



Australian Government

Department of Climate Change, Energy,  
the Environment and Water**Directed Variation of conditions attached to approval****Great Western Highway Upgrade Mt Victoria to Lithgow, Forty Bends Road Upgrade,  
Lithgow, NSW (EPBC ref 2013/6804)**

This decision to vary conditions of approval is made under section 143(1)(a) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).


**Approved action**

<b>approval holder</b>	Transport for NSW  (ABN: 18 804 239 602)
<b>approved action</b>	The proposal is to upgrade and widen 2.4km of the Great Western Highway at 'Forty Bends' to three lanes with a central median along the majority of its length, as detailed in referral received 27 March 2013See EPBC Act referral [2013/6804].

**Variation**

<b>variation of conditions attached to approval</b>	The variation is:  Add new conditions 9A, 9B, 9C, 9D as specified in the table below  Add new definitions for Compliance Records, Completion data, plan, and Website specified in the table below
<b>date of effect</b>	This variation has effect on the date this instrument is signed.

**Person authorised to make decision**

<b>name and position</b>	Graeme Grosse, Branch Head, Compliance and Enforcement
<b>signature</b>	
<b>date of decision</b>	16/09/2024

date of decision	conditions attached to approval
20/05/2014	1. The approval holder must not remove <b>Purple Copper Butterfly Habitat</b> .
20/05/2014	2. The <b>approval holder</b> must not remove more than 3.83ha of <b>potential Purple Copper Butterfly Habitat</b> .
20/05/2014	<p>3. To compensate for the loss of approximately 3.83ha of <b>potential Purple Copper Butterfly habitat</b> the <b>approval holder</b> must provide for the protection of offset lands identified in the maps at Schedule 1 of this notice as 'Proposed Offset Site'.</p> <p>These offset lands must meet the requirements of the <b>EPBC Offset Policy</b> and provide for the protection of threatened species habitat on these sites for the duration of the action's impact through a legally binding <b>conservation covenant</b> which must be in force within 2 years of the <b>commencement of the action</b>.</p> <p>Written evidence of compliance against this condition must be provided to the <b>department</b> prior to the <b>commencement of the action</b> including evidence that action is being taken to put in place a suitable legally binding <b>conservation covenant</b> on these offset lands.</p>
20/05/2014	<p>4. The <b>approval holder</b> must submit for the <b>Minister's</b> approval a Purple Copper Butterfly management plan.</p> <p>This management plan must include:</p> <ul style="list-style-type: none"> <li>a. Management actions designed to improve the ecological quality of habitat for the Purple Copper Butterfly on offset lands identified in Condition 3 and protect these sites from ecological degradation for the duration of the action's impact on matters of national environmental significance.</li> <li>b. An ecological monitoring program to monitor the success of the management actions in the Purple Copper Butterfly management plan and define measurable targets of management actions, performance indicators, and an adaptive management framework for the duration of the action's impact on habitat for the Purple Copper Butterfly. Management actions prescribed by this plan must be clear, measurable, auditable and time bound.</li> <li>c. The Purple Copper Butterfly management plan must demonstrate clear objectives and performance</li> </ul>

	<p>indicators as well as corrective actions for circumstances where a management action fails to meet its prescribed objective or performance indicator.</p> <p>The action must not commence until the Purple Copper Butterfly management plan is approved in writing by the <b>Minister</b>. The approved management plan must be implemented and must be published on the <b>approval holder's</b> website within one month of approval and remain published on this website for the duration of the action.</p>
20/05/2014	<p>5. The <b>approval holder</b> must provide evidence to the <b>Department</b> of their compliance with Condition 3, along with <b>offset attributes, shapefiles</b> and textual descriptions and maps to clearly define the location and boundaries of the offset sites, prior to the <b>commencement of the action</b>.</p>
20/05/2014	<p>6. Unless otherwise agreed to in writing by the <b>Minister</b>, the <b>approval holder</b> must provide the approved plans referred to in these conditions of approval to members of the public upon request. Copies must be provided within 14 days of the request.</p>
20/05/2014	<p>7. Within 30 days after the <b>commencement of the action</b>, the <b>approval holder</b> must advise the <b>Department</b> in writing of the actual date of <b>commencement of the action</b>.</p>
20/05/2014	<p>8. The <b>approval holder</b> must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including measures taken to implement the management plans, and make them available upon request to the <b>Department</b>. Such records may be subject to audit by the <b>Department</b> 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 published on the <b>Department's</b> website. The results of audits may also be publicised through the general media.</p>
20/05/2014	<p>9. Within three months of every 12 month anniversary of the <b>commencement of the action</b>, the <b>approval holder</b> must publish a report on their <b>website</b> 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 <b>Department</b> at the same time as the compliance report is published. Non-compliance with any of</p>

	<p>the conditions of this approval must be reported to the <b>Department</b> at the same time as the compliance report is published. Potential or actual contraventions of the conditions of the approval must be reported to the <b>Department</b> in writing within 2 business days of the person taking the action becoming aware of the actual or potential contravention. All contraventions must also be included in the annual compliance reports.</p>
XX/XX/2024	<p>9A. The <b>approval holder</b> must submit to the department's <b>website</b> by 15 December 2024 a Final Compliance Report (FCR) addressing compliance with conditions of this approval and the implementation of each <b>plan</b>. Following approval of the FCR from the Minister the <b>approval holder</b> must publish the finalised FCR on the <b>approval holder's website</b> within 10 Business days.</p>
XX/XX/2024	<p>9B. The approval holder must ensure that the <b>FCR</b> includes any <b>compliance records</b> and <b>completion records</b> required to show compliance with these conditions of approval and any associated <b>plan</b>, including:</p> <ul style="list-style-type: none"> <li>a. details of the legally binding <b>conservation covenant</b> protecting the offset;</li> <li>b. details of the current ecological quality of habitat for the Purple Copper Butterfly on the offset lands required under Condition 3;</li> <li>c. the results of the ecological monitoring program required under Condition 4;</li> <li>d. details of which management objectives and performance indicators were achieved and which were not achieved;</li> <li>e. details of the management actions that were undertaken on the offset site; and</li> <li>f. an evaluation as to whether the condition of the offset site has been improved to be self-sustaining.</li> </ul>
XX/XX/2024	<p>9C. The approval holder must ensure that the <b>FCR</b> is completed to the satisfaction of the <b>Minister</b> and is consistent with the <i>Annual Compliance Report Guidelines</i>, Commonwealth of Australia 2023.</p>
XX/XX/2024	<p>9D. The <b>approval holder</b> must notify the <b>department</b> electronically within 5 <b>business days</b> of publication that the <b>FCR</b> has been published on the approval holders <b>website</b>. In this notification, the <b>approval holder</b> must provide the <b>department</b> with the web address for where the <b>FCR</b> is published on the <b>website</b>.</p>

20/05/2014	10. Upon the direction of the <b>Minister</b> , the <b>approval holder</b> must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the <b>Minister</b> . The independent auditor must be approved by the <b>Minister</b> prior to the commencement of the audit. Audit criteria must be agreed to by the <b>Minister</b> and the audit report must address the criteria to the satisfaction of the <b>Minister</b> .
20/05/2014	11. If, at any time after five years from the date of this approval, the <b>approval holder</b> has not commenced the action, then the <b>approval holder</b> must not commence the action without the written agreement of the <b>Minister</b> .
20/05/2014	12. If the <b>approval holder</b> wishes to carry out any activity otherwise than in accordance with the management plans as specified in the conditions, the <b>approval holder</b> must submit to the <b>Department</b> for the <b>Minister's</b> written approval a revised version of the management plans. The varied activity shall not commence until the <b>Minister</b> has approved the varied management plans, in writing. The <b>Minister</b> will not approve a varied management plan, unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the <b>Minister</b> approved the revised management plan, that management plan, must be implemented in place of the management plan originally approved.
20/05/2014	13. If the <b>Minister</b> believes that it is necessary or convenient for the better protection of listed threatened species and communities to do so, the <b>Minister</b> may request that the <b>approval holder</b> make specified revisions to the management plan specified in the condition and submit the revised management plan for the <b>Minister's</b> written approval. The <b>approval holder</b> must comply with any such request. The revised approved management plans must be implemented. Unless the <b>Minister</b> has approved the revised management plans then the <b>approval holder</b> must continue to implement the management plans originally approved, as specified in the conditions.  Unless otherwise agreed to in writing by the <b>Minister</b> , the <b>approval holder</b> must publish all management plans referred to in these conditions of approval on their website. Each Management plan must be published on their website within 1

	month of being approved and remain published on the website for the duration of the action.
date of decision	definitions attached to approval
20/05/2014	<b>Approval Holder</b> - the person to whom the approval is granted, or to whom the approval is transferred under s145B of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>
20/05/2014	<b>Commencement of construction</b> – means the undertaking of earthworks, vegetation removal or construction of any infrastructure, associated with the proposed action.
XX/XX/2024	<b>Completion data</b> - means an environmental report and spatial data clearly detailing how the conditions of this approval have been met.
XX/XX/2024	<b>Compliance records</b> - means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval (including compliance with commitments made in <b>plans</b> ) in the approval holder's possession, or that are within the approval holder's power to obtain lawfully.
20/05/2014	<b>Conservation covenant</b> – means a legally binding land title covenant registered on the title of the land for the purpose of facilitating a conservation outcome binding upon the current owner and all future owners of the land.
20/05/2014	<b>Department</b> – the Australian Government Department administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
20/05/2014	EPBC Offsets Policy – means the Department's policy document titled "Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy" (October 2012) and related guide currently available on the Department's website <a href="http://environment.gov.au/epbc/publications/enviornmental-offsets-policy.html">http://environment.gov.au/epbc/publications/enviornmental-offsets-policy.html</a> or subsequent revisions of this policy and guide.
20/05/2014	<b>Minister</b> - the Minister administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i> and includes a delegate of the Minister.
20/05/2014	<b>Offset attributes</b> – means an '.xls' file capturing relevant attributes of the offset area, including the EPBC reference ID number, the physical address of the offset site, coordinates of the boundary point in decimal degrees, the EPBC protected matters that the offset

	compensates for, any additional EPBC protected matters that are benefiting from the offset, and the size of the offset in hectares.
XX/XX/2024	<b>Plan</b> - means any action management plan or strategy that the approval holder is required by these conditions to implement.
20/05/2014	<b>Potential Purple Copper Butterfly habitat</b> – means habitat identified by assessment documentation at the time of this approval <u>and</u> reports or other research undertaken subsequently that indicates the potential to support the Purple Copper Butterfly.
20/05/2014	<b>Purple Copper Butterfly habitat</b> – means habitat identified by assessment documentation at the time of this approval <u>and</u> reports or other research undertaken subsequently that indicates the presence of the Purple Copper Butterfly.
20/05/2014	<b>Shapefiles</b> – means an ESRI Shapefile containing ‘.shp’, ‘.shx’ and ‘.dbf’ files and other files capturing attributes of the Offset Area, including the shape, EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in ‘.xls’ format.
XX/XX/2024	<b>Website</b> means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.
<b>date of decision</b>	<b>Annexure A</b>
20/05/2014	



**Schedule 1**



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**Legend**  
 Proposed (Yellow line)  
 Proposed Site and Stockpile Locations (Green area)  
 Proposed Offset Site (Blue area)  
 Property Boundaries (Orange line)  
 Proposed Clearing (Yellow area)  
 Highways (Thick black line)  
 Major Roads (Thin black line)  
 Secondary Roads (Dashed black line)

Scale: 1:10,000 (at A3)  
 North Arrow  
 Date: 01 Nov 2013

**Figure 1**  
 Site Location and Layout

Roads and Maritime Services  
 Mount Vernon to Lithgow  
 Great Western Highway Ferry Bends Road upgrade  
 Purple Copper Bubbly Assessment

Job Number: 21-22764  
 Revision: A  
 Date: 01 Nov 2013

**GHD**