

**New Intercity Fleet Maintenance Facility Project
EPBC Approval 2016/7681
2019 Annual Compliance Report
(24 January 2019 – 24 January 2020)**



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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 

Full name (please print) Justin Perrott

Position (please print) Associate Director Environmental Management

Organisation (please print including ABN/ACN if applicable) Transport for NSW

Date 22 / 04 / 2020

Document control

Status:	Final
Date of issue:	15 April 2020
Revision:	1.0
Document authors:	Philippa Hendy, Tim Faiz
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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
EES Group	Environment, Energy and Science Group of Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979 (NSW)</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
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 (now Department of Planning, Industry and Environment)
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 Agriculture, Water and the Environment
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').

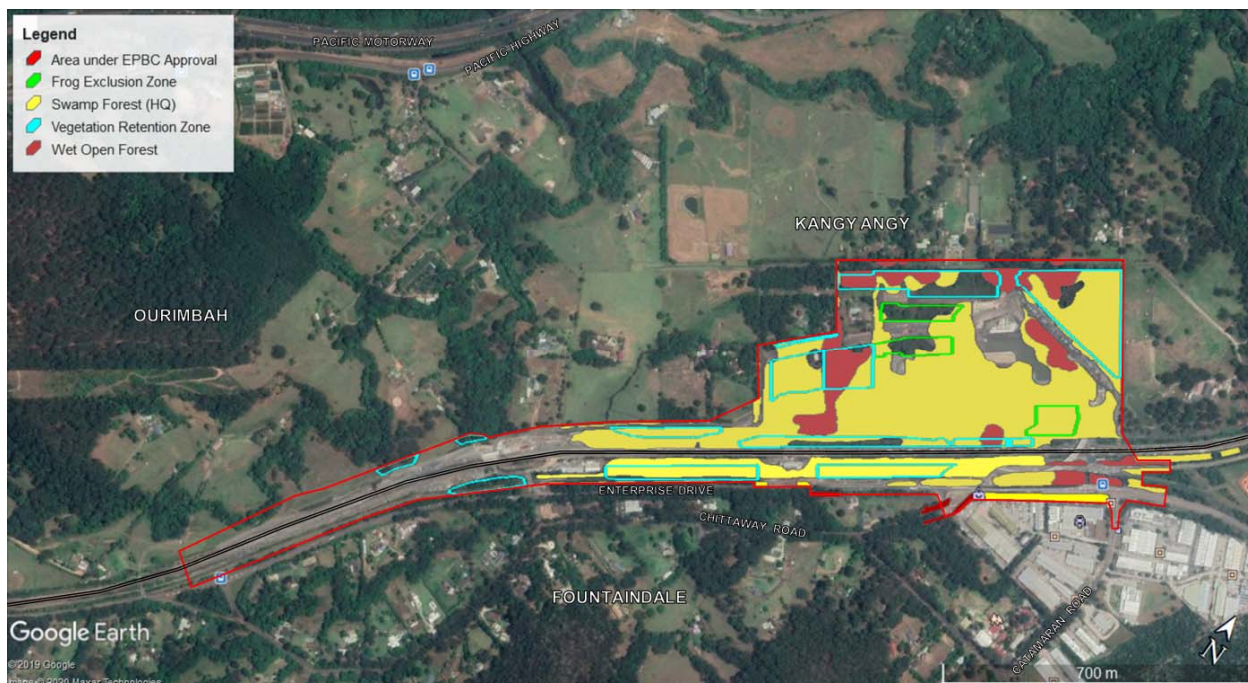
In 2016, the Project was referred to the Department of Agriculture, Water and the Environment (the Department) for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) due to potential for significant impacts to Matters of National Environmental Significance (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 is the second annual compliance report that has been prepared to meet the requirements of EPBC Condition 10 for the period 24 January 2019 to 24 January 2020 (i.e. 2019 Annual Compliance Report). Table 1 of this report outlines the compliance with each approval condition over the 12 month period.

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 .	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 .		Compliant						
		<table border="1"> <thead> <tr> <th data-bbox="904 683 1167 715">Condition</th> <th data-bbox="1167 683 1973 715">Compliance</th> </tr> </thead> <tbody> <tr> <td data-bbox="904 715 1167 903">1: Terms of Approval</td> <td data-bbox="1167 715 1973 903">The Project is carried out generally in accordance with the environmental impact assessment (EIA) and concurrences / approvals for this Project. The evidence provided in this annual report will demonstrate compliance with these Terms of Approval.</td> </tr> </tbody> </table>	Condition		Compliance	1: Terms of Approval	The Project is carried out generally in accordance with the environmental impact assessment (EIA) and concurrences / approvals for this Project. The evidence provided in this annual report will demonstrate compliance with these Terms of Approval.	<table border="1"> <tbody> <tr> <td data-bbox="1167 903 1973 1211">11: Environmental Management</td> <td data-bbox="1167 903 1973 1211">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. Revisions to the Construction Environmental Management Plan were made during this reporting period, and were endorsed by the Project EMR in June 2019.</td> </tr> </tbody> </table>	11: Environmental Management	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. Revisions to the Construction Environmental Management Plan were made during this reporting period, and were endorsed by the Project EMR in June 2019.
		Condition	Compliance							
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11: Environmental Management	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. Revisions to the Construction Environmental Management Plan were made during this reporting period, and were endorsed by the Project EMR in June 2019.									
13: Environmental Controls Map	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 regularly this reporting period, and were endorsed by the Project EMR.	
		14: Operational Environmental Management Plan	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 late 2020.	
		30: Erosion and Sediment Control	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.	
		34: Removal of Trees or Vegetation	Vegetation that forms habitat for the Regent Honeyeater and Swift Parrot (high quality 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.	
		36: Vegetation Removal Validation Audit	<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>This condition is considered closed.</p>	
		37: Inductions	All workers/subcontractors complete environmental awareness training via an online site induction prior to conducting any works on the Project.	

			<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>					
2	<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 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 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>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>No updates were made to this plan during the reporting period.</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="920 855 1960 1315"> <thead> <tr> <th data-bbox="920 855 1131 887">Condition</th> <th data-bbox="1131 855 1960 887">Compliance</th> </tr> </thead> <tbody> <tr> <td data-bbox="920 887 1131 1315">56: Flood Impact Assessment</td> <td data-bbox="1131 887 1960 1315"> <p>A Flood Impact Assessment was completed by a suitably qualified specialist for the Project as part of detailed design during the 2018 Annual 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> </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 the 2018 Annual 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>	Compliant
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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 the 2018 Annual 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>							

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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 Honeyeater within the impact area, as identified in Annexures 1 and 2.</p>	<p>During this reporting period, the Project did not exceed the approved clearing limits set out in this condition.</p> <p>0.3ha of High Quality Swamp Forest and 0.05ha of Wet Open Forest were cleared during this reporting period. Refer to Appendix A to view the locations.</p> <p>The 2018 Annual Compliance Report included incorrect vegetation clearance data for High Quality Swamp Forest and Wet Open Forest vegetation cleared in 2018. The table below contains the correct reporting data for 2018.</p> <table border="1"> <thead> <tr> <th>Vegetation type</th> <th>Quantities reported in 2018 compliance report</th> <th>Correct 2018 quantities</th> </tr> </thead> <tbody> <tr> <td>High Quality Swamp Forest</td> <td>17.9ha</td> <td>15.6ha</td> </tr> <tr> <td>Wet Open Forest</td> <td>2.2ha</td> <td>1.95ha</td> </tr> </tbody> </table> <p>The total amount of Swift Parrot and Regent Honeyeater habitat cleared in 2018 and 2019 includes:</p> <ul style="list-style-type: none"> • High Quality Swamp Forest – 15.9ha • Wet Open Forest - 2ha. 	Vegetation type	Quantities reported in 2018 compliance report	Correct 2018 quantities	High Quality Swamp Forest	17.9ha	15.6ha	Wet Open Forest	2.2ha	1.95ha	Compliant
Vegetation type	Quantities reported in 2018 compliance report	Correct 2018 quantities										
High Quality Swamp Forest	17.9ha	15.6ha										
Wet Open Forest	2.2ha	1.95ha										
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</p>	<p>Biodiversity offsets are currently being sought for the Swift Parrot. No additional biodiversity offsets have been secured during the reporting period. Approximately 13% of the required direct land-based offsets required under the EPBC Approval have been secured to date.</p>	Compliant									

	<p>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>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>	
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 though 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 be consistent with actions identified in the national recovery plan for the Regent Honeyeater.</p>	<p>Biodiversity offsets are currently being sought for the Regent Honeyeater. No additional biodiversity offsets have been secured during the reporting period.</p> <p>Approximately 13% of the required direct land-based offsets required under the EPBC Approval have been secured to date.</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

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> <ul style="list-style-type: none"> 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; b. the Biodiversity Offset Strategy must: <ul style="list-style-type: none"> i. demonstrate how the proposed offset package will meet the requirements of conditions 4 and 5; ii. identify and describe the proposed offset sites, and include maps clearly depicting Swift Parrot and Regent Honeyeater habitat within the offset sites; iii. identify how the offset sites will be legally secured in perpetuity; iv. identify the long term objectives for future condition of the offset sites, management and monitoring actions, and timeframes for implementation; v. provide details of proposed supplementary measures, and the monetary value of each component of the offset package; vi. be implemented if approved. 	<p>The 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. 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. The NSW Department of Planning, Industry and Environment's Environment, Energy & Science (EES) Group provided the Project with a 12 month extension to complete the Biodiversity Offset Package.</p>	Compliant
7	<p>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 days of proposing a change, and notify the Department of any change to the state conditions of approval referred to in conditions</p>	<p>On 7 May 2019, TfNSW notified the Department that it had issued a request to NSW Department of Planning, Industry and Environment EES Group to modify the 2017 Species Impact Statement Concurrence conditions granted for the Project to include vegetation clearance outside the approved Project site boundary.</p> <p>On 13 June 2019, the Department were notified of the Concurrence modification granted by the EES Group.</p>	Compliant

	1 and 2, or the OEH conditions of concurrence referred to in condition 6, within 14 days of a change to conditions being finalised.		
8	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 .	Condition 8 is no longer an active condition.	Not Applicable
9	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.	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. No requests for records were made by the Department during this reporting period.	Compliant
10	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.	This 2019 Annual Compliance Report meets the requirements for the 24 January 2019 to 24 January 2020 reporting period. The report has been published on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-program-maintenance-facility And will be issued to the Department within three months of the second 12 month anniversary (i.e. 24 April 2020).	Compliant
11	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	No non-compliances were recorded against these conditions of approval during the reporting period.	Compliant

	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.		
12	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 .	No requests for independent audits of compliance with the EPBC conditions were made by the Department during this reporting period.	Not Applicable
13	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 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: <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. 	No management plans or strategies were revised during this reporting period. No new or increased impacts identified during this reporting period.	Not Applicable

14	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.	Noted, Condition 14 not triggered during this reporting period.	Not Applicable
15	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 .	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 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>	Noted, Condition 16 not triggered during this reporting period.	Not Applicable

17	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.	Noted, Conditions 13 to 16 not triggered during this reporting period.	Not Applicable
18	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 .	EPBC 2016/7681 action commenced on the 24 January 2018. As the action has substantially commenced this condition is now considered closed.	Not Applicable
19	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>During this reporting period no additional plans or strategies were required to be published in accordance with Condition 19.</p> <p>The Groundwater and Dewatering Management Plan and Biodiversity Offset Strategy are still available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-program-maintenance-facility</p>	Not Applicable

3. Correcting non-compliances

There were no non-compliances recorded during the 24 January 2019 to 24 January 2020 reporting period.

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 the reporting period

