



APPROVAL

Newcastle Inner City Bypass Rankin Park to Jesmond, NSW (EPBC 2015/7550)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Roads and Maritime Services
ACN or ABN of approval holder	76 236 371 088
Action	To construct and operate a new 3.4 km four lane dual carriageway between Rankin Park and Jesmond, NSW (See EPBC Act referral 2015/7550).

Proposed Approval decision

My decisions on whether or not to approve the taking of the action for the purposes of each controlling provision for the action are as follows.

Controlling Provisions

Wetlands of international importance	
Section 16	Approve
Section 17B	Approve
Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 31 March 2040.

Decision-maker

Name and position	Mike Smith Acting Assistant Secretary Assessments and Waste Branch Department of the Environment and Energy
Signature	
Date of decision	5.4.19

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. The approval holder must comply with the following **NSW conditions** where they relate to the protection of the Black-eyed Susan (*Tetratheca juncea*), the Grey-headed Flying-fox (*Pteropus poliocephalus*) and the Hunter Estuary Ramsar site:

NSW condition C4, requiring a Flora and Fauna Construction Environment Management Plan (CEMP).

NSW condition C5, requiring the CEMP Sub-plans to state how:

- (a) environmental performance outcomes will be achieved;
- (b) how the mitigation measures will be implemented;
- (c) how the relevant terms of the NSW conditions will be complied with; and
- (d) how issues requiring management during construction, as identified through ongoing environmental risk analysis, will be managed.

NSW condition C8, construction must not commence until the CEMP and all CEMP Sub-plans have been approved by the Planning Secretary.

NSW condition E2, limiting the clearing of native vegetation to the greatest extent practicable.

NSW condition E4, implementing the Biodiversity Offset Strategy.

NSW condition E5, submission of the Credit Retirement Report to the Planning Secretary.

NSW condition E6, requiring plant community types that provide habitat for impacted EPBC Act threatened species to be retired in a manner that achieves “like-for-like” habitat for the species.

NSW condition E7, requiring the offsetting of biodiversity impacts to be carried out in accordance with the *NSW Biodiversity Offsets Policy for Major Projects (OEHL, 2014)* and to be achieved by:

- (a) acquiring and retiring “biodiversity credits” within the meaning of the *Biodiversity Conservation Act 2016*; and/or
- (b) making payments to an offset fund developed by the NSW Government; and/or
- (c) providing supplementary measures.

Footnote 2 under condition E7 states that: “Any residual impact on EPBC Act listed threatened species and ecological communities must be offset in accordance with an offset process endorsed by the DoEE.”

NSW condition E9, stating that the construction of the bypass must demonstrate how:

- (a) EPBC Act listed threatened species and ecological communities are protected;
- (b) noxious weeds are managed; and
- (c) contamination by pathogens, non-indigenous regenerative plant material and seeds can be prevented by the movement of all tools, vehicles, machinery and personnel.

Footnote: These additional requirements must be addressed in the Flora and Fauna Management Sub-plan required under Condition C4 Table 3 (c).

NSW condition E57, requiring the proponent to undertake erosion and sediment controls consistent with the *Managing Urban Stormwater* series.

NSW condition E85, requiring the bypass to be designed, constructed and operated to achieve the outcomes described in the documents listed in **NSW condition A1** of the NSW Approval.

NSW condition E86, requiring drainage feature crossings and drainage swales and depressions to be constructed in accordance with the relevant guidelines and designed by a suitably qualified and experienced person.

2. The approval holder cannot retire biodiversity credits that relate to EPBC Act listed threatened species and ecological communities by making payments into an offset fund that has been developed by the NSW Government, as referred to in **NSW condition E7**, unless approved in writing by the **Minister**.

Definitions

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

Minister means the **Minister** administering the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* and includes a delegate of the **Minister**.

NSW condition means the approval for SSI 6888 granted by the NSW Minister for Planning on 15 February 2019.

