

New Intercity Fleet Maintenance Facility Project EPBC Approval 2016/7681 2018 Annual Compliance Report (24 January 2018 – 24 January 2019)



Contents

Glossary and abbreviations	4
1. Introduction	5
Figure 1 – Area under EPBC Approval 2016/7681	5
2. Statement of Compliance – EPBC Conditions	6
3. Correcting non-compliances	15
4. New environmental risks	16
Appendix 1 – high quality Swamp Forest and Wet Open Forest habitat cleared during this reporting period	17

Declaration of accuracy

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



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Glossary and abbreviations

Term	Meaning
BOS	Biodiversity Offset Strategy
BOP	Biodiversity Offset Package
Commencement	Commencement of the Action as defined in EPBC Approval 2016/7681
CEMP	Construction Environmental Management Plan
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
MNES	Matters of 'national environmental significance' listed under the EPBC Act
High Quality Swamp Forest	Habitat for Regent Honeyeater and Swift Parrot
NSW	New South Wales
OEH	NSW Office of the Environment and Heritage
Project	New Intercity Fleet Maintenance Facility at Kangy Angy
REF	The Review of Environmental Factors prepared by WSP (June 2016)
SIS	The Species Impact Statement prepared by WSP, June 2016 to assess the biodiversity impacts associated with project
TfNSW	Transport for NSW
the Department	Australian Government Department of the Environment and Energy
Wet Open Forest	Habitat for Regent Honeyeater and Swift Parrot

1. Introduction

The NSW Government is delivering a New Intercity Fleet to replace trains carrying customers from Sydney to the Central Coast, Newcastle, the Blue Mountains and the South Coast. To service and maintain the new fleet, a purpose-built train maintenance facility is being built at Kangy Angy on the NSW Central Coast (New Intercity Fleet Maintenance Facility Project, 'the Project').

In 2016, the Project was referred to the Department of the Environment and Energy (the Department) for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) due to potential for significant impacts to Matters of National Environmental Significance (MNES) as a result of carrying out the Project. Figure 1 shows the referral area under EPBC Approval 2016/7681.

Following the review of the referral, the Department advised Transport for NSW (TfNSW) that it considered the Project a 'controlled action' due to potential impacts to the Critically Endangered Regent Honeyeater and Swift Parrot, both of which are listed under the EPBC Act.

In May 2017, the Department issued EPBC Approval 2016/7681 for the controlled action with conditions and the Project was determined on 29 August 2017 under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Commencement of the action occurred on the 24 January 2018. This report has been prepared to meet the requirements of EPBC Condition 10 for the period 24 January 2018 to 24 January 2019 (i.e. 2018 Annual Compliance Report). Table 1 of this report outlines the compliance with each approval condition over the 12 month period, including implementation of the management plans required by the approval.

Figure 1 – Area under EPBC Approval 2016/7681



2. Statement of Compliance – EPBC Conditions

This section, being summarised as **Table 1**, outlines the conditions of EPBC Approval 2016/7681; a summary of actions completed during the reporting period and the corresponding compliance status.

Table 1 - EPBC 2016/7681 Compliance Status

Condition reference	Condition	Compliance Summary		Compliance Status								
1	The person taking the action must implement conditions 1, 10, 12, 13, 31, 35, 36, 37 of the state conditions of approval , as they relate to avoiding and mitigating the impacts of the action on protected matters .	<p>A variation request was granted by the Department on 7 November 2017, noting TfNSW change to “state conditions” numbering system. Conditions 1, 10, 12, 13, 31, 35, 36 and 37 referred to in the EPBC Approval dated 5 May 2017 are now known as Conditions 1, 11, 13, 14, 30, 34, 36 and 37.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #cccccc;">Condition</th> <th style="background-color: #cccccc;">Compliance</th> </tr> </thead> <tbody> <tr> <td>1: Terms of Approval</td> <td> <p>The Project is carried out generally in accordance with the environmental impact assessment (EIA) and concurrences / approvals for this Project.</p> <p>The evidence provided in this annual report will demonstrate compliance with these Terms of Approval.</p> </td> </tr> <tr> <td>11: Environmental Management</td> <td> <p>The Construction Environmental Management Plan and associated Sub Plans were endorsed by the Project’s independent Environmental Management Representative (EMR) on the 4 June 2018 and were approved by TfNSW on 4 June 2018, outlining that they had been prepared in accordance with the requirements of the approval.</p> </td> </tr> <tr> <td>13: Environmental Controls Map</td> <td> <p>The Environmental Control Maps was endorsed by the Project’s EMR on the 4 June 2018 and was approved by TfNSW on 4 June 2018, outlining that it had been prepared in accordance with the requirements of the approval. Revisions to the Environmental Control Maps were made during this reporting period, and were endorsed by the Project EMR.</p> </td> </tr> </tbody> </table>		Condition	Compliance	1: Terms of Approval	<p>The Project is carried out generally in accordance with the environmental impact assessment (EIA) and concurrences / approvals for this Project.</p> <p>The evidence provided in this annual report will demonstrate compliance with these Terms of Approval.</p>	11: Environmental Management	<p>The Construction Environmental Management Plan and associated Sub Plans were endorsed by the Project’s independent Environmental Management Representative (EMR) on the 4 June 2018 and were approved by TfNSW on 4 June 2018, outlining that they had been prepared in accordance with the requirements of the approval.</p>	13: Environmental Controls Map	<p>The Environmental Control Maps was endorsed by the Project’s EMR on the 4 June 2018 and was approved by TfNSW on 4 June 2018, outlining that it had been prepared in accordance with the requirements of the approval. Revisions to the Environmental Control Maps were made during this reporting period, and were endorsed by the Project EMR.</p>	Compliant
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		<p>14: Operational Environmental Management Plan</p>	<p>Not applicable to this reporting period - the Project is still in the construction phase. An Operational Environmental Management Plan will be prepared prior to the operation of the facility in 2020.</p>	
		<p>30: Erosion and Sediment Control</p>	<p>Erosion and sediment control plans have been prepared in accordance with Blue Book requirements for all activities during this reporting period. The plans were prepared in consultation with the Project's specialist soil conservationist and were reviewed by the Project EMR.</p>	
		<p>34: Removal of Trees or Vegetation</p>	<p>Vegetation that forms habitat for the Regent Honeyeater and Swift Parrot (swamp forest and wet open forest) were removed in accordance with the approvals listed in state condition 1 during this reporting period. Refer to Appendix A for further details on vegetation removed during this reporting period.</p>	
		<p>36: Vegetation Removal Validation Audit</p>	<p>The Vegetation Removal Validation Audit was completed on 4 June 2018 by the Project ecologist (Ecological Australia). Vegetation marked for retention was appropriately demarcated on site during this reporting period.</p> <p>The Vegetation Removal Validation Audit (and associated vegetation demarcation) was endorsed by the Project EMR on 6 June 2018 and approved by TfNSW on 7 June 2018; prior to the commencement of construction.</p>	
		<p>37: Inductions</p>	<p>All workers/subcontractors complete environmental awareness training via an online site induction prior to conducting any works on the Project.</p> <p>The induction has incorporated the location of and measures to protect all sensitive vegetation on site. The location of and measures to protect this vegetation are clearly marked on all Environmental Control Maps.</p>	
<p>2</p>	<p>To minimise the impacts of the action on Groundwater Dependent Ecosystems that support or may support Biconvex Paperbark located onsite and offsite, the person taking the</p>	<p>A variation request was granted by the Department on 7 November 2017 noting TfNSW change to "state conditions" numbering system. Conditions 51 and 52 referred to in the EPBC Approval dated 5 May 2017 are known as Conditions 56 and 57.</p>		<p>Compliant</p>

	<p>action must implement conditions 51 and 52 of the state conditions of approval and must prepare and implement a Groundwater Management Plan as described in section 7.10.4 of the review of environmental factors, and:</p> <p>a. the Groundwater Management Plan must be submitted to the Department at least 1 month before construction commences, and construction cannot commence until the plan is approved by the Minister.</p>	<p>A Groundwater and Dewatering Management Plan was submitted to the Department on 29 March 2018 (noting construction activities commenced on 21 June 2018) in accordance with the requirements of this condition. The Plan was approved by the Department on 15 June 2018 and is being implemented. The Groundwater and Dewatering Management Plan is available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-maintenance-facility</p> <p>There have been no non-compliances recorded against the Groundwater and Dewatering Management Plan during this reporting period.</p> <table border="1" data-bbox="922 571 1966 1165"> <thead> <tr> <th data-bbox="922 571 1131 606">Condition</th> <th data-bbox="1131 571 1966 606">Compliance</th> </tr> </thead> <tbody> <tr> <td data-bbox="922 606 1131 1010">56: Flood Impact Assessment</td> <td data-bbox="1131 606 1966 1010"> <p>A Flood Impact Assessment was completed by a suitably qualified specialist for the Project as part of detailed design during this reporting period.</p> <p>The flood modelling results indicate that the Project will not have an impact on surrounding properties. The model's results show negligible changes upstream of the facility and no changes downstream.</p> <p>A hydrology fact sheet for the Project is available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-maintenance-facility</p> </td> </tr> <tr> <td data-bbox="922 1010 1131 1165">57: Groundwater Assessment</td> <td data-bbox="1131 1010 1966 1165"> <p>A Groundwater Assessment was completed by a suitably qualified specialist for the Project as part of detailed design during this reporting period. This Groundwater Assessment fed into the development of the Groundwater and Dewatering Management Plan.</p> </td> </tr> </tbody> </table>	Condition	Compliance	56: Flood Impact Assessment	<p>A Flood Impact Assessment was completed by a suitably qualified specialist for the Project as part of detailed design during this reporting period.</p> <p>The flood modelling results indicate that the Project will not have an impact on surrounding properties. The model's results show negligible changes upstream of the facility and no changes downstream.</p> <p>A hydrology fact sheet for the Project is available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-maintenance-facility</p>	57: Groundwater Assessment	<p>A Groundwater Assessment was completed by a suitably qualified specialist for the Project as part of detailed design during this reporting period. This Groundwater Assessment fed into the development of the Groundwater and Dewatering Management Plan.</p>	
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57: Groundwater Assessment	<p>A Groundwater Assessment was completed by a suitably qualified specialist for the Project as part of detailed design during this reporting period. This Groundwater Assessment fed into the development of the Groundwater and Dewatering Management Plan.</p>								
3	<p>The person taking the action must not clear more than 19.6ha of high quality swamp forest and 3.6ha of wet open forest that is foraging habitat for the Swift Parrot and Regent</p>	<p>During this reporting period, the Project did not exceed the approved clearing limits set out in this condition. 17.9 hectares of high quality swamp forest and 2.2 hectares of wet open forest were cleared during this period. Refer to Appendix A to view the locations of this vegetation cleared during this reporting period.</p>	Compliant						

	Honeyeater within the impact area, as identified in Annexures 1 and 2.		
4	<p>To compensate for the impacts to foraging habitat for the Swift Parrot, the person taking the action must provide an offset package in accordance with the offset requirements calculated under BioBanking for the relevant plant community types, and:</p> <p>a. must meet at least 90% of the offset requirement through direct offsets, which must be located in the Central Coast region or Lake Macquarie region and must be consistent with the on-ground actions identified in the national recovery plan for the Swift Parrot to manage and protect Swift Parrot habitat at the landscape scale.</p> <p>b. may meet up to 10% of the offset requirement through supplementary measures, which must be consistent with actions identified in the national recovery plan for the Swift Parrot.</p>	<p>Biodiversity Offsets are currently being sought for the Swift Parrot. Approximately 13% of the required direct land-based offsets required under the EPBC Approval have been secured for the Swift Parrot during this reporting period.</p> <p>A variation request was granted by the Department on 24 January 2019 to allow the Project to include the Hunter Region as a location to source biodiversity offsets, in addition to the Central Coast and Lake Macquarie Regions.</p> <p>Refer to EPBC Condition 6 for further information.</p>	Compliant
5	<p>To compensate for the impacts to foraging habitat for the Regent Honeyeater, the person taking the action must provide an offset package in accordance with the offset requirements calculated under BioBanking for the relevant plant community types, and:</p> <p>a. must meet at least 90% of the offset requirement through direct offsets, which must be located in the Central Coast region or Lake Macquarie region and must be consistent with the on-ground actions identified in the national recovery plan for the Regent Honeyeater to improve the extent and quality of Regent Honeyeater habitat,</p> <p>b. may meet up to 10% of the offset requirement through supplementary measures, which must</p>	<p>Biodiversity Offsets are currently being sought for the Regent Honeyeater. Approximately 13% of the required direct land-based offsets required under the EPBC Approval have been secured for the Regent Honeyeater during this reporting period.</p> <p>A variation request was granted by the Department on 24 January 2019 to allow the Project to include the Hunter Region as a location to source biodiversity offsets, in addition to the Central Coast and Lake Macquarie Regions.</p> <p>Refer to EPBC Condition 6 for further information.</p>	Compliant

	be consistent with actions identified in the national recovery plan for the Regent Honeyeater .		
6	<p>To quantify the offset requirements under BioBanking and the equivalent offset package for the protected matters referred to in conditions 4 and 5, the person taking the action must implement conditions 2 and 3 of the OEH conditions of concurrence, and:</p> <p>a. the Biodiversity Offset Strategy must be submitted to the Department at least 1 month before construction commences, and construction cannot commence until the strategy is approved by the Minister;</p> <p>b. the Biodiversity Offset Strategy must:</p> <p>i. demonstrate how the proposed offset package will meet the requirements of conditions 4 and 5;</p> <p>ii. identify and describe the proposed offset sites, and include maps clearly depicting Swift Parrot and Regent Honeyeater habitat within the offset sites;</p> <p>iii. identify how the offset sites will be legally secured in perpetuity;</p> <p>iv. identify the long term objectives for future condition of the offset sites, management and monitoring actions, and timeframes for implementation;</p> <p>v. provide details of proposed supplementary measures, and the monetary value of each component of the offset package;</p> <p>vi. be implemented if approved.</p>	<p>New Intercity Fleet Biodiversity Offset Strategy (BOS) was developed in accordance with the requirements of this condition and NSW Office of Environment and Heritage (OEH) Species Impact Statement (SIS) Concurrence Conditions 2 and 3. Currently there are no supplementary measures proposed for this Project.</p> <p>The BOS was issued to the Department on 28 February 2018 (noting construction activities commenced on 21 June 2018) and was approved by the Department on 15 June 2018.</p> <p>The BOS is publically available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-maintenance-facility</p> <p>A Biodiversity Offset Package (BOP) has been under development during this reporting period in accordance with the requirements set out in SIS Concurrence Conditions 2 and 3.</p>	Compliant
7	The person taking the action must notify the Department in writing of any proposed change to the state conditions of approval referred to in conditions 1 and 2, or the OEH conditions of concurrence referred to in condition 6, within 14	<p>Not triggered during this reporting period.</p> <p>On 21 August 2017, TfNSW notified the Department of a proposed change to the “state conditions” numbering system; and on the 6 September 2017 TfNSW notified the</p>	Not Applicable

	<p>days of proposing a change, and notify the Department of any change to the state conditions of approval referred to in conditions 1 and 2, or the OEH conditions of concurrence referred to in condition 6, within 14 days of a change to conditions being finalised.</p>	<p>Department of the change to “state conditions” numbering system as a result of the finalisation of the Project determination report.</p> <p>A variation request was granted by the Department on 7 November 2017 accepting TfNSW change to “state conditions” numbering system. Conditions 1, 10, 12, 13, 31, 35, 36, 37, 51 and 52 referred to in the EPBC Approval dated 5 May 2017 are known as Conditions 1, 11, 13, 14, 30, 34, 36, 37, 56 and 57.</p>	
8	<p>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.</p>	<p>Commencement of the action occurred on the 24 January 2018.</p> <p>On 25 June 2018 TfNSW made an administrative error and notified the Department of the commencement of construction (construction commencement date 21 June 2018) rather than notifying of the commencement of the action.</p> <p>TfNSW notified the Department of this non-compliance verbally on 8 August 2018 and in writing on 13 August 2018.</p> <p>On 17 August 2018, TfNSW notified the Department of the action commencement date of 24 January 2018.</p> <p>As the action has now commenced and the Department have been notified of the date of commencement; this condition is now considered closed.</p>	Non-Compliant
9	<p>The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of this approval, including measures taken to implement the management plans and strategies 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.</p>	<p>TfNSW maintains accurate records in accordance with the requirements of this condition; and the Project tracks compliance with all planning approval conditions formally on a quarterly basis.</p> <p>No requests for records were made by the Department during this reporting period.</p>	Compliant

10	<p>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 and provide documentary evidence providing proof of the date of publication to the Department. The person taking the action must continue to publish the reports until such time as agreed to in writing by the Minister.</p>	<p>This 2018 Annual Compliance Report meets the requirements for the 24 January 2018 to 24 January 2019 reporting period.</p> <p>The report has been published on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-program-maintenance-facility</p> <p>And will be issued to the Department within three months of the first 12 month anniversary (i.e. 24 April 2019).</p>	Compliant
11	<p>The person taking the action must notify the Department by email (to EPBCMonitoring@environment.gov.au or an email advised by the Department) of any actual or potential non-compliance with the conditions of this approval, including any plan or strategy required by the conditions of this approval, within 7 days of the person taking the action becoming aware of the actual or potential non-compliance.</p>	<p>One non-compliance raised during this reporting period and was notified to the Department within seven days of being made aware of the non-compliance as per the requirements of this condition. Refer to Condition 8 for further details on this non-compliance.</p>	Compliant
12	<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>	<p>No requests for independent audits of compliance with the EPBC conditions were made by the Department during this reporting period.</p>	Not Applicable
13	<p>The person taking the action may choose to revise a management plan or strategy approved by the Minister under conditions 2 and 6 without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised plan or strategy</p>	<p>No management plans or strategies were revised during this reporting period. No new or increased impacts identified during this reporting period.</p>	Not Applicable

	<p>would not be likely to have a new or increased impact. If the person taking the action makes this choice they must notify the Department in writing that the approved plan or strategy has been revised and provide the Department, at least four weeks before implementing the revised plan, with:</p> <ul style="list-style-type: none"> a. an electronic copy of the revised management plan showing changes to the plan; b. an explanation of the differences between the revised management plan and the approved management plan; c. the reasons the person taking the action considers that taking the action in accordance with the revised management plan would not be likely to have a new or increased impact. 		
14	<p>The person taking the action may revoke their choice under condition 13 at any time by notice to the Department. If the person taking the action revokes the choice to implement a revised plan or strategy without approval under section 143A of the Act, the plan or strategy approved by the Minister must be implemented.</p>	Noted, Condition 14 not triggered during this reporting period.	Not Applicable
15	<p>Condition 13 does not apply if the revisions to the approved strategy include changes to environmental offsets provided under the strategy in relation to a matter protected by a controlling provision for the action, unless otherwise agreed in writing by the Minister. This does not otherwise limit the circumstances in which the taking of the action in accordance with a revised plan or strategy would, or would not, be likely to have new or increased impacts.</p>	Noted, Condition 15 not triggered during this reporting period.	Not Applicable
16	<p>If the Minister gives a notice to the person taking the action that the Minister is satisfied that the taking of the action in accordance with</p>	Noted, Condition 16 not triggered during this reporting period.	Not Applicable

	<p>the revised plan or strategy would be likely to have a new or increased impact, then:</p> <p>a. Condition 13 does not apply, or ceases to apply, in relation to the revised plan or strategy; and</p> <p>b. The person taking the action must implement the plan or strategy approved by the Minister.</p> <p>To avoid any doubt, this condition does not affect any operation of conditions 13, 14 and 15 in the period before the day the notice is given. At the time of giving the notice the Minister may also notify that for a specified period of time that condition 13 does not apply for one or more specified plans or strategies required under the approval.</p>		
17	<p>Conditions 13 to 16 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 or strategy to the Minister for approval.</p>	<p>Noted, Conditions 13 to 16 not triggered during this reporting period.</p>	<p>Not Applicable</p>
18	<p>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.</p>	<p>EPBC 2016/7681 action commenced on the 24 January 2018. As the action has substantially commenced this condition is now considered closed.</p>	<p>Compliant</p>
19	<p>Unless otherwise agreed to in writing by the Minister, the person taking the action must publish all plans and strategies referred to in these conditions of approval on their website. Each plan or strategy must be published on the website within 1 month of being approved by the Minister or being submitted under condition 13a.</p>	<p>During this reporting period the following plans were placed on the TfNSW website within one month of being approved:</p> <ul style="list-style-type: none"> • Groundwater and Dewatering Management Plan • Biodiversity Offset Strategy <p>https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-program-maintenance-facility</p>	<p>Compliant</p>

3. Correcting non-compliances

One non-compliance was recorded during the 24 January 2018 to 24 January 2019 reporting period. Refer to Table 1 (Condition 8) for a description of this non-compliance. To correct this non-compliance, a review of internal processes was undertaken to ensure a similar non-compliance would not be raised again.

4. New environmental risks

No new environmental risks were identified during the reporting period.

Appendix 1 – high quality Swamp Forest and Wet Open Forest habitat cleared during this reporting period

