

**EPBC 2017/7909 Albion Park Rail
Bypass**
Construction Compliance Report

Report 3
7 January 2021 – 6 January 2022

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Appendices

Appendix A Project Approval Compliance Table

Details of Revision and Amendment:

Amendment

Each new revision to the report will be distributed to all registered copyholders with an instruction that the superseded copy be destroyed or marked as superseded.

The revision number is included at the end of the document number, which is noted on each page. When amendments occur, the document or relevant section will be reissued with the revision number updated accordingly.

The Project Manager or Environmental Manager will approve amendments by initial in the Approval column below.

The following provides a record of amendments made to this document:

Revision	Date	Description	Page	Prepared by	Approved
0		Draft submitted to TfNSW	All	Jacob Cooper	Jacob Cooper
1	03/05/22	Final submitted to TfNSW	All	Jacob Cooper	Jacob Cooper

Abbreviations

EMP	Environmental Management Plan
CPESC	Certified professional in erosion and sediment control
CTP	Compliance Tracking Program
EMS	Environmental Management System
EPBC Act	Environmental Protection and Biodiversity Conservation Act 1999
EPA	Environment Protection Authority
EP&A Act	Environmental Planning and Assessment Act 1979
EPL	Environment Protection Licence
ER	Environmental Representative
DPIE	Department of Planning, Industry and Environment
MNES	Matters of National Environmental Significance
NBN	National Broadband Network
NSW	New South Wales
POEO Act	Protection of the Environment Operations Act 1997
SEPP	State Environmental Planning Policy
TMP	Traffic Management Plan
TfNSW	Transport for NSW (formerly Roads and Maritime Services)
RBL	Rating Background Level
ROL	Road Occupancy Licence
NCR	Non-conformance report

1 Introduction

Transport for NSW (formerly Roads and Maritime Services) has extended the M1 Princes Motorway between Yallah and Oak Flats to bypass Albion Park Rail. The motorway completes the 'missing link' for a high standard road between Sydney and Bomaderry.

On 29 March 2017, TfNSW referred the project to the federal Department of the Environment and Energy (the Department), and on 29 May 2017 the delegate determined that the proposed action (i.e. the project; EPBC Ref: 2017/7909) is a 'controlled action' under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

Stage 2 of the Project is being delivered through a 'design and construct' contract. Fulton Hogan was appointed by TfNSW on 11 June 2018 to deliver the project. The main construction compound and formal site address for the project is located at 1914 Illawarra Highway, Albion Park Rail, NSW, 2527.

The Project consists of a new motorway bypassing the Albion Park Rail Township from the Oak Flats Interchange to Yallah, connecting with the existing Princes Highway at the Duck Creek Bridge. This project, as part of the Princes Highway upgrade, would improve traffic flow and maximise the benefits of upgrading the Princes Motorway and Princes Highway corridor between Sydney and south of Nowra.

The key features of Stage 2 of the Project include:

- two lanes in each direction divided by a median (with capacity to upgrade to three lanes in each direction in future)
- three interchanges provided at Yallah, Albion Park and Oak Flats connecting the local road network with the motorway
- bridges to carry the motorway over Duck Creek, Macquarie Rivulet and Frazers Creek
- a bridge to carry the motorway over the South Coast Rail Line
- bridges to carry the motorway over the Princes Highway and Tongarra Road
- bridges to carry local roads and ramps over the motorway
- bridges to provide improved floodwater conveyance and flood immunity
- local road changes or upgrades, including Yallah Road between Larkins Lane and Princes Highway at Yallah, the motorway replacing the existing East West Link and a new local service road which runs parallel to the motorway on the southern side, connecting the Oaks Flats interchange with Croome
- improved pedestrian and cycle connections

The replacement of directly impacted sporting facilities at the Croome Regional Sporting Complex, including sporting fields and associated amenities have been completed separately under Stage 1 of the Project and are not subject to the EPBC Act approval or detailed within this report.

Further details on the project background can be sourced from the project website at <https://www.rms.nsw.gov.au/projects/albion-park-rail-bypass/index.html>

Stage 2 of the Project is now fully operational, with operational completion reached in late October 2021.

1.1 Purpose of this report

The purpose of this report is to provide a summary of the projects compliance against each of the conditions of approval in accordance with the Minister's Condition of Approval (MCoA) 10.

MCoA 10 states:

Within three months of every 12 month anniversary of the commencement of the action, the approval holder must publish a report on its website addressing compliance with each of the conditions of this approval including implementation of the management plans. Documentary evidence providing proof of the date of publication must be provided to the Department at the same time as the compliance report is published. The report must remain published on the website for the duration of the approval. Reports must continue to be published until such time as advised by the Minister in writing.

A table addressing the projects compliance with each of the MCoA is included in Appendix A to this report.

1.2 Project Footprint

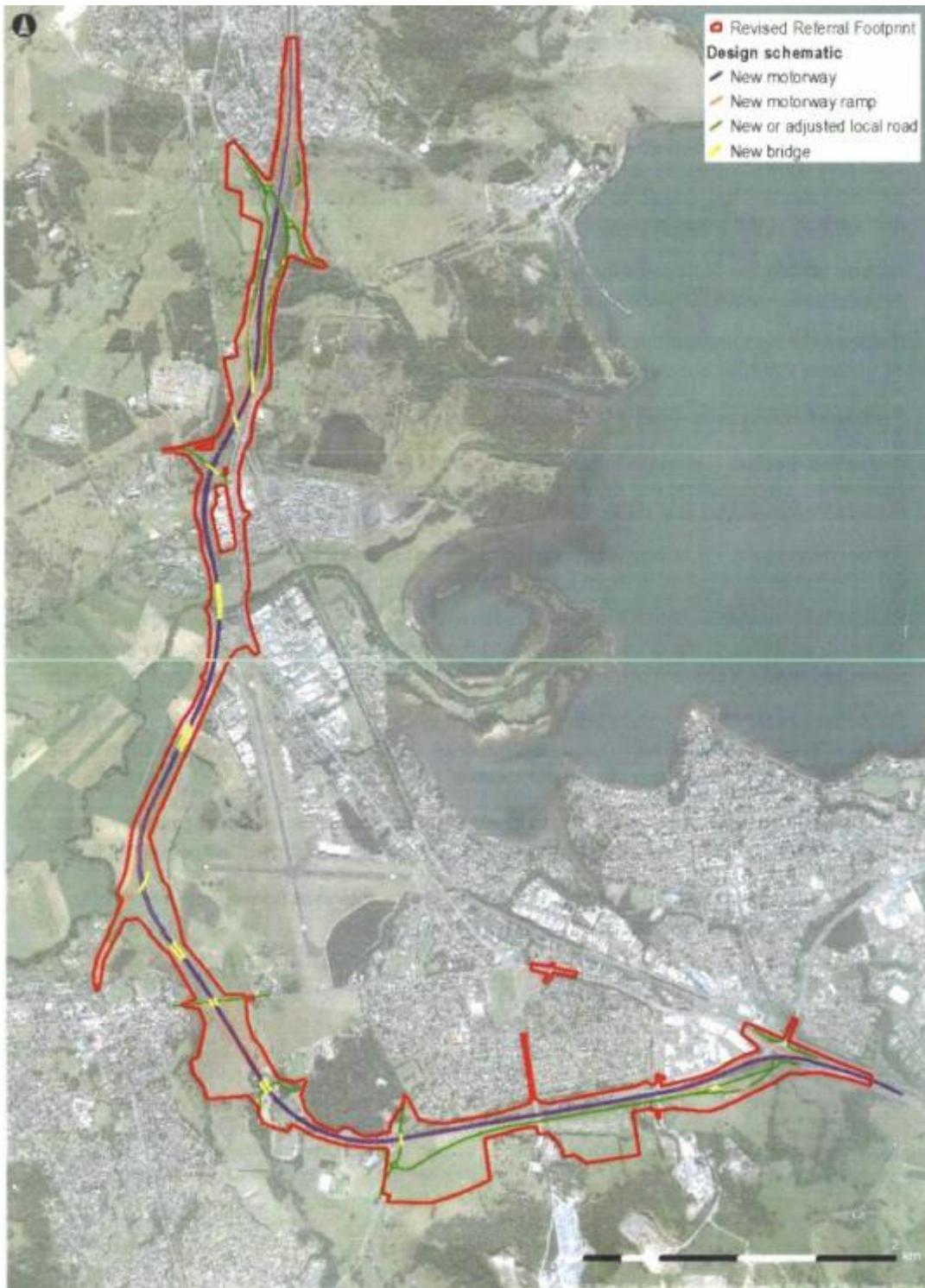


Figure 1-1: Albion Park Rail Bypass action area



Figure 1-2: Albion Park Rail bypass in Operation

2 Construction activities during reporting period

Project works proceeded in accordance with the construction program, with the project being fully operational and construction completed during the reporting period. During the reporting period about 31 per cent of the days were wet days. The project witnessed the effects of La Nina with higher than the long term average received on the project.

During the reporting period there was continuation and completion of construction activities including bulk earthworks, drainage, bridge works and finishing works across the project. The following works have been performed during the reporting period.

2.1 Property adjustment

Property adjustment works have been completed during the reporting period, these included new property accesses, services and adjustments.



Figure 2-1: Property access and fencing completion

2.2 Fencing

During the reporting period, permanent fencing including boundary, property adjustments and environmentally sensitive areas were completed. All temporary fencing has been removed from the project. Completion of the fencing scope saw over 20km of new fencing installed on the project.



Figure 2-2: Permanent boundary fencing along the northbound carriageway and Frazers Creek

2.3 Earthworks

Bulk earthwork activities were reduced to the cut 5 area during the reporting period where placement of final fill layers behind the commercial estate and excavation underneath Bridge 13 were completed. At the end of the bulk earthworks program (July 2021) approximately 2,000,000m³ has been placed and approximately 800,000m³ excavated across the project.



Figure 2-3: Subgrade preparation on Fill 14

2.4 Roadworks

During the reporting period road pavement construction was completed in all remaining work areas on the main alignment, on/off ramps and local roads including Croome Road Sporting Complex access road and the East West Link. The final wearing course layer on the main alignment was laid from fill 11 to the northern tie in.



Figure 2-4: Asphalt paving on Fill 7

At the start of the reporting period the final HBB placement on the main alignment was completed with approximately 380,000m³ in total placed at the end of the reporting period, 90,000 tonnes of Asphalt laid and 680,000m² of Spray Seal applied.

Finishing works including concrete kerb and footpath works has commenced with 40,000 lineal metres constructed to date.



Figure 2-5: Tall wall F-type barrier construction underneath Bridge 3

2.5 Drainage

Drainage works have continued during the reporting period with the focus on completing pavement drainage to ensure management of runoff as designed from the main and local road alignment into longitudinal water quality basins and swales. At the end of reporting period approximately 15,000 lineal metres of pipeline had been laid across the project, completing the drainage scope.



Figure 2-6: Installation of median drainage in Cut 5

2.6 Structures

The project includes the construction of 13 new bridges which cross creeks, floodplains, local roads and side roads.

All structure works are now complete on the Project, these works included piling, sub-structure, bridge furniture and rock scour. The final pour of B80 specified concrete has been completed during the reporting period which totals 14,500m³ for the project.



Figure 2-7: Bridge 13 with deck and furniture completion



Figure 2-8: Bridge 13 open to traffic



Figure 2-9: Bridges 3, 4 and 5 all in their finished state with live traffic over all decks

Installation of structural signage has continued during the reporting period across the alignment and local roads.



Figure 2-10: Installation of permanent sign at Croome Road Sporting Complex

2.7 Landscaping

The project landscaping scope was completed during the reporting period. By prioritising the landscape completion on the road alignment batters earlier in the reporting period, it allowed focus to shift to landscaping ancillary sites.



Figure 2-11: Landscape completion on alignment batters and rehabilitation of AS04 ancillary site

Landscape planting was also completed during the reporting period. This is assisting in reducing the construction footprint, air quality impacts from dust and reducing erosion risks to water quality. At the end of the reporting period approximately 340,000m² of topsoil was stabilised through hydromulch.



Figure 2-12: Permanent landscape planting newly installed in Fill 8 Median



Figure 2-13: Frazers Creek diversion advanced landscape

2.8 Sedimentation and erosion control

The project uses a multitude of erosion and sediment controls. These include:

- Off-site water diversions
- Sediment fence
- Mulch bunds checks and filtration
- Sediment traps/check dams
- Soil binders to stabilise exposed surfaces
- Cut stump clearing near waterways
- The use of recycled and powdered gypsum for pre-treatment of site run-off into sediment basins.

The number of sediment basins on the project reflects construction progress, at the start of the reporting period there were a total of 26 active sediment basins. The risk footprint continued to decrease as the works progressed and areas are stabilised. At the end of the reporting period all sediment basins were decommissioned and the construction footprint was stabilised entirely.

2.9 Demobilisation of the Main Compound and other Ancillary Sites

During the reporting period all ancillary sites (besides the main compound) were decommissioned, rehabilitated and handed back to TfNSW.



Figure 2-14: AS09 and AS11 rehabilitation in progress

Main compound (AS06) decommissioning commenced during the reporting period. At the end of the reporting period all temporary office buildings have been removed and final clean-up is underway prior to handover back to TfNSW.



Figure 2-15: Main compound office building removal



Figure 2-16: Main compound training hub building removal

3 Environmental Management Plan

The EMP is the key management tool in relation to environmental performance during the design and construction phases. The EMP outlines the projects approach to minimising and managing environmental risks associated with the construction phase of the project. The EMP is a dynamic document that is reviewed and amended to incorporate additional requirements as required, including changes to the project team, organisational structure and responsibilities or as improvements to procedures and methodologies develop.

The EMP has been prepared in accordance with a number of guidelines including:

- Commonwealth Environmental Management Plan Guidelines (DoEE, 2014a);
- ISO 14001:2004 – Environmental Managements Systems;
- ISO 19011:2003 – Guidelines for Quality and/or Environmental Management Systems Auditing; and
- EIA.

The EMP was approved by the Department of Environment and Energy on 29 May 2018.

Detailed environmental management measures have been prepared on key environmental elements identified for the Project through the environmental assessment and approval process. They document the aspects, impacts, safeguards and monitoring requirements for each key environmental element, nominate who is responsible for implementing controls and note the frequency/timing of implementation.

The EMP dates of revision for the plan are detailed in Table 3-1. A periodic review of the EMP was undertaken during the reporting period in accordance with the EMP with no updates or revision required.

Table 3-1: EMP consistency with MCoA

Plan Name	EPBC Approval Date	Consistent with MCOA	Latest revision date
Environmental Management Plan	29 May 2018	Yes	Rev 5 October 2017

3.1 Compliance auditing

No direction from the Department has been received to undertake independent auditing as per MCoA 12 however regular auditing of the project management system was completed during the reporting period. Auditing includes:

- Internal compliance audits undertaken by Fulton Hogan;
- External compliance audits undertaken by an independent auditor and TfNSW appointed auditors.

The intent of these audits is to identify opportunities for improvement and any system non-conformances during the course of construction so appropriate corrective actions can be implemented in a timely manner.

An Independent External audit was conducted by SNC Lavalin during the reporting period. SNC Lavalin were engaged by Fulton Hogan and TfNSW as the independent auditor to review compliance against both construction and operation triggered conditions. The audit resulted in no non-compliances (NC) for both construction and operational conditions.

Table 3-2 summarise external audits conducted during the reporting period.

Table 3-2: Summary of Independent Verifier Audits

No.	Date	Auditor	Type	Outcomes	Status
1	January 2022	SNC Lavalin	Independent Annually	N/A	Closed

*NC – Non-compliance, TNC – Technical Non-compliance, OoC – Observation of concern, OI – Opportunity for improvement, CAR – Corrective action request.

3.2 Compliance Management

During the reporting period, Stage 2 works for the Albion Park Rail bypass have had no non-compliances with the MCoA. Appendix A of this report contains detailed information on the status and compliance of each specific condition for the Albion Park Rail bypass.

3.3 Incidents

During the reporting period there were no reportable incidents notified to the Department.

3.4 Environmental Performance

The project implemented and maintained a high standard of environmental controls during the reporting period. Controls were planned and executed to industry best practice standards.

The project's environmental performance is reviewed and measured by TfNSW, Project ER, NSW EPA, NSW DPIE and NSW Department of Primary Industries - Fisheries.

The Project ER and TfNSW environment staff reviewed the project 16 times in the reporting period. Those inspections assessed the project with all receiving a 'green' rating using the TfNSW traffic light environmental review system. According to the TfNSW assessment standards the green rating indicates the 'site demonstrates good environmental management with no action required to avoid environmental harm'. An Amber rating indicates some issues representing a "medium" or "medium to high" risk ranking.

EPA have visited the site four times to review the progress of works, implementation of erosion and sediment controls and completion works. Minor issues were raised during the inspections and all stakeholders were satisfied with the way the site was progressing and reducing in construction footprint.

Two Environmental Review Group (ERG) meetings were held by Fulton Hogan within the reporting period. Due to COVID-19 restrictions, both presentations were delivered virtually and distributed electronically to the nominated ERG members.

No significant environmental issues or concerns were raised by any agencies during the reporting period. All works have been conducted in accordance EMP commitments.

3.5 Effectiveness of environmental controls

Effectiveness of environmental controls is evaluated by industry trained environmental engineers and scientists. Controls are planned prior to ground disturbance and installed before works start.

Environmental controls have been designed and installed in accordance with industry best environmental practice. External specialist consultants are engaged periodically to provide specialist reviews and provide advice if required. In addition to this, all controls are inspected weekly as a minimum, during and after rainfall events.

Site controls are reviewed and reinforced as required in advance of predicted rainfall events. Prior to long weekends and shutdown periods extra controls are installed to make sure they are suitable for the time that workers are offsite.

Maintenance of controls occurs regularly during construction. Maintenance ensures controls are functioning properly and are fit for purpose.

In the reporting period, all erosion and sediment controls performed well during adverse weather. This minimised potential impacts on receiving catchments and adjacent sensitive receivers.

3.6 Environmental initiatives

The Albion Park Rail bypass construction team has adopted a 'Beyond Compliance' approach to the project. With the integration of Environment, Sustainability and Community Relations teams to identify both risk and opportunities to support positive environmental and community outcomes. This philosophy promotes a positive culture of excellence whereby the project aims to exceed the contract and legal requirements to create a legacy that all associated with the project will be proud of.

The 'Beyond Compliance' strategy has led to the development of goals for each construction zone to achieve during the project and helps build trust and establish relationships with the communities we work in.

During the reporting period, the 'Beyond Compliance' strategy achieved one significant result:

- Reuse of site won excess cured concrete for the shared path granular base has diverted approximately 2000 tonne of this resource from landfill



Figure 3-1: Waste concrete stockpiled ready for placement as foundation under the shared path



Figure 3-2: Processed waste concrete placed and compacted onsite

3.7 Internal and external environmental inspections

The project completes many inspections to assess environmental performance and identify improvements.

Those inspections have resulted in environmental management improvements across the project. The improvements included new erosion and sediment control installations, improved site mitigations and general site improvements.

Table 3-3 summarises the inspections completed on the project. The inspections completed are consistent with the requirements of the project documents.

Table 3-3: Inspections

Inspection type	Attendees	Number of inspections
Weekly	Fulton Hogan staff; engineers, environmental, foreman, leading hands, labourers, superintendents, management	57
Wet weather	Fulton Hogan staff; engineers, environmental, foreman, leading hands, labourers, superintendents, management	39
Environmental Representative	Toby Hobbs Fulton Hogan environmental manager	16
TfNSW	Peter Hawkins, Peter Chudleigh, Graham Roche TfNSW project staff Toby Hobbs Fulton Hogan environmental staff	16

Inspection type	Attendees	Number of inspections
NSW EPA	Chris Kelly Fulton Hogan environmental staff	4

Two environmental review group (ERG) meeting was held during the reporting period. Table 3-4 lists attendees.

Table 3-4: Environmental Review Group Meeting attendees

Meeting Type	Attendees	Date
Environmental Review Group # 8 presentation	Graham Roche (TfNSW) Warren Blacka (TfNSW) Peter Hawkins (TfNSW) Peter Chudleigh (TfNSW) Jennifer Rowe (DPIE) Chris Kelly (EPA) Kym McNamara (OEH) Shannon Chisholm (Fulton Hogan) Karen Williams (Fulton Hogan) Erin Addison-Smith (Fulton Hogan) Tom Dewhurst (Fulton Hogan) Jacob Cooper (Fulton Hogan) Toby Hobbs (Vantage Environmental Management)	23 March 2021
Environmental Review Group #9 presentation	Graham Roche (TfNSW) Warren Blacka (TfNSW) Peter Chudleigh (TfNSW) Jennifer Rowe (DPIE) Kym McNamara (OEH) Matthew Saviana (Fulton Hogan) Shannon Chisholm (Fulton Hogan) Sam Leigh (Fulton Hogan) Jacob Cooper (Fulton Hogan) Karen Williams (Fulton Hogan) Toby Hobbs (Vantage Environmental Management)	07 September 2021

4 Environmental monitoring

The Albion Park Rail bypass project has undertaken a range of environmental monitoring to review the environmental effects of the project. The results of these monitoring activities are used to establish trends and drive improvements where necessary.

Implementation of the standard mitigation measures listed the EMP ensure environmental impacts are minimised during construction. Based on the available data, no modification is required to the construction methods or environmental control measures being implemented onsite.

4.1 Flora and fauna

The project witnessed an increase in fauna movements over the annual period due to an increase in rainfall, rehabilitation of habitat from construction works ancillary to the main alignment and re-establishment of connectivity through hard and soft landscaping. There were no mortalities caused by construction during the reporting period.

Advanced landscaped areas such as Frazers Creek diversion and fill 4 wetland have continued to provide habitat for native flora and fauna within the project footprint. In both areas additional planting and coarse woody debris were installed to facilitate connectivity along the road corridor and provide maturity in the landscape.



Figure 4-1: Aerial photo Frazers Creek diversion with advanced landscape creating habitat for native fauna



Figure 4-2: Aerial photo Fill 4 wetland with matured planting and native wetland seed mix with new coarse woody debris scattered along the waterways edge

The advanced landscape within the construction footprint has complemented well the surrounding vegetation, especially the Commonwealth listed Critically Endangered Ecological Community in Yallah and Croome Road Voluntary Conservation area. The project was able to reduce EEC and CEEC clearing through redesigns and sustainable practises of 27% (3 hectares) and impacts to the Croome Road Voluntary Conservation Area by 45%.



Figure 4-3: Aerial photo new bypass around Croome Road Voluntary Conservation Area



Figure 4-4: Aerial photo new bypass alongside Yallah CEEC Area

5 Summary

During the reporting period, the project recorded no non-compliances with the conditions of approval. The project is compliant with or is yet to trigger all other remaining conditions of approval as described in Appendix A, noting the in-progress modification to MCoA 5 in consultation with the Department.

A modification to MCoA 5 is currently in progress in consultation with the Department. The modification is required due to a contradiction between MCoA 4, 5, 6 and 7 of EPBC 2017/7909 and CoA E15 of SSI 6878. The modification request was lodged by TfNSW in September 2021 and is currently with the Department for processing.

A record of the consultation between TfNSW and the Department regarding the modification request is attached in Appendix B.

Significant environmental achievements have been made by the project during the reporting period including the completion of all works adjacent to CEEC areas.

The project has successfully provided an advanced landscape by progressively stabilising the construction footprint throughout the earthworks stage. This has complemented the surrounding retained CEEC areas in providing habitat for native flora and fauna species within the road corridor.

Retained CEEC areas through sensitive engineering efforts equates to a reduction in approved clearing of 27%. This vegetation saving has reduced Biodiversity offsets for the Project.

The project has continued to progress well in the 12 months and implemented Beyond Compliance environmental initiatives across the alignment including significantly increasing the reuse of site-won concrete material to lay foundations to the shared path.

Stage 2 of the Project is now fully operational, with operational completion reached in late October 2021.

Appendix A Project Compliance Reporting Table

Appendix A - EPBC Conditions of Approval Compliance Table

CoA	Condition of Approval (CoA)	Applicable to Stage 2?	Project Phase applicable to Condition	Stage 2 Compliance	Evidence of Stage 2 Pre-Construction Compliance/ Notes
1	The approval holder must: (a) implement condition E11 of Schedule 2 of the NSW Infrastructure Approval as it relates to impacts to protected matters; (b) notify the Department in writing for which Condition 1 a applies of any application to modify the NSW Infrastructure Approval made under section 5.25 of the EP&A Act, no later than one week after making the application; (c) notify the Department in writing for which Condition 1 a applies of the proposed imposition of or variation to conditions of the NSW Infrastructure Approval by the NSW Minister for Planning under Division 9.4 of the EP&A Act, no later than one week after the approval holder becomes aware of the proposed change; and (d) notify the Department in writing for which Condition 1a applies of any actual modification or variation to the conditions of the NSW Infrastructure Approval, no later than one week after the modification or variation is officially notified to the approval holder.	Yes	Construction	Compliant	Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with.
2	The approval holder must not clear more than 4.85 hectares (ha) of ILFW (refer Annexure B).	Yes	Construction	Compliant	The project has cleared 3.52 ha of ILFW and is therefore compliant with this condition. Clearing works are complete for the project at the time of this report.
3	To minimise the impacts of the action on protected matters, the approval holder must implement the final Environmental Management Plan (EMP) dated 30 October 2017, or as revised under condition 14, prior to the commencement of the action and must continue implementation until the end of the approval.	Yes	Construction	Compliant	The EMP had been implemented prior to commencement of the action and continues to be.
4	To compensate for the loss of ILFW, GHFF and Large-Eared Pied Bat habitat at the proposed action area, the approval holder must within one year from the date of this approval, provide to the Minister for approval, a finalised Biodiversity Offset Strategy (BOS). The BOS must outline how the protected matters impacted by the proposed action will be offset in perpetuity. The BOS must be developed from the Project Biodiversity Offset Strategy detailed in section 6 of the Preliminary documentation and the Albion Park Rail, Biodiversity Addendum (NGH Environmental November 2017) and supplementary materials provided to the Department during the assessment phase. The BOS must be consistent with the Biodiversity Offset Strategy requirements of the NSW Biodiversity Offsets Policy for Major Projects (OE, 2014)(FBA). The BOS must include, but not necessarily be limited to: (a) identification of the number of biodiversity credits required to offset the impacts of the proposed action on protected matters; (b) details on the biodiversity credits identified to offset the impacts of the proposed action and evidence that they can be attained and secured in accordance with the FBA; and for offsets not secured through the retirement of biodiversity credits, details on the supplementary measures that would be implemented to offset the residual impacts, in accordance with Appendix B of the FBA;	Yes	Construction	Compliant	A Biodiversity Offset Progress Report was submitted to the Department on 10 May 2019. A modification request has been lodged by TfNSW and is currently in progress with the Department to process. Refer correspondence in Appendix B.
5	Within three years of the commencement of the action, or as otherwise agreed by the Minister, the approval holder must acquire or retire Biodiversity credits in accordance with the BOS to the satisfaction of the Minister. This must be carried out in accordance with the FBA. As evidence that credits have been retired, the approval holder must submit a BioBanking Credit Retirement Report to the Minister.	Yes	Construction	Not Triggered	TfNSW recognises this requirement and is working on implementing the EPBC Act Biodiversity Offset Package. We note that the FBA and biodiversity credit requirements under this scheme in NSW have been replaced by the Biodiversity Assessment Method. A modification request has been lodged by TfNSW and is currently in progress with the Department to process. Refer correspondence in Appendix B. TfNSW anticipates advising the Department of the proposed new biodiversity credit methodology for the project within the next reporting period.

6	<p>To compensate for the loss of ILFW, GHFF and Large-Eared Pied Bat habitat at the proposed action area, the approval holder must ensure that the BioBanking Agreement(s) for the BioBanking site(s) identified in the BOS include:</p> <p>(a) specific reference to ILFW, GHFF and the Large-Eared Pied Bat at the proposed action area impacted by the proposed action;</p> <p>(b) a textual description of the offset site(s), including offset attributes, shapefiles, and a map clearly defining the location and boundaries of the proposed offset sites;</p> <p>(c) site survey and baseline data and documentation of key biodiversity threats and opportunities at each site;</p> <p>(d) a detailed description of management actions and responsibilities designed to protect and improve the ecological quality of ILFW and habitat of GHFF and the Large-Eared Pied Bat on the offset sites;</p> <p>(e) key milestones, performance indicators and timeframes for each management action;</p> <p>(f) a monitoring program to determine the effectiveness of the management actions; and</p> <p>(g) corrective actions and contingency measures to be implemented where monitoring of the offset site shows that management actions are not effectively achieving key milestones or prescribed performance indicators are not being met or are unlikely to be met.</p>	Yes	Construction	Not Triggered	Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with. A modification request has been lodged by TfNSW and is currently in progress with the Department to process. Refer correspondence in Appendix B.
7	<p>As evidence of compliance with Condition 6, the approval holder must provide the Department with a copy of the BioBanking Agreement(s), within three years of the commencement of the action.</p>	Yes	Construction	Not Triggered	Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with. A modification request has been lodged by TfNSW and is currently in progress with the Department to process.

8	Within 14 days after the commencement of the action, the approval holder must advise the Department in writing of the actual date of commencement.	Yes	Construction	Compliant	The Department was notified by Transport for New South Wales (TfNSW) of the actual date commencement on the 21 January 2019 informing the department that the action commenced on Monday 7 January 2019.
9	The person taking the action must maintain accurate records of all activities associated with or relevant to the conditions of approval, including measures taken to implement any management plans required under this approval, and make the records available to the Department upon the Department's written request. Note: 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.	Yes	Construction	Compliant	Transport for New South Wales (TfNSW) are responsible for compliance with all conditions of approval. TfNSW has contracted Fulton Hogan Construction (FHC) Pty Ltd to deliver Stage 2 of the Albion Park Rail bypass via a Design and Construct Project Deed. The TfNSW Deed and associated contractual specifications requires FHC to comply with, carry out and fulfil the conditions and requirements of all Approvals (whether obtained by the Contractor or TfNSW) including those conditions and requirements which TfNSW is expressly or impliedly required under the terms of the Approvals to comply with, carry out and fulfil.
10	Within three months of every 12 month anniversary of the commencement of the action, the approval holder must publish a report on its website addressing compliance with each of the conditions of this approval including implementation of the management plans. Documentary evidence providing proof of the date of publication must be provided to the Department at the same time as the compliance report is published. The report must remain published on the website for the duration of the approval. Reports must continue to be published until such time as advised by the Minister in writing.	Yes	Construction and Operation	Compliant	The Construction Compliance Report # 3 (7 January 2021 - 6 January 2022) addresses the requirements of this condition inclusive of: - The requirements of the relevant environmental commitment, mitigation measure or condition of approval; - Specific details relating to risks, status of control measures, updates to plans and maps, as well as, the performance indicators nominated in this report; - The consistency of the proposed action with these requirements; - The identification of any change to the environmental impacts of the action; and - The identification of any proposed responses or corrective actions to be undertaken.
11	Potential or actual contraventions of the conditions of the approval must be reported to the Department in writing within two business days of the approval holder becoming aware of the actual or potential contravention. All contraventions must also be included in the annual compliance reports.	Yes	Construction	Compliant	Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with.
12	Upon the direction of the Minister, the approval holder 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.	Yes	Construction	Not Triggered	Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with. No direction under this condition was received during the reporting period.
13	If, at any time after five years from the date of this approval, the approval holder has not commenced the action, then the approval holder must not commence the action without the written agreement of the Minister.	Yes	Construction	Compliant	Environmental Protection and Biodiversity Conservation Act referral 2017/7909 and variation was granted on 29 May 2018, marking the commencement of the five year approval duration under Condition 13. Commencement of the action occurred on 7 January 2019 which is within the 5 year period stated in this condition
14	The approval holder may choose to revise the EMP, approved by the Minister under condition 3 without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised plan would not be likely to have a new or increased impact. If the person taking the action makes this choice they must: (a) notify the Department in writing that the approved plan has been revised and provide the Department with an electronic copy of the revised plan; (b) implement the revised plan from the date that the plan is submitted to the Department; and (c) for the life of this approval, maintain a record of the reasons the approval holder considers that taking the action in accordance with the revised plan would not be likely to have a new or increased impact.	Yes	Construction	Not Triggered	No revisions to the EMP have been undertaken.
14A	The approval holder may revoke their choice under condition 14 at any time by notice to the Department. If the approval holder revokes the choice to implement a revised plan without approval under section 143A of the Act, the plan approved by the Minister must be implemented.	Yes	Construction	Not Triggered	Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with
14B	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 revised plan would be likely to have a new or increased impact, then: (a) condition 14 does not apply, or ceases to apply, in relation to the revised plan; and (b) the approval holder must implement the plan approved by the Minister. (c) to avoid any doubt, this condition does not affect any operation of conditions 14 and 14A in the period before the day the notice is given.	Yes	Construction	Not Triggered	Fulton Hogan and Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with.
14C	Conditions 14, 14A and 14B are not intended to limit the operation of section 143A of the EPBC Act which allows the person taking the action to submit a revised plan to the Minister for approval.	Yes	Construction	Not Triggered	Fulton Hogan and Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with.
15	Unless otherwise agreed to in writing by the Minister, the approval holder must publish all management and research plans referred to in these conditions of approval on its website. Each management plan must be published on the website within one month of being approved and remain published on the website for the duration of the approval.	Yes	Construction	Compliant	Transport for New South Wales (TfNSW) recognises this requirement and will ensure it is complied with. TfNSW has established a website for the project: (https://www.rms.nsw.gov.au/projects/albion-park-rail-bypass/index.html) including:

**Appendix B Record of consultation between TfNSW and the Department
regarding EPBC 2017/7909 modification request**

COOPER, Jacob

From: Prystynne Alexander [REDACTED]
Sent: Tuesday, 28 September 2021 10:39 AM
To: Peter Chudleigh
Subject: RE: EPBC 2017/7909 Albion Park Rail Bypass - request to modify conditions of approval [SEC=OFFICIAL]
Attachments: CRIS Fee Schedule page 80.pdf

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Good morning Peter,

My apologies for the delay in getting back to you, I was away last week.

Thank you for sending the documents through with the variation request, as discussed. I can confirm I have received the below request to vary your approval conditions and have made some enquiries regarding the best way to modify your approval conditions to complete the variation. I am still awaiting some advice as I understand there have been some changes to the NSW Biobanking scheme, but I hope to have an update for you within the next week in relation to the request. I am not anticipating any issues as a result of the changes to the scheme.

In terms of timing, there are no statutory timeframes for variation requests however we do work towards meeting project timeframes as best we can. Please let me know if you feel there is a project critical timeframe so we can work towards accommodating it where possible.

As the project was referred to the department in 2017, it is also subject to cost recovery. The fee for a variation to conditions is \$2,690. I have attached the fee schedule for your reference. Once we have reached agreement on the details of the variation we can raise an invoice for payment and when payment is received we can brief a delegate of the Minister, who will make a decision on the matter.

The approval process can take some time as we need to brief the delegate, however less complex variations can generally be processed relatively quickly once we have the approval holder's agreement to the variation, any additional information that is required, and we have received payment for the variation request. As there is an endorsed biobanking scheme in place which is recognised by the Department, recognising or exchanging the credits is not likely to be an issue.

I will be in touch when I have further information, but please feel free to contact me if you have further questions about the variation request.

Kind Regards,

Prystynne

Prystynne Alexander
Post Approvals Section
Environment Approvals Division
Department of Agriculture, Water and the Environment
[REDACTED]

From: Peter Chudleigh [REDACTED]
Sent: Monday, 27 September 2021 1:35 PM
To: Prystynne Alexander [REDACTED] Prystynne Alexander [REDACTED]
Subject: FW: EPBC 2017/7909 - request to modify conditions of approval

Hi Prystynne

Can you confirm if you received the email below and what the estimated timing is for this request.

Thank you

Peter

Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW
[REDACTED]



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From: Peter Chudleigh
Sent: Monday, 13 September 2021 4:47 PM

To: Prystynne Alexander [REDACTED]
Cc: Graham Roche [REDACTED]
Subject: EPBC 2017/7909 - request to modify conditions of approval

Dear Prystynne,

Further to our most recent discussion on 8 September 2021 regarding EPBC 2017/7909 and the specific biodiversity offset conditions of approval, Transport for NSW hereby submits this email as the formal request to modify Conditions 4, 5, 6, and 7 of EPBC 2017/7909 for the Albion Park Rail bypass project.

This request is made to bring the offset requirements of both approvals for the project, namely EPBC 2017/7909 and SSI 6878, in line with each other and to recognise the recently approved Biodiversity Offset Package, prepared in accordance with NSW legislation, as the singular package to achieve the offset obligations for the project under both the *Environment Protection and Biodiversity Conservation Act 1999* and its NSW counterpart, the *Biodiversity Conservation Act 2016*.

I have attached EPBC 2017/7909, the NSW Biodiversity Offset Package and Department of Planning, Industry and Environment approval of the package as supporting information for this request.

If you have any queries or require further information on this matter please contact me on [REDACTED] or [REDACTED]

I look forward to your further direction and advice on this request.

Peter

Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW

[REDACTED]



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COOPER, Jacob

From: Jeremy Aldred [REDACTED]
Sent: Monday, 21 March 2022 3:26 PM
To: Peter Chudleigh
Subject: RE: EPBC 2017/7909 - update on variation request - TfNSW response [SEC=OFFICIAL]

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Hi Peter – sorry for the delay in responding. Yes I received. Sorry I've been snowed under, then was off sick, then it's piled up even more so I've been a bit slow to respond to things. I will get onto this shortly.

Jeremy Aldred
Post Approvals Section
Environment Assessments (Vic, Tas) and Post Approvals
Environment Approvals Division

Department of Agriculture, Water and the Environment | awc.gov.au

[REDACTED]
[Note I work Monday - Thursday](#)



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From: Peter Chudleigh [REDACTED]
Sent: Friday, 11 March 2022 9:11 AM
To: Jeremy Aldred [REDACTED]
Subject: RE: EPBC 2017/7909 - update on variation request [SEC=OFFICIAL] - TfNSW response

Hi Jeremy

Did you receive the email and attachments below?

Can you provide an update on progress of the modified conditions?

Thanks

Peter

Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW

[REDACTED]



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From: Peter Chudleigh
Sent: Monday, 14 February 2022 5:57 PM
To: Jeremy Aldred [REDACTED]
Subject: RE: EPBC 2017/7909 - update on variation request [SEC=OFFICIAL] - TfNSW response

Hi Jeremy

Thanks for the proposed wording.

As discussed TfNSW has the following comments:

Condition 6

The proposed wording has adopted the incorrect ecosystem credit numbers from the approved Biodiversity Offset Package (attached along with NSW DPE approval FYI). The correct ecosystem credits are within Table 2.4, rather than Table 2.3 which is no longer applicable BBAM credits. BBAM was replaced by BAM in NSW and a

reasonable equivalency process (statement attached FYI) was done to calculate the credit numbers due to change in assessment methodology. Table 2.4 which show the difference in BAM credit numbers required if the credits are secured by way of Biodiversity Stewardship Agreement (BSA) sites or payment directly into the Biodiversity Conservation Fund. Rather than having to add the two different credit numbers into the approval we suggest the following amendment (in red below) to 6a:

acquire and retire the following biodiversity credits under the Biodiversity Conservation Act (or as determined by an equivalency statement issued by DPE)

And for 6b:

make payments into the Biodiversity Conservation Fund in accordance with the Biodiversity Conservation Act equivalent to retirement of the biodiversity credits listed at Condition 6a of this approval as determined by an equivalency statement issued by DPE

Condition 7

In addition to the wording around the credit retirement report being evidence of offset obligations being met we suggest the addition of the text below as evidence for the credits acquired by payment into the Biodiversity Conservation Fund:

As evidence of compliance with Condition 6, the approval holder must provide the Department with a copy of the credit retirement report or a receipt of a Section 6.33 statement confirming payment into the Biodiversity Conservation Fund for an offset obligation issued by the NSW Department of Planning, Industry and Environment's Biodiversity Conservation Division by 26 August 2022

I've also attached an example of a Section 6.33 statement by way of example.

General

I've been advised that the NSW Department of Planning, Industry and Environment has now changed its name to *Department of Planning and Environment*. Could you please update all references to this.

If you need any further information or explanation around the changes in wording please let me know. Happy to discuss.

Peter

Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW

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From: Jeremy Aldred [REDACTED]
Sent: Tuesday, 25 January 2022 5:52 PM
To: Peter Chudleigh [REDACTED]
Subject: RE: EPBC 2017/7909 - update on variation request [SEC=OFFICIAL]

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Hi Peter – I've tidied it up and transferred it into a variation notice. I noticed a few definitions that also needed revoking as they related to biobanking.

But since this has changed since the version I sent yesterday, if you agree to this variation wording, please advise by reply email and please ensure you include the attached draft notice with your reply email.

regards

Jeremy Aldred

Post Approvals Section

Environment Assessments (Vic, Tas) and Post Approvals

Environment Approvals Division

Department of Agriculture, Water and the Environment | awe.gov.au

Note I work Monday - Thursday



The department acknowledges the traditional custodians of Australia and their continuing connection to land, sea, environment, water and community. We pay our respect to the traditional custodians, their culture, and elders both past and present.

From: Jeremy Aldred
Sent: Monday, 24 January 2022 5:27 PM
To: Peter Chudleigh [REDACTED]
Cc: Peter Blackwell [REDACTED]
Subject: RE: EPBC 2017/7909 - update on variation request [SEC=OFFICIAL]

Hi Peter

As discussed I have made that revision to the proposed conditions. Please find attached a revised version of the comparison table that shows your current conditions in the left-column, and proposed variations in the middle column (if the middle column is left blank, no variation is proposed).

As per that process I described on the phone, if you agree to this variation wording, please advise by reply-all and please ensure you include the attached draft notice with your reply email.

I also emailed you an invoice last Thursday, if you could advise once payment is complete at your end that should help to keep things moving.

Also, if you are able to send through a better-quality copy of the map at Annexure A I can drop that in at the same time. The current one looks like a low-quality scan or something.

And finally, as per our recent conversations, I would like to confirm that DAWE is aware you requested this variation in September 2021 and have been working with officers of DAWE to progress this variation well ahead of the timeframe specified in the current condition 7. We anticipate the proposed variation to condition 7 would extend that timeframe.

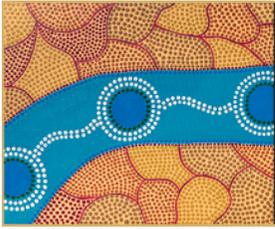
Kind regards

j

Jeremy Aldred
Post Approvals Section
Environment Assessments (Vic, Tas) and Post Approvals
Environment Approvals Division

Department of Agriculture, Water and the Environment | awe.gov.au

[REDACTED]
[Note I work Monday - Thursday](#)



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From: Peter Chudleigh [REDACTED]
Sent: Monday, 24 January 2022 4:12 PM
To: Jeremy Aldred [REDACTED]
Subject: RE: EPBC 2017/7909 - update on variation request [SEC=OFFICIAL]

Hi Jeremy

Thanks – we will review and get back to you.

The reference to Biobanking Agreement is incorrect and no longer exists under legislation. In terms of Condition 7 as evidence of achieving the requirement in Condition 6 my preference would be to use the wording “credit retirement report issued by OEH” consistent with the requirement in SSI 6878 (condition E15).

The credit retirement report issued by OEH is what we will submit to NSW DPIE as evidence that our offsets have been met and all credits have been acquired or retired and hopefully this would be suitable as evidence under EPC 2017/7909.

Would this amended wording suit you?

Peter

Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW



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From: Jeremy Aldred [REDACTED]
Sent: Wednesday, 19 January 2022 5:45 PM
To: Peter Chudleigh [REDACTED]
Subject: RE: EPBC 2017/7909 - update on variation request [SEC=OFFICIAL]

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Hi Peter

Please find attached a comparison table I've pulled together that shows your current conditions in the left-column, and proposed variations to those conditions in the middle column (if the middle column is left blank, no variation is proposed).

Happy to talk through on a call or via Teams if you would like.

I wanted to run this by you, and to check with you whether the term 'BioBanking Agreement/s' (as used at condition 7, and in the definition of 'BioBanking Agreement/s') is the correct term under the new NSW credit system?

Prystynne had also left a comment about seeking a higher resolution map to go at Annexure A. The current one is a bit blurry/fuzzy (as was often the case when we scanned hard copy maps into approval decision instruments). If you happen to have a higher resolution/electronic copy of the same map as is currently used – I can switch it out. If it's a different version/map I can mark it as a variation. Either way, it would be worth doing at the same time as progressing the variation.

Jeremy Aldred

Post Approvals Section

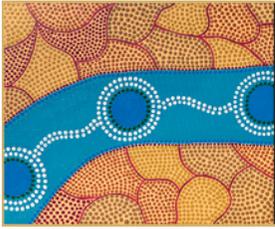
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[REDACTED]

Note I work Monday - Thursday



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From: Peter Chudleigh [REDACTED]
Sent: Monday, 17 January 2022 1:29 PM
To: Jeremy Aldred [REDACTED]
Subject: EPBC 2017/7909 - update on variation request

Hi Jeremy

During our teleconference last Tuesday I was advised that the draft modified conditions of approval would be issued by end of last week – I haven't received an email from you yet, can you advise if one was sent or if it's still in progress.

If it's still in progress could you please advise the date it will be sent.

Thank you

Peter

Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW



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COOPER, Jacob

From: Jeremy Aldred [REDACTED]
Sent: Monday, 24 January 2022 5:27 PM
To: Peter Chudleigh
Cc: Peter Blackwell
Subject: RE: EPBC 2017/7909 - update on variation request [SEC=OFFICIAL]
Attachments: 2017-7909-2021105-variation-table-comparison.docx

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And finally, as per our recent conversations, I would like to confirm that DAWE is aware you requested this variation in September 2021 and have been working with officers of DAWE to progress this variation well ahead of the timeframe specified in the current condition 7. We anticipate the proposed variation to condition 7 would extend that timeframe.

Kind regards

j

Jeremy Aldred
Post Approvals Section



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Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW



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Jeremy Aldred
Post Approvals Section
Environment Assessments (Vic, Tas) and Post Approvals
Environment Approvals Division

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Peter

Peter Chudleigh
Development Manager
Technical & Project Services | Infrastructure & Place
Transport for NSW



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