

# Compliance Report (2014/7364) for 135 Barry Road Pty Ltd

Prepared for  
YourLand

December 2024



Ecology and Heritage Partners Pty Ltd

## 1.1 Background

To meet Condition 8 of the EPBC Act approval for the residential development at 135-161 Barry Road, Thomastown, Victoria (2014/7364), evidence of compliance with the following relevant approval conditions, as detailed by the approval, are provided below.

The EPBC Act Approval (Ref: 2014/7364) was varied on 14 February 2024 to increase the clearing limit for the Natural Temperate Grassland of the Victorian Volcanic Plain by 0.02 hectares. The varied approval also required additional offsets for this additional impact. The action must now be undertaken in accordance with the conditions of the varied approval. The self-assessment and relevant supporting evidence of the approval holder's compliance with the varied Conditions is below.

The remaining approval Conditions not addressed below (Conditions 2B, 2C, 10 - 14) require no action by the approval holder and are not currently applicable. Condition 2B is only to be undertaken if 2A.b and/or 2A.d are not met by 1 January 2034 and 2C is only applicable if 2B is required. Further, Conditions 10-14 relate to the revision of a management plan under Conditions 3 and/or 5. To date, no management plans under Conditions 3 and/or 5 have been revised, therefore these Conditions are not considered relevant for the purposes of this compliance report.

## 1.2 EPBC Approval (2014/7364) Conditions

### 1.2.1 Condition 1

A field assessment by a suitably qualified botanist was undertaken on 2 December 2024 to confirm the extent of Natural Temperate Grassland of the Victorian Volcanic Plain (NTGVVP) cleared by the approval holder. The assessment found that the approval holder has not cleared more than 5.03 hectares of NTGVVP.

**Self-Assessment Finding:** Compliant

### 1.2.2 Condition 2

The final compensatory payment of \$170,400.00 was made to DEECA and cleared 25 February 2020. The approval was transferred to the current approval holder (135 Barry Road Project Pty Ltd) on 9 November 2023. The approval holder was not aware that the previous approval holder had not previously provided the documentary evidence to the department.

**Self-Assessment Finding:** Non-compliant

### 1.2.3 Condition 2A

Condition 2A requires the approval holder compensate for the loss of up to 0.02 hectares of NTGVVP (in addition to the 5.01 hectares previously addressed by Condition 2). Currently the approval holder is managing the on-site NTGVVP offset area in accordance with the management strategy at Annexure B of the varied approval. Written evidence demonstrating that the Environmental Management Plan required under the Section 173 agreement made between the approval holder and Whittlesea City Council was amended to

include commitments to achieve the on-site offset area outcomes by 1 January 2034 was provided to the department by 30 April 2024 (Attachment 1).

**Self-Assessment Finding:** Compliant

#### 1.2.4 Condition 3

Condition 3 requires the preparation of a Matted Flax-lily Translocation Plan (MTP) to provide for the salvage of all Matted Flax-lilies that are required to be removed as part of the action. The MTP prepared by Ecology and Heritage Partners as part of the Environmental Management Plan (CEMP) was completed and provided to the Commonwealth Post Approvals team on 16 October 2018. The MTP was also published to the approval holders website prior to the commencement of the action. The MTP can be found here: <https://marranrun.com.au/wp-content/uploads/2023/06/Marran-Run-MFLMP.pdf>

However, because the approval holders website does not display the date when the MTP was uploaded, evidence of when the MTP was published to the approval holders website could not be ascertained.

**Self-Assessment Finding:** Non-compliant

#### 1.2.5 Condition 4

Condition 4 requires that as per Condition 3, Pre-clearance surveys for the Matted Flax-lily *Dianella amoena* within the Construction area must be conducted by a suitably qualified expert within a month prior to the translocation activities being undertaken.

Ecology and Heritage Partners undertook a Matted Flax-lily Pre-clearance survey prior to the commencement of action, on 12 and 14 September 2022. The construction area was walked by two suitably qualified ecologists experienced in the identification of the target species Matted Flax Lily. The locations of all matted Flax-lily specimens were recorded with in-ground pin markers (flags) and GPS location points captured with a GPS. All specimen location points were verified against the locations as identified in prior Matted Flax-lily Targeted Surveys. No Matted Flax-lily specimens identified during the pre-clearance survey were in addition to the specimens identified by the prior 2022 targeted surveys (Figure 1).

Translocation activities into the designated MFL recipient site commenced on 4 October, and continued on 22 and 25 November and 20 December 2022.

**Self-Assessment Finding:** Compliant

#### 1.2.6 Condition 5

Condition 5 requires the preparation of a Conservation Environmental Management Plan (CEMP) to mitigate impacts on NTGVVP and Matted Flax-lilies present adjacent to the construction area and within the recipient site. The CEMP developed by Ecology and Heritage Partners was completed and provided to the Commonwealth Post Approvals team on 16 October 2018 and was implemented prior to commencement of the action. The CEMP was published to the approval holders website on 12 October 2022, after commencement of the action on 4 October 2022. The CEMP can be found here: <https://marranrun.com.au/wp-content/uploads/2023/06/Marran-Run-CEMP.pdf>

**Self-Assessment Finding:** Non-compliant



#### 1.2.7 Condition 6

Condition 6 requires within 20 business days after commencement, the Department is to be advised in writing of the actual date of commencement. This notice of commencement was provided by Samantha Barron on 20 October 2022 via email confirmed that the action commenced on 12 September 2022. It should be noted that the notice of commencement email was formally acknowledged by the Department on 27 October 2022 via email from Thomas Long (Attachment 2).

**Self-Assessment Finding:** Compliant

#### 1.2.8 Condition 7

The approval holder has previously and continues to maintain accurate records of all activities associated with or relevant to the conditions of the approval. It is understood these records may be subject to an audit by the Department.

**Self-Assessment Finding:** Compliant

#### 1.2.9 Condition 8

The intention of this compliance report is to address the compliance actions undertaken to fulfill the Conditions contained within the approval. To fulfill the obligations of Condition 8, this compliance report will be published on the approval holder's website within three months of every 12-month anniversary of the commencement of the action. Documentary evidence providing proof of the date of publication and non-compliance will be provided to the Department at the same time the compliance report is published. All compliance reports will remain published for the life of the approval and will be published for the life of the approval or until advised otherwise by the minister.

**Self-Assessment Finding:** Compliant

#### 1.2.10 Condition 9

Condition 9 requires 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 is submitted to the Minister. As of writing this compliance report, no direction from the minister has been received.

**Self-Assessment Finding:** Compliant

#### 1.2.11 Condition 15

If, at any time after five years from the EPBC approval date, the action has not been commenced, then the approval holder must not commence the action without the written agreement of the Minister.

The action was commenced on 4 October 2022.

**Self-Assessment Finding:** Compliant

#### *1.2.12 Condition 16*


Condition 16 requires all management plans referred to in the EPBC Act (under sections 130(1) and 133) Approval Decision to undertake a residential development at 135-161 Barry Road, Thomastown, Victoria (2014/7354) be published on the approval holders website. The Construction Environmental Management Plan (CEMP) and Environmental Management Plan were published by the approval holder on the project website prior to commencement of the action.


**Self-Assessment Finding:** Compliant

## **ATTACHMENT 1 – AMENDED EMP EMAIL**

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EPBC Ref: 2014/7364: 135-161 Barry Road, Thomastown, Victoria

 **Jamie Willey**  
To  EPBC Monitoring  
Cc  Aaron Kim;  'Penny Coia'

 15695\_EHP\_BarryRd\_EMP\_Finalv5\_24042024.pdf  
5 MB

  Reply  Reply All  Forward  

Mon 29/04/2024 7:48 PM

Hi EPBC Monitoring,

Please see attached EMP, now amended to include commitments to achieve the on-site offset area outcomes by 1 January 2034 as required by Condition 2A)d. of the varied EPBC Approval. Please note: One round of comments from the City of Whittlesea has been incorporated into version 2 of the amended EMP, however we are awaiting final comment as of 29/04/2024. It should be noted that we do not expect elements of the EMP relating to the offsetting of the EPBC Act Listed NTGVVP community to be altered in the final iteration.

Regards

[Jamie Willey](#) | Consultant Ecologist

Ecology and Heritage Partners (Geelong)

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## **ATTACHMENT 2 – NOTIFICATION OF COMMENCEMENT EMAIL**

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EPBC 2014/7364 - Notification of commencement of Action (EHP Ref: 15695)

 Samantha Barron  
To [post.approvals@environment.gov.au](mailto:post.approvals@environment.gov.au)

[← Reply](#) [↶ Reply All](#) [→ Forward](#) [⋮](#)

Thu 20/10/2022 10:40 AM

Hi Post Approvals Team,

In accordance with Condition 6 of EPBC approval 2014/7364, this email provides formal notification that the approved action commenced on Monday 12 September 2022.

Please let me know if you require anything else at this stage.

Regards  
Sam

[Samantha Barron](#) | Consultant Botanist

**Ecology and Heritage Partners**

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