset Management Plan for the offset area prior to undertaking any clearing.	<p><b>Year 1</b></p> <p>The offset site was not secured prior to undertaking clearing, however, La Trobe University begun the process of establishing the covenant with Trust for Nature on 5 January 2022. La Trobe University made DCCEEW aware of this non-compliance on 27 March 2022 via email. On 7 April 2022 DCCEEW acknowledged that this condition had not been met and has kept the matter open until the condition is fulfilled.</p> <p><b>Year 2</b></p> <p>There have been no further developments on this condition since Year 1.</p>	Non-compliant	Non-compliant
3.	Within 10 business days of the offset area being secured, the approval holder must provide the department with: a. written evidence demonstrating that the offset area has been secured; and b. shapefiles and the offset attributes of the offset area	<p><b>Year 1</b></p> <p>a. An email was sent to PostApproval@environment.gov.au on 7 March 2022 from Antony Inglis at La Trobe University, which notified DCCEEW that the offset area had been physically secured. The process to have the offset site secured via a covenant begun on 5 January 2022.</p> <p>b. An email was sent to PostApproval@environment.gov.au on 7 March 2022 from Antony Inglis at La Trobe University which provided shapefiles and offset attributes of the offset area.</p> <p><b>Year 2</b></p> <p>c. There have been no further developments on this condition since Year 1.</p> <p>d. There have been no further developments on this condition since Year 1.</p>	Non-compliant	Non-compliant
4.	To compensate for the removal of up to 23 Matted Flax-lily plants from within the action area: a. Prior to any clearance, the approval holder must undertake a pre-clearance survey to determine the number and locations of Matted Flax-lily plants within the action area. b. The approval holder must salvage and translocate all Matted Flax-lily plants identified by the pre-clearance survey. c. The approval holder must commence implementing the salvage and translocation plan prior to undertaking any clearing.	<p><b>Year 1</b></p> <p>a. A pre-clearance survey was undertaken on 22 September 2021 by Biosis staff. Twenty-two of the 23 original Matted Flax-lily individuals were located during the survey. The 23<sup>rd</sup> individual had already been salvaged. An additional 26 Matted Flax-lily plants were detected in the action area.</p> <p>b. All 49 Matted Flax-lily individuals identified during the pre-clearance survey were salvaged and translocated.</p> <p>c. The salvage and translocation plan was implemented prior to undertaking any clearing.</p> <p><b>Year 2</b></p> <p>a. There have been no further developments on this condition since Year 1.</p> <p>b. There have been no further developments on this condition since Year 1.</p> <p>c. There have been no further developments on this condition since Year 1.</p>	Compliant	Compliant

Number	Condition	Notes on compliance	Compliance Year 1	Compliance Year 2
<b>Part A Conditions specific to the action</b>				
5.	The approval holder must ensure that a minimum of 63 salvaged Matted Flax-lily plants have survived at the offset area at least 5 years after the date the last Matted Flax-lily plant is translocated to the offset area. The approval holder must ensure that the location of each translocated Matted Flax-lily plant is recorded in the Atlas of Living Australia and the Victorian Biodiversity Atlas within 6 months of being translocated.	<b>Year 1</b> No plants have been translocated into the offset area as of November 2022. <b>Year 2</b> No plants have been translocated into the offset area as of November 2023.	Ongoing	Ongoing
6.	The approval holder must implement the Conservation Management Plan.	<b>Year 1</b> The Conservation Management Plan has been implemented. All management objectives in this document are being followed. <b>Year 2</b> The Conservation Management Plan has been implemented. All management objectives in this document are being followed.	Ongoing	Ongoing
<b>Part B Standard administrative conditions</b>				
7.	<b>Notification of date of commencement of action</b> 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.	<b>Year 1</b> The commencement of the action occurred on 15 November 2021. La Trobe University notified the department on 7 March 2022 and was made aware that that this notification was outside of the 10 business days following the commencement of action. The department provided a letter to La Trobe University on 7 April 2022 to confirm that the contravention of condition 7 has been substantiated. <b>Year 2</b> Not applicable.	Non-compliant	Not applicable
8.	<b>Notification of date of commencement of action</b> The approval holder must notify the department in writing of the date the last Matted-Flax Lily plant is translocated to the offset area within 10 business days after the date the last Matted-Flax Lily plant is translocated to the offset area.	<b>Year 1</b> No Matted Flax-lily individuals have been translocated into the offset area as of November 2022. <b>Year 2</b> No Matted Flax-lily individuals have been translocated into the offset area as of November 2023.	Ongoing	Ongoing
9.	<b>Compliance records</b> The approval holder must maintain accurate and complete compliance records.	<b>Year 1</b> The approval holder continues to maintain compliance records. <b>Year 2</b> The approval holder continues to maintain compliance records.	Ongoing	Ongoing
10.	<b>Compliance records</b> 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.	<b>Year 1</b> No requests were made from the department. <b>Year 2</b> No requests were made from the department.	Not applicable	Not applicable

Number	Condition	Notes on compliance	Compliance Year 1	Compliance Year 2
<b>Part A Conditions specific to the action</b>				
11.	<b>Submission and publication of plans</b> The approval holder must: <ul style="list-style-type: none"> <li>a. submit plans electronically to the department;</li> <li>b. unless otherwise agreed to in writing by the minister, publish each plan on the website within 20 business days of the date:               <ul style="list-style-type: none"> <li>– of this approval, if the version of the plan to be implemented is specified in these conditions; or</li> <li>– the plan is approved by the minister in writing, if the plan requires the approval of the minister;</li> </ul> </li> <li>c. exclude or redact sensitive ecological data from plans published on the website or provided to a member of the public; and</li> <li>d. keep plans published on the website until the end date of this approval.</li> </ul>	<b>Year 1</b> <ul style="list-style-type: none"> <li>a. All plans have been electronically submitted to the department.</li> <li>b. All plans have been published on the website within 20 days of the approval date.</li> <li>c. All sensitive ecological data from plans has been redacted from the plans.</li> <li>d. Plans remain on the website.</li> </ul> <b>Year 2</b> <ul style="list-style-type: none"> <li>a. All plans have been electronically submitted to the department.</li> <li>b. All plans have been published on the website within 20 days of the approval date.</li> <li>c. All sensitive ecological data from plans has been redacted from the plans.</li> <li>d. Plans remain on the website.</li> </ul>	Ongoing	Ongoing
12.	<b>Submission and publication of plans</b> The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under a plan, is prepared in accordance with the department's <i>Guidelines for biological survey and mapped data</i> (2018) and submitted electronically to the department in accordance with the requirements of the plans.	<b>Year 1</b> All spatial data has been prepared in accordance with the department's <i>Guidelines for biological survey and mapped data</i> (2018) and submitted with the requirements of the plans. <b>Year 2</b> All spatial data has been prepared in accordance with the department's <i>Guidelines for biological survey and mapped data</i> (2018) and submitted with the requirements of the plans.	Compliant	Compliant
13.	<b>Annual compliance reporting</b> The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or otherwise in accordance with an annual date that has been agreed to in writing by the minister. The approval holder must: <ul style="list-style-type: none"> <li>a. publish each compliance report on the website within 60 business days following the relevant 12 month period;</li> <li>b. notify the department by email that a compliance report has been published on the website and provide the weblink for the compliance report within 5 business days of the date of publication;</li> <li>c. keep all compliance reports publicly available on the website until this approval expires;</li> <li>d. exclude or redact sensitive ecological data from compliance reports published on the website; and</li> <li>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.</li> </ul>	<b>Year 1</b> The approval holder has not prepared a compliance report for November 2021-November 2022. This report will be the compliance report for Year 1. <b>Year 2</b> The approval holder has not prepared a compliance report for November 2021-November 2022. This report will be the compliance report for Year 2.	Non-compliant	Non-compliant

Number	Condition	Notes on compliance	Compliance Year 1	Compliance Year 2
<b>Part A Conditions specific to the action</b>				
14.	<b>Reporting non-compliance</b> 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 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: <ul style="list-style-type: none"> <li>a. any condition which is or may be in breach;</li> <li>b. short description of the incident and/or non-compliance; and</li> <li>c. the location (including co-ordinates), date, and time of the incident and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.</li> </ul>	<b>Year 1</b> La Trobe University notified the department of the non-compliance described in condition 1a within two days of becoming aware of the non-compliance. La Trobe University failed to notify the department of the non-compliance in relation to condition 13 of the approval conditions. <b>Year 2</b> La Trobe University failed to notify the department of the non-compliance in relation to condition 13 of the approval conditions.	Non-compliant	Non-compliant
15.	<b>Reporting non-compliance</b> 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: <ul style="list-style-type: none"> <li>a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;</li> <li>b. the potential impacts of the incident or non-compliance; and</li> <li>c. the method and timing of any remedial action that will be undertaken by the approval holder.</li> </ul>	<b>Year 1</b> As per the response of condition 1b, La Trobe University notified the department within 10 days when 0.09 hectares of Matted Flax-lily habitat was cleared from outside of the action area. Please refer 1b above for further details on this condition. <b>Year 2</b> No incidents or non-compliance with the conditions or commitments made in plans occurred in Year 2.	Compliant	Compliant
16.	<b>Independent audit</b> The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the minister.	<b>Year 1</b> No independent audit was requested by the minister, however, an independent audit was carried out by Biosis as per the OMP. This audit is available for review in the Year 1 Vegetation and compliance monitoring report (Biosis 2021). <b>Year 2</b> No independent audits were requested by the minister in Year 2.	Compliant	Not applicable
17.	<b>Independent audit</b> For each independent audit, the approval holder must: <ul style="list-style-type: none"> <li>a. provide the name and qualifications of the independent auditor and the draft audit criteria to the department;</li> <li>b. only commence the independent audit once the audit criteria have been approved in writing by the department; and</li> <li>c. submit an audit report to the department within the timeframe specified in the approved audit criteria.</li> </ul>	<b>Year 1</b> No independent audits were requested by the minister, however, an audit of the implantation of the OMP was carried out by Biosis and is documented in the La Trobe University offset site vegetation monitoring and compliance report (Biosis 2021). <b>Year 2</b> No independent audits were requested by the minister.	Compliant	Not applicable
18.	<b>Independent audit</b> 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.	<b>Year 1</b> No independent audits were requested by the minister, however, the La Trobe University offset site vegetation monitoring and compliance report (Biosis 2021) is published on the La Trobe University website. <b>Year 2</b> No independent audits were requested by the minister.	Compliant	Not applicable

Number	Condition	Notes on compliance	Compliance Year 1	Compliance Year 2
Part A Conditions specific to the action				
19.	<b>Completion of the action</b> Within 20 business days after the completion of the action, the approval holder must notify the department in writing and provide completion data.	<b>Year 1</b> The department was notified of the completion of the action on 7 March 2022. <b>Year 2</b> There have been no further developments on this condition since Year 1.	Compliant	Not applicable

## 3 Future planning and management

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The EPBC approval and associated conditions are in effect until April 2035. The salvaged Matted Flax-lily individuals are due to be translocated into the offset site in winter 2024.

The following actions are required for the ongoing management of the La Trobe University offset site and to remain compliant with EPBC conditions and MFLTP, CMP and OMP actions related to threatened flora:

- Continue implementation of land management activities outlined in the MFLTP, CMP and OMP which must be undertaken by experienced conservation land managers.
- Protect Conservation Reserves on title through a Trust for Nature Deed of Covenant (negotiations underway).
- Translocate Matted Flax-lily salvaged from the action area into the offset site as per the MFLTP and commence monitoring program.

### 3.1 Reporting

The following reporting is required to remain compliant with the EPBC approval, OMP and MFLTP:

- Prepare an annual vegetation monitoring report to submit to DCCEEW and Trust for Nature. Vegetation monitoring reports should be made publicly available on the La Trobe University website.
- Prepare annual EPBC condition compliance reports for each 12-month period following the date of commencement of the action and publish on the La Trobe University website.
- Prepare annual Matted Flax-lily monitoring reports following translocation of the Matted Flax-lily individuals into the offset site and publish on the La Trobe University website.
- Maintain records of non-compliance for the duration of the project.

## References

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