



Woodlands Estate Subdivision, EPBC 2018/8296
Annual Compliance Report 2022 - 2023

Jojeni Investment Trust No. 1

DOCUMENT TRACKING

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Project Manager	Alex Gorey
Prepared by	Alex Gorey
Reviewed by	David Bonjer
Approved by	David Bonjer
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ACKNOWLEDGEMENTS

This document has been prepared by Eco Logical Australia Pty Ltd with support from Jojeni Investment Trust.

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Template 2.8.1

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1. Introduction

1.1 Project background

Woodlands Estate, is a residential subdivision comprised of approximately 417 lots and associated roads and ancillary infrastructure at 169B and 201 Ocean Drive Kew, NSW (the site). The development footprint includes associated infrastructure and conservation land and covers 44.29 ha (incorporating both development and conservation lands). The action was originally assessed as part of a broader planning proposal by the then NSW Office of Environment and Heritage (now Department of Planning and Environment) for the release and rezoning of Area 15 Camden Haven, of which the site is a part. This formed a part of the Port Macquarie - Hastings Urban Growth Strategy. The Development Application to Port Macquarie – Hastings Council for Area 15 has been approved (DA2017-394).

On 7 September 2018, a proposal (DA2017-394) to develop Lot 33 DP754405 and Lot 12 DP 1091444 Ocean Drive for a residential subdivision was referred to the then Commonwealth Department of Agriculture, Water and the Environment ((DAWE) now Department of Climate Change, Energy, Environment and Water, DCCEEW) for determination under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). On 3 January 2019 DAWE concluded that the proposed action is a Controlled Action requiring further assessment and approval under the EPBC Act (2018/8296). The assessment method was Preliminary Documentation. A Preliminary Documentation was prepared and the action was subsequently approved on 19 November 2020.

Eco Logical Australia Pty Ltd (ELA) has prepared this compliance report on behalf of the proponent, Jojeni Investment Trust No. 1, to assess compliance with the conditions for the period from February 2022 – February 2023 as set out in the EPBC Act conditions of approval (EPBC 2018 / 8296).

1.2 Project status

The action commenced on 14 February 2022 with clearing of vegetation and the establishment of fencing around the areas subject to management under the Vegetation Management Plan (ELA 2021). The conditions of approval required provision of documents to the Department prior to the commencement of the action. These provisions are discussed in Table 1.

1.3 Variations

No variations to the conditions or a management plan have been requested in the 2022 – 2023 reporting year.

1.4 Reason for this report

This report has been prepared consistent with Condition 15 of the approval (EPBC 2018 / 8296) which states:

15. The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:

- a. *publish each compliance report on the website within 60 business days following the relevant 12 month period;*
- b. *notify the Department by email that a compliance report has been published on the website and provide the weblink for the compliance report and documentary evidence of the date of publication within five business days of the date of publication; and*
- c. *keep all compliance reports publicly available on the website until this approval expires.*
- d. *Exclude or redact sensitive ecological data from compliance reports published on the website; and*
- e. *Where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the department within 5 business days of publication.*

ELA has prepared this compliance report on behalf of the approval holder determining the compliance of the conditions set out by the Department. As the works commenced on 14 February 2022, the annual reporting is due 12 May 2023 (i.e., 60 business days within the 12-month anniversary). The following sections outline compliance relevant to each condition and additional information relevant to the action.

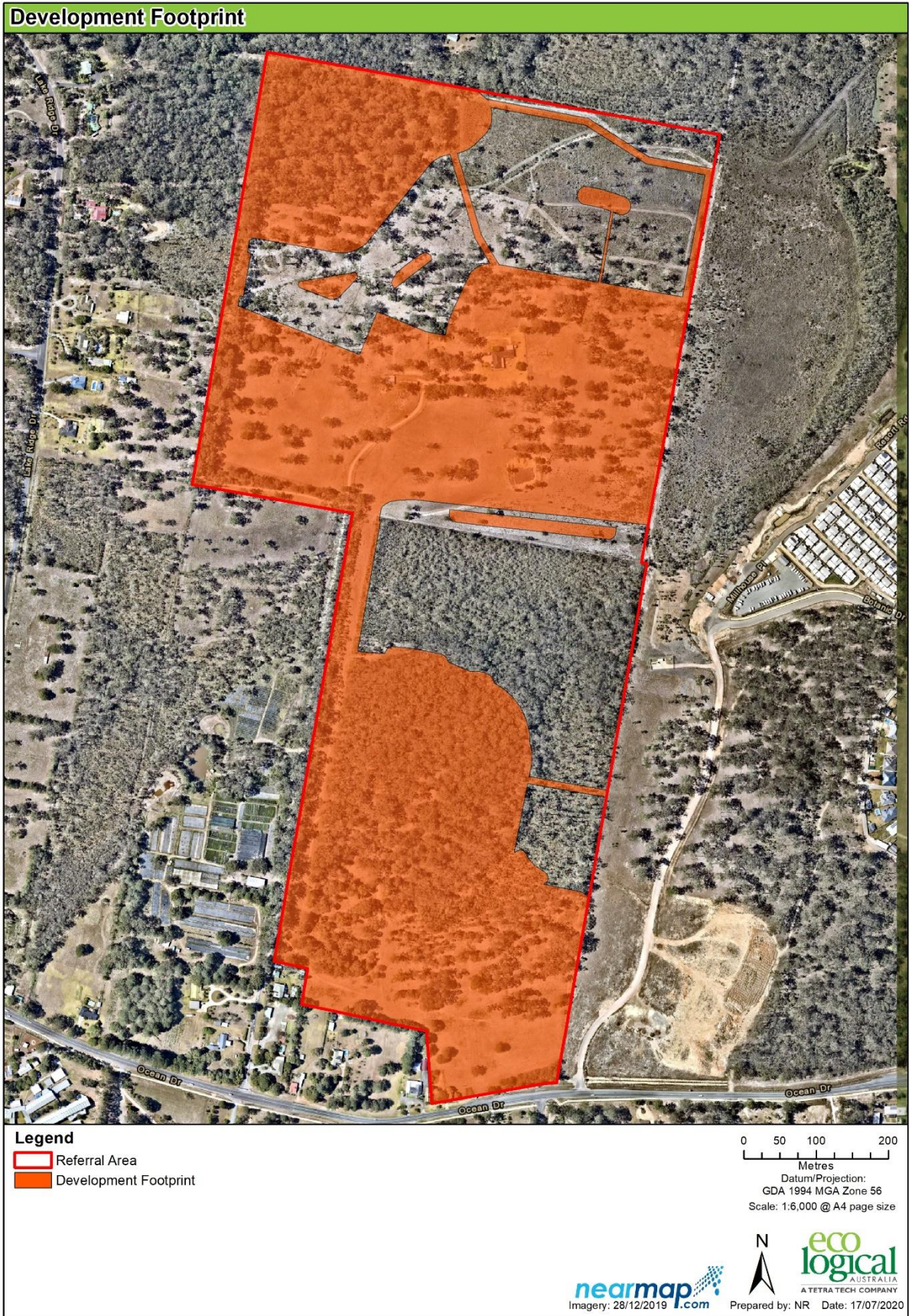


Figure 1: Development footprint at Woodlands Estate EPBC 2018 / 8296



Figure 2: Vegetation clearing completed across the development footprint

2. Compliance reporting

Condition approvals for this action (EPBC 2014/7400), and their compliance status, are presented in Table 1.

Table 1: Compliance with conditions of approval

Condition No.	Condition	Compliance Y / N	Due date	Details
1	The approval holder must not clear more than 28.47 hectares (ha) of Koala habitat within the Development Footprint shaded in orange on the map at Attachment A. The approval holder must not clear outside the Development Footprint shown at Attachment A.	Yes	Ongoing	Prior to the commencement of the action, the clearing boundary shown in Attachment A of the approval was pegged by a registered surveyor, and fenced with ATF fencing. The fencing prevented unauthorised access and provided a clear delineation for the clearing boundary. Clearing was restricted to 28.47 ha in the development footprint (Figure 2).
2	No Koalas are to be killed or injured as a direct result of clearing within the Development Footprint shown at Attachment A.	Yes	During clearing	Complete. No Koalas were killed during the clearing within the development footprint. Clearing of Koala Feed Trees was supervised by a suitably qualified Ecologist (Appendix D).
3	<p>Prior to clearing, the approval holder must submit to the Minister for approval a Construction Environmental Management Plan (CEMP). The CEMP is to address clearing for the action and must include specific measures for the protection of Koalas including, but not be limited to:</p> <ul style="list-style-type: none"> i. A targeted pre-clearance survey undertaken by a suitably qualified person/s to inform the likely presence of Koalas during clearing. ii. A site assessment to be undertaken on the day of clearing by a suitably qualified person/s to identify if any Koalas are present in the trees to be removed. 	Yes	Prior to the commencement of the action	Complete. The CEMP was approved by the Department on 16 November 2021 (Appendix A), prior to the commencement of the Action (14 February 2022). The implementation is documented in Appendix D. No Koalas were identified prior or during clearing across the site and therefore, no additional mitigation measures were required.

Condition No.	Condition	Compliance Y / N	Due date	Details
	<ul style="list-style-type: none"> iii. If Koalas are observed within the area to be cleared, a 50 metre buffer must be maintained around the tree where Koalas are present, and an uncleared corridor must be left for Koalas to leave towards habitat outside of the area to be cleared. iv. Measures which are consistent with best practice, that will be undertaken if, following implementation of condition 2(iii), Koalas have not left the area to be cleared within three days. Clearing must not commence until the CEMP has been approved. The approved CEMP must be implemented. 			
4	<p>To minimise the threats to Koala as a result of the development, the approval holder must ensure:</p> <ul style="list-style-type: none"> i. Koala road crossings are installed at the indicative locations shown on Attachment B. ii. The installation of fencing in the areas indicatively shown at Attachment B. Fencing should be consistent with Port Macquarie – Hastings: Planning to protect koala habitat. Draft LEP, DCP and guideline (Version 1: Draft, March 2018). 	N/A	During construction	Establishment of road crossings and fencing is required during the construction phase which is yet to occur. Temporary fencing was established during the clearing phase to ensure any Koalas were not incidentally harmed.

Action Management Plan

5	<p>To compensate for the loss of 28.47 ha of Koala habitat, prior to the commencement of the action, the approval holder must provide the Department with written evidence demonstrating that:</p> <ul style="list-style-type: none"> i. 25.43 ha of Koala habitat, as described in the preliminary documentation, has been dedicated to and will be managed as part of Dooragan National Park. ii. 18.33 ha of Koala habitat within the referral area has been legally protected in perpetuity under a Voluntary Planning Agreement (VPA) with Port Macquarie – Hastings Council, and subject to a Vegetation Management Plan (VMP). 	Yes	Prior to the commencement of the action	<p>Complete. The 25.43 ha of land was dedicated to National Parks prior to the commencement of the action. Documentation was provided to the Department during the assessment of the Preliminary Documentation and was publicly exhibited. The evidence of dedication formed Appendix B of the Preliminary Documentation package and forms Appendix B of this report.</p> <p>The legal protection of 18.33 ha of Koala habitat under a VPA was completed prior to the commencement of the action. Documentation was provided to the</p>
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Condition No.	Condition	Compliance Y / N	Due date	Details
				Department during the assessment of the Preliminary Documentation and was publicly exhibited. The evidence of dedication formed Appendix C of the Preliminary Documentation package and forms Appendix C of this report.
6	The approval holder must submit the VMP, required under condition 5.ii, for the Minister's approval, specifying how the approval holder will improve and maintain the quality and condition of Koala habitat in the offset. The approval holder must implement the VMP approved by the Minister in writing.	Yes.	Prior to the commence of the action.	Complete. VMP was approved by the Minister on 16 November 2021. The VMP included provisions to maintain the quality and condition of the Koala habitat.
7	The approval holder must not commence the action unless the Minister has approved the VMP in writing.	Yes.	Prior to the commence of the action	Complete. The VMP was approved by the Department on 16 November 2021 (Appendix A), prior to the commencement of the Action (14 February 2022).
8	<p>The VMP must be consistent with the Department's Environmental Management Plan Guidelines, and must include:</p> <ol style="list-style-type: none"> a description and map (including providing the shapefiles) to clearly define the location and boundaries of the proposed offset area(s), accompanied by the offset attributes, to compensate for impacts to 28.47 ha of Koala habitat; details and a qualitative analysis of the baseline vegetation condition and habitat quality in the proposed offset area prior to implementing the management proposed in the VMP; the VMP environmental objectives, relevant EPBC Act protected matter/s and a reference to EPBC Act approval conditions to which the VMP refers; a table of commitments made in the VMP to achieve the objectives, and a reference to where the commitments are detailed in the VMP; reporting and review mechanisms, and documentation standards to demonstrate compliance with the VMP; 	Yes.	Prior to the commence of the action	Complete. The VMP was approved by the Department on 16 November 2021 (Appendix A), prior to the commencement of the Action (14 February 2022).

Condition No.	Condition	Compliance Y / N	Due date	Details
	<ul style="list-style-type: none"> f. an assessment of risks to achieving VMP environmental objectives and risk management strategies that will be applied; g. a description of the management measures (including timing, frequency and duration) that will be implemented in the offset area to improve and maintain the quality of Koala habitat in the offset area for at least the duration of this approval; h. a discussion of how proposed management measures take into account any relevant Conservation Advices, Threat Abatement Plans and Recovery Plans; i. a program to monitor and report on and review the effectiveness of the VMP, including: <ul style="list-style-type: none"> i. measurable performance indicators; ii. the timing and frequency of monitoring to detect changes in the performance indicators; iii. trigger values for corrective actions; and iv. proposed corrective actions, if trigger values are reached. j. provide any links to other plans or conditions of approval (including State approval conditions); k. provisions for signage stating the area is Koala habitat and that dogs must be kept on leads, subject to Port Macquarie-Hastings Council approval; l. provisions for speed limits on roads for the purpose of reducing potential for collisions with Koalas, subject to Port Macquarie-Hastings Council approval. 			
9	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	Yes.	Within 10 business days of the commencement of the action.	Complete. Alex Gorey of Eco Logical Australia notified the Compliance and Monitoring department on 15 February 2022 that the action had commenced on 14 February 2022. The notification was provided via email (Appendix E).

Condition No.	Condition	Compliance Y / N	Due date	Details
10	If the commencement of the action does not occur within 5 years from the date of this approval, then the approval holder must not commence the action without the prior written agreement of the Minister.	N/A	N/A	Action commenced on 14 February 2022.
11	The approval holder must maintain accurate and complete compliance records.	Yes	Ongoing	During vegetation clearing and implementation of the VMP and CEMP, accurate records have been maintained.
12	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	Yes	12 May 2023.	A potential breach notification from the Department was issued on 28 April 2023. A response was due within two weeks of the date of the letter. Alex Gorey of Eco Logical Australia provided a response to EPBC Monitoring via email on 9 May 2023 (Appendix F).
13	The approval holder must: <ul style="list-style-type: none"> a. submit plans electronically to the Department; 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"> i. of this approval, if the version of the plan to be implemented is specified in these conditions; or ii. that the plan is submitted to the Minister or the Department if the plan does not require the approval of the Minister but was not finalised before the date of this approval; or iii. that the plan is approved by the Minister; c. exclude or redact sensitive ecological data from plans to be published on the website or provided to a member of the public; and d. keep plans published on the website until the end date of this approval. 	Yes	Various	The documents can be found at the below link. https://jojeni.com.au/
14	The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata, required under the Vegetation Management Plan, are prepared in accordance with the	Yes	During preparation of VMP.	Complete. The VMP was approved by the Department on 16 November 2021 (Appendix A), prior to the

Condition No.	Condition	Compliance Y / N	Due date	Details
	Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department.			commencement of the Action (14 February 2022).
15	<p>The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:</p> <ol style="list-style-type: none"> publish each compliance report on the website within 60 business days following the relevant 12 month period; notify the Department by email that a compliance report has been published on the website and provide the weblink for the compliance report and documentary evidence of the date of publication within five business days of the date of publication; and keep all compliance reports publicly available on the website until this approval expires. Exclude or redact sensitive ecological data from compliance reports published on the website; and 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. 	Yes	Within 60 business days of the 1-year anniversary of the action (12 May 2023)	This report is the annual compliance report.
16	<p>The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:</p> <ol style="list-style-type: none"> any condition which is or may be in breach; a short description of the incident and/or non-compliance; and 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. 	N/A	N/A	No non-compliances have occurred during the 2022 – 2023 reporting period.
17	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:	N/A	N/A	No non-compliances have occurred during the 2022 – 2023 reporting period.

Condition No.	Condition	Compliance Y / N	Due date	Details
	<ul style="list-style-type: none"> a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future; b. the potential impacts of the incident or non-compliance; and c. the method and timing of any remedial action that will be undertaken by the approval holder. 			
18	The approval holder may, at any time, apply to the Minister for a variation to an action management plan approved by the Minister by submitting an application in accordance with the requirements of section 143A of the EPBC Act. If the Minister approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.	N/A	N/A	No revisions requested in the 2022 – 2023 reporting year.
19	The approval holder may choose to revise an action management plan approved by the Minister under condition 3, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the RAMP would not be likely to have a new or increased impact.	N/A	N/A	No revisions requested in the 2022 – 2023 reporting year.
20	<p>If the approval holder makes the choice under condition 19 to revise an action management plan without submitting it for approval, the approval holder must:</p> <ul style="list-style-type: none"> a. notify the Department in writing that the approved action management plan has been revised and provide the Department with: <ul style="list-style-type: none"> i. an electronic copy of the RAMP; ii. an electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP; iii. an explanation of the differences between the approved action management plan and the RAMP; iv. the reasons the approval holder considers that taking the action in accordance with the RAMP would not be likely to have a new or increased impact; and v. written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least 20 business days after the date of providing notice of the revision 	N/A	N/A	No revisions requested in the 2022 – 2023 reporting year.

Condition No.	Condition	Compliance Y / N	Due date	Details
	of the action management plan, or a date agreed to in writing with the Department. b. subject to condition 19, implement the RAMP from the RAMP implementation date			
21	The approval holder may revoke their choice to implement a RAMP under condition 19 at any time by giving written notice to the Department. If the approval holder revokes the choice under condition 19, the approval holder must implement the action management plan in force immediately prior to the revision undertaken under condition 19.	N/A	N/A	No revisions requested in the 2022 – 2023 reporting year.
22	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 RAMP would be likely to have a new or increased impact, then: a. condition 19 does not apply, or ceases to apply, in relation to the RAMP; and b. the approval holder must implement the action management plan specified by the Minister in the notice.	N/A	N/A	No revisions requested in the 2022 – 2023 reporting year.
23	At the time of giving the notice under condition 22, the Minister may also notify that for a specified period of time, condition 19 does not apply for one or more specified action management plans.	N/A	N/A	No revisions requested in the 2022 – 2023 reporting year.
24	Within 20 business days after the earlier of: <ul style="list-style-type: none"> the completion of the action, or 60 business days before the end date of the period for which this approval has effect, the approval holder must notify the Department in writing and provide completion data. 	N/A	Within the timeframes specified in the condition.	Not applicable, as the action has not been completed.

3. Conclusion

Eco Logical Australia Pty Ltd, on behalf of Jojeni Investment Trust No. 1, has prepared this Compliance Report to fulfil Condition 15 of the approval (EPBC 2018 / 8296). Since the commencement of the action, there have been no non-compliances. All associated documentation has been provided as appendices to this report.

Appendix A CEMP and VMP Approval

Provided as a separate attachment.

Appendix B Evidence of land dedication to NPWS

Provided as a separate attachment.

Appendix C Voluntary Planning Agreement





Provided as a separate attachment.






Appendix D Clearing supervision letters (ELA 2022)

Provided as a separate attachment.


Appendix E Notification of commencement of the action

EPBC 2018/8296 Lot 33 DP754405 and Lot 12 DP1091444 Subdivision, Kew, NSW

 **Gorey, Alex**
To:  'Compliance';  'monitoring@awe.gov.au'
Cc:  'John Harvey'

  Reply  Reply All  Forward 

Tue 15/02/2022 2:31 PM

 You replied to this message on 15/02/2022 2:41 PM.

Hello compliance and monitoring,

I am writing to notify that EPBC 2018/8296 commenced on Monday 14 February 2022. This email is to notify that the action has commenced consistent with the definition of 'commencement' in the approval, and the Department has been notified consistent with Condition 9 of the approval. All fencing to avoid unauthorised entry into the E2 and E3 areas were erected prior to the commencement of the action.

This email also confirms that the first annual compliance report will be due by Friday 12 May 2023.

Please do not hesitate to get in touch if you have any further questions.

Cheers,

Alex Gorey
Senior Ecologist

Eco Logical Australia - A Tetra Tech Company
T +61 2 9259 3773 | M +61 429 707 150

Appendix F Response to potential breach notification

Provided as a separate attachment.

