

# Commonwealth approval

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## EPBC 2014/7346

### Annual compliance report – 2018-2019

Transport for NSW | January 2020

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Prepared by DM Roads and Transport for NSW

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## Document controls

### Approval and authorisation

Title	Commonwealth approval - EPBC 2014/7346 Annual compliance report – 2018-2019 Transport for NSW   January 2020
Signed:	
Dated:	21/01/2019

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# 1. Introduction

Transport for NSW (formerly Roads and Maritime Services) have completed safety improvement works along Bells Line of Road between Mount Tomah and Kurrajong Heights, comprising overtaking lanes and safety works at a total of eight sites.

The various safety improvement projects were approved under Part 5.1 of the NSW Environmental Planning and Assessment Act 1979 and the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (2014/7346). The project was approved on 3 November 2015.

This compliance report covers the reporting period between:

- Reporting year 4: 3 November 2018 to 3 November 2019

The purpose of this report is to document the projects compliance with the Commonwealth Conditions of Approval (CoA). For each condition, evidence of compliance is provided, and where appropriate, the timing of completion of individual actions is identified.

## 1.1 Key dates

Action	Key Date
Commonwealth approval	3 November 2015
Project Commencement Date	12 November 2015
Expiry of Commonwealth approval	31 December 2021

## 1.2 Project status

At the time of reporting, all projects have been completed, with the exception of OT5 which has been suspended indefinitely.

## 1.3 Definitions of status conditions

Definition	Description
Ongoing	Action not yet finalised
Compliant	Action completed as per Conditions of Approval
Non-compliant	Action not completed as per Conditions of Approval

## 1.4 Non-compliance with CoA

### 1.4.1 Reporting Year 4: 3 November 2018 to 3 November 2019

No non-compliances were identified during the reporting period.

## 2. Compliance report

CoA	Description	Timing	Status	Compliance evidence
<b>1. The approval holder must not clear more than 2.67 hectares of Turpentine-Ironbark Forest in the Sydney Basin Bioregion from within the 'revised clearing extents' as identified in Annexure A, and in accordance with the Preliminary Documentation.</b>				
		Pre-clearance	Complaint	<p>Work as Executed (WAE) surveys have determined that the area of clearance for the combined projects is:</p> <ul style="list-style-type: none"> <li>OT2 – 0.36 ha</li> <li>OT3 – 0.89 ha</li> <li>OT6 – 0.19 ha</li> <li>OT7 – 0.37 ha</li> </ul> <p><b>Total area: 1.81 ha</b></p> <p><i>Note that there has been no change to the clearing areas in last reporting period and no further clearing is expected.</i></p>
<b>2. Prior to commencement of construction, the approval holder must develop a Construction Environmental Management Plan (CEMP) in accordance with Environmental assessment and decision making by NSW Roads and Maritime Services Strategic Assessment under Part 10, Environment Protection and Biodiversity Conservation Act 1999, as endorsed by the Minister on 7 September 2015. The CEMP must include but not necessarily be limited to:</b>				
a.	pre-clearing survey procedures	Pre-clearance	Complaint	<p>Separate CEMP's were prepared prior to commencement of construction of each section of the project, addressing items a-g and included the following:</p> <ul style="list-style-type: none"> <li>Biodiversity Management Plan</li> <li>Surveyors reports</li> <li>Pre-clearance assessment and supervision reports</li> <li>Vegetation disturbance permit</li> <li>Erosion and sediment control plans</li> <li>Pre-start meetings</li> </ul>
b.	identification and marking of the clearing footprint prior to commencement of construction and establishment of exclusion zones in all retained areas of vegetation	Pre-clearance	Complaint	
c.	weed management	Pre-clearance	Complaint	
d.	fauna management	Pre-clearance	Complaint	
e.	pest and disease management	Pre-clearance	Complaint	
f.	sediment and erosion control	Pre-clearance	Complaint	

CoA	Description	Timing	Status	Compliance evidence
g.	training of construction personnel on the requirements of the CEMP	Pre-clearance	Complaint	<ul style="list-style-type: none"> <li>Induction material and records OT2</li> <li>CEMP was prepared in Nov 2015 OT7</li> <li>CEMP was prepared in Jan 2016 OT3</li> <li>CEMP was prepared in Apr 2016 OT6</li> <li>CEMP was prepared in Feb 2017</li> </ul> <p><b><i>Note that there has been no change to the status of this condition.</i></b></p>
<b>3. The approval holder must secure the offset shown in Annexure 8 for the clearing of Turpentine Ironbark Forest in the Sydney Basin Bioregion, with a suitable legally binding mechanism or an alternative offset arrangement agreed with the Department that meets the EPBC Act Offsets Policy requirements, within 24 months from the date of this approval.</b>				
			Compliant	<p>Property acquisition was settled in December 2017. Transport for NSW are the current owners of the property.</p> <p><b><i>Note that there has been no change to the status of this condition.</i></b></p>
<b>4. The approval holder must ensure that the offset addresses the clearing of a total of 3.14 hectares of Turpentine-Ironbark Forest in the Sydney Basin Bioregion which includes the impacts from the proposed action and the clearing of 0.47 hectares as a result of the previous OT4 project on Bells Line of Road.</b>				
			Compliant	<p>Pre-clearance assessments</p> <p>Clearance Supervision Reports</p> <p>DM Vegetation Disturbance Permits</p> <p>Surveyors Reports</p> <p>Plateau Vegetation Disturbance Permit Maps</p> <p><b><i>Note that there has been no change to the status of this condition.</i></b></p>

CoA	Description	Timing	Status	Compliance evidence
<b>5. The approval holder must provide written evidence to the Department demonstrating that actions are being taken to put in place a suitable legally binding mechanism on the offset prior to the commencement of construction.</b>				
			Compliant	<p>Property acquisition agreement in principle email</p> <p><i><b>Note that there has been no change to the status of this condition.</b></i></p>
<b>6. The approval holder must develop and implement an Offset Management Plan (OMP) in consultation with the New South Wales Office of Environment and Heritage (OEH) for transfer of the offset to OEH ownership. The OMP must include, but not be limited to, the following measures in accordance with Table 8.2 of the Preliminary Documentation</b>				
a.	weed management including the removal and treatment of existing weeds along trails and drainage lines prior to OEH transfer.		Ongoing	<p>Baseline surveys of the property were carried out by the Project ecologist over a number of site visits throughout 2018.</p> <p>DM Roads, National Parks and Wildlife Services and the Department of Planning, Industry and Environment (formally the Office of Environment and Heritage) have been working closely to develop the Offset Management Plan throughout the reporting period.</p>
b.	pest management prior to OEH transfer		Ongoing	
c.	waste management and removal prior to the OEH transfer		Ongoing	
d.	interim fire management measures prior to the OEH transfer		Ongoing	<p>Two formal meetings were held during the reporting period between representatives of National Parks and Wildlife Services, NSW Office of Environment and Heritage, and DM Roads on the following dates:</p> <ul style="list-style-type: none"> <li>• 11 March 2019</li> <li>• 25 October 2019</li> </ul> <p>The meetings were held to discuss the Offset Management Plan; to agree on the content of the plan and to discuss National Parks and Wildlife Services expectations on weed management, pest management, waste management and fire management of the site.</p> <p>The draft Offset Management Plan was finalised in November 2019 and was sent to Transport for NSW for review and approval.</p>

CoA	Description	Timing	Status	Compliance evidence
			Ongoing	<p>DM Roads and National Parks and Wildlife Services were addressing comments on the draft in December 2019, before work was put on hold due to the bushfires in the Wollemi and Blue Mountains National Parks that the ranger needed to attend.</p> <p>Work on the Offset Management Plan will recommence once the bushfire threat reduces.</p> <p>At the time of writing this report, it is unknown as to whether the Offset site was significantly impacted by the recent bushfires. If the site was significantly impacted, measures to assist in the regeneration of the site will be included in the Offset Management Plan prior to its finalisation.</p>
e.	provision of financial contribution as agreed by OEH for the management of the offset for a minimum period of twenty (20) years		Ongoing	
<b>7. Within fourteen (14) days after the commencement of construction, the approval holder must advise the Department in writing of the actual date of commencement</b>				
			Compliant	<p>RMS Letter to DoE dated 16 October 2015.</p> <p><b><i>Note that there has been no change to the status of this condition.</i></b></p>
<b>8. The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the CEMP and OMP required by this approval, and make them available upon request to the Department. 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 Departments website. The results of audits may also be publicised through the general media.</b>				
		All stages of works – Pre-clearance	Compliant	<ul style="list-style-type: none"> <li>• Prestart site walkthrough and risk assessment records</li> <li>• DM Roads and RMS inspection reports</li> </ul> <p><b><i>Note that there has been no change to the status of this condition.</i></b></p>

CoA	Description	Timing	Status	Compliance evidence
9.	Within three (3) months of every twelve (12) month anniversary of the commencement of construction, the approval holder must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the compliance report is published.			
			Compliant	<p>Annual Compliance Report 2019 (this report)</p> <p><a href="https://www.rms.nsw.gov.au/projects/bells-line-of-road/project-documents.html">https://www.rms.nsw.gov.au/projects/bells-line-of-road/project-documents.html</a></p>
10.	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.			
			Not applicable	
11.	If, at any time after five (5) years from the date of this approval commencement of construction has not occurred, then the approval holder must not substantially commence the action without the written agreement of the Minister.			
			Not applicable	
12.	Unless otherwise agreed to in writing by the Minister, the approval holder must publish all management plans referred to in these conditions of approval on their website. Each management plan must be published on the website within one (1) month of being approved			
			Complaint	<p><a href="https://www.rms.nsw.gov.au/projects/bells-line-of-road/project-documents.html">https://www.rms.nsw.gov.au/projects/bells-line-of-road/project-documents.html</a></p> <p><i>Note that there has been no change to the status of this condition.</i></p>