

EPBC Act Referral 2013/6732

Blackjack Creek Riparian Corridor and Channel Reconstruction

Annual Compliance Report

13 November 2017 to 13 November 2018

Report prepared by
 Gunnedah Shire Council
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 GUNNEDAH NSW 2380

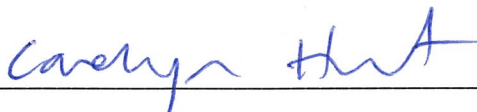
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Document History and Status

Issue	Revision	Issued To	Date	Reviewed	Approved
1	A	Internal	12/02/2019	C Hunt	C Hunt

Declaration of Accuracy

In making this declaration, I am aware that sections 490 and 491 of the *Environmental 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 

Full name (please print) CAROLYN HUNT

Position (please print) MANAGER DEVELOPMENT & PLANNING

Organisation (please print including ABN/CAN if applicable) Gunnedah Shire Council – ABN 80 183 655 793

Date 22 MARCH 2019

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1. Description of activity

EPBC Act Referral

2013/6732

Project Name

Blackjack Creek Riparian Corridor and Channel Reconstruction

Approval Holder

Gunnedah Shire Council

ABN

80 183 655 793

Approved Action

To dredge, widen and realign a 2km section of the Blackjack Creek Gunnedah as described in the referral documentation received by the department for this proposal on 25 January 2013 (EPBC Act referral 2013/6732).

Location of the Project

Gunnedah NSW

Blackjack Creek – Riparian Corridor and Channel

Person accepting responsibility for the report

Carolyn Hunt

Manager Development & Planning

Gunnedah Shire Council

Reporting Period Dates for the Report

13 November 2017 to 13 November 2018

Date of Preparation of the Report

12 February 2019

Details of Current Activities undertaken during the period covered by the report

- Removal of vegetation (37 koala habitat trees)
- Completion of works – realignment and reconstruction of Blackjack Creek Riparian Corridor and Channel
- Re-vegetation of site

2. Compliance Table

Condition Number/ Reference	Condition – complete wording	Compliant/Non-Compliant/Not applicable	Evidence to support claims regarding compliance or non-compliance
1	The person taking the action must not remove more than 37 koala habitat trees as part of taking this action.	Compliant	<ul style="list-style-type: none"> Trees were identified on site – GPS co-ordinates of trees - plan identifying tree location. Hold Point Notification HP008 – required contractor to ensure Superintendent’s Representative is contacted prior to tree removal. Marked and checked prior to removal and inspected by Council’s Superintendent’s Representative with contractor.
2	To assist in mitigating the impacts of the proposal on the koala and koala habitat, the person taking the action must prepare and submit a VMP for the Minister’s written approval prior to commencement of the action. The VMP must include: (a) Management actions designed to rehabilitate lands disturbed by the action and improve its habitat value to koalas. This must include all lands identified in the map at Schedule 1 of this notice [EPBC Approval Decision Notice] as “Vegetated Riparian Zone”. (b) Management actions designed to improve the koala habitat value, including area and quality, of offset areas identified in the map at Schedule 1 of this notice as “7.29ha Offset in Unvegetated portion of Wandobah Reserve”. Including: (i) Planting of indigenous koala feed trees using locally sourced seed. (ii) Evidence that the proposed	Compliant Compliant Compliant Non-Compliant Compliant	<p>Vegetation Management Plan, Issue 3, Rev B, 22 November 2016 has been prepared and approved by the Minister on 3 February 2017.</p> <p>Management actions to rehabilitate disturbed lands are identified in the Vegetation Management Plan, Issue 3, Rev B, 22 November 2016, (approved by the Minister on 3 February 2017) - Sections 3 & 4.</p> <p>Management actions to improve koala habitat value are identified in the Vegetation Management Plan, Issue 3, Rev B, 22 November 2016, (approved by the Minister on 3 February 2017) - Sections 3 & 4.</p> <ul style="list-style-type: none"> Indigenous Koala tree species were planted – White box , Blakely’s Red Gum, Yellow Box and other local species Locally sourced seeds were not utilised as they were not available (able to be collected and germinated). Further detail is provided in the Section 1.3 Correction of Non-Compliances. <p>Evidence of effectiveness of proposed management actions is provided in the Vegetation Management Plan, Issue 3, Rev B, 22</p>

	<p>management actions to improve koala habitat are effective at improving koala habitat quality and area.</p> <p>(iii) A schedule of koala habitat restoration that compensates for the lag time between planting of trees and those trees having value as koala habitat.</p> <p>(c) An ecological monitoring program to monitor the success of the management actions in the VMP and define the measurable targets of management actions, performance indicators, and an adaptive management framework for the duration of the action's impact on koala habitat.</p> <p>The action must not commence until the VMP is approved by the Minister. The approved VMP must be implemented.</p>	<p>Compliant</p> <p>Compliant</p> <p>Compliant</p>	<p>November 2016, (approved by the Minister on 3 February 2017) - Sections 3 & 4.</p> <p>Schedule of koala habitat restoration is identified in the Vegetation Management Plan, Issue 3, Rev B, 22 November 2016, (approved by the Minister on 3 February 2017) - Sections 3 & 4.</p> <p>An ecological monitoring program is identified in the Vegetation Management Plan, Issue 3, Rev B, 22 November 2016, (approved by the Minister on 3 February 2017) - Section 5.</p> <p>The Vegetation Management Plan, Issue 3, Rev B, 22 November 2016 was approved by the Minister on 3 February 2017. Action commenced on 13 November 2017.</p>
3	<p>To ensure the long-term viability of the offset and mitigation measures the person proposing the action must prepare and submit a Management Plan for the whole of Wandobah Reserve for the Minister's written approval prior to commencement of the action. The Wandobah Reserve Management Plan must include:</p> <p>(a) Management actions designed to improve the value of the reserve for koala habitat, including:</p>	<p>Compliant</p> <p>Compliant</p>	<p>Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014.</p> <p>The management actions to improve the value of the koala habitat in the reserve is identified in the Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014.</p>

	<p>(i) Management of unauthorised access to and use of the reserve; and</p> <p>(ii) Management of koala predators that may access the reserve.</p> <p>(b) An ongoing ecological monitoring program to monitor the success of the management actions in the Wandobah Reserve Management Plan and define measureable targets of management actions, performance indicators, and an adaptive management framework for the duration of the action's impact on koala habitat.</p>	<p>Compliant</p> <p>Compliant</p> <p>Compliant</p>	<p>Management of unauthorised access is identified in the Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014. Installation of signage within Wandobah Reserve has been erected to discourage unauthorised access to and use of the reserve.</p> <p>Management of koala predators is identified in the Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014. Installation of signage within Wandobah Reserve to maintain dogs on a leash when walking in the reserve.</p> <p>The proposed ongoing ecological management program is identified in the Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014.</p>
	<p>The action must not commence until the Wandobah Reserve Management Plan is approved by the Minister. The approved Wandobah Reserve Management Plan must be implemented, reviewed annually and made available on the website of the person proposing the action for the duration of the impact on koala habitat.</p>	<p>Non-compliant</p>	<p>The Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014 was approved by Minister on 01 February 2015.</p> <p>Implemented by Council staff with regular reserve management practises.</p> <p>Publicly available on Council's website - http://www.gunnedah.nsw.gov.au/index.php/development/land-use-planning/floodplain-management</p> <p>The Wandobah Reserve Management Plan has not been reviewed annually, which is further discussed in 1.3 Correction of Non-Compliances.</p>
<p>4</p>	<p>Prior to the commencement of the action the person taking the action must provide evidence to the Department of:</p> <p>(a) The land tenure of Wandobah Reserve including the legal mechanisms that ensure Council are able to manage the site as an offset area for in perpetuity of the</p>	<p>Compliant</p>	<p>An Access and Works Agreement has been signed by the Department of Industry and Gunnedah Shire Council (dated 01/05/2017) that ensures that Council are legally able to manage the site as an offset area for in perpetuity of the proposal.</p>

	proposal on koala habitat; and (b) Offset attributes, shapefiles and textual descriptions and maps to clearly define the location and boundaries of Wandobah Reserve.	Compliant	Offset attributes are mapped in the Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014.
5	Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.	Non-compliant	The Department was not contacted in writing within 30 days after the commencement of the action. Contacted Department of the Environment and Energy by telephone on 17/04/2018 to seek guidance as to non-compliance. This non-compliance is discussed further in 1.3 Correction of Non-Compliance.
6	The person taking the action must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including measures taken to implement the management plans described conditions 2 and 3, and make them available to 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.	Compliant	All Management plans have been published on Council's website - http://www.gunnedah.nsw.gov.au/index.php/development/land-use-planning/floodplain-management . Draft report prepared and sent to Department of Environment for approval on 12 February 2019. Once approved, the annual Compliance Report will be uploaded to Council's website.
7	Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of the management plans described in conditions 2 and 3. Documentary evidence providing proof of the date of publication	Compliant	Draft report prepared and sent to Department of Environment for approval on 12 February 2019. Once approved, the annual Compliance Report will be uploaded to Council's website.

	<p>must be provided to the Department at the same time at the compliance report is published. Non-compliance with any of the conditions of this approval must be reported to the Department within 2 business days of becoming aware of the non-compliance.</p>		
8	<p>Upon the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister.</p>	Not applicable	No direction given to date.
9	<p>If the person taking the action wishes to carry out any activity otherwise than in accordance with the management plans described in conditions 2 and 3, the person taking the action must submit to the Department for the Minister's written approval revised versions of those plans. The varied activity shall not commence until the Minister has approved the varied management plans in writing. The Minister will not approve a varied management plan unless the revised plan would result in an equivalent or improved environmental outcome overtime. If the Minister approves the revised management plan, that management plan must be implemented in place of</p>	Not applicable	No variation proposed.

	the management plan originally approved.		
10	If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the Minister may request that the person taking the action make specified revisions to management plans described in conditions 2 and 3 and submit the revised plans for the Minister's written approval. The person taking the action must comply with any such request. The revised approved plans must be implemented. Unless the Minister has approved the revised plans then the person taking the action must continue to implement the plans as originally approved.	Not applicable	No request has been made.
11	If, at any time after 5 years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the Minister.	Not applicable	Approval was granted on 22 November 2013 and works commenced on 13 November 2017.
12	Unless otherwise agreed to in writing by the Minister, the person taking the action must publish the management plans described in conditions 2 and 3 on their website. The plans must be published on the website within 1 month of being approved.	Compliant	Management plans have been published on Council's website - http://www.gunnedah.nsw.gov.au/index.php/development/land-use-planning/floodplain-management .

3. Correction of Non-Compliances

Condition Number/ Reference	Condition – complete wording	Compliant/Non-Compliant/Not applicable	Response and Correction of non-compliance
2(b)(i)	Planting of indigenous koala feed trees using locally sourced seed.	Non-compliant	<p>Indigenous Koala tree species were planted, however the seeds were not sourced locally because of the lack of availability of a service to undertake the seed collection and propagation.</p> <p>Non-compliance was identified when preparing the Annual Compliance Report in February 2019 and identified in the report as a non-compliance.</p> <p>Non-compliance is unable to be corrected as trees have been planted.</p>
3	The action must not commence until the Wandobah Reserve Management Plan is approved by the Minister. The approved Wandobah Reserve Management Plan must be implemented, reviewed annually and made available on the website of the person proposing the action for the duration of the impact on koala habitat.	Non-compliant	<p>The Wandobah Reserve Management Plan is available on Council's website. However, it has not been reviewed annually.</p> <p>The Plan has been implemented pre, during and post construction, with the exception of the completion of the annual monitoring report.</p> <p>Non-compliance was identified when preparing the Annual Compliance Report in February 2019 and identified in the report as a non-compliance.</p> <p>Non-compliance correction measure – completion of monitoring report will be completed and review of Wandobah Reserve Management Plan to be undertaken.</p>
5	Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.	Non-compliant	<p>Non-compliance detected by Council Staff (Manager Development & Planning) on 17/04/2018.</p> <p>Contacted Dept of the Environment and Energy by telephone on 17/04/2018 to seek guidance as to non-compliance. Message left but no return call provided to outline the required correction process.</p> <p>Actual Date of Commencement – 13 November 2017.</p> <p>Non-compliance correction measure – identified in annual compliance report.</p>

4. New Environmental Risks

Weather conditions restricting vegetation establishment and growth –

- Prolonged Dry Weather/Drought conditions – lack of rainfall and high temperatures have significantly impacted on the establishment of planted trees, even though the trees have been regularly watered
- Native animals eating/attacking vegetated areas due to drought conditions
- Replanting is proposed once the weather conditions become more favourable for tree establishment and less potential of attack from animals.

5. Other Information

Nil.

6. Appendices (available on Council's website)

6.1 Vegetation Management Plan, Issue 3, Rev B, 22 November 2016. *

6.2 Wandobah Reserve Management Plan, Issue 1, Rev 1, 15 December 2014. *

6.3 Access and Works Agreement – Department of Industry and Gunnedah Shire Council – dated 01/05/2017.

6.4 EPBC Approval 2013/6732.

* available on Council's website - <http://www.gunnedah.nsw.gov.au/index.php/development/landuse-planning/floodplain-management>.