
New Intercity Fleet Maintenance Facility Project
EPBC Approval 2016/7681
2020 Annual Compliance Report
(24 January 2020 – 24 January 2021)



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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



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Glossary and abbreviations

Term	Meaning
Additional SIS	The Additional Species Impact Statement prepared by WSP, May 2017, to assess the biodiversity impacts associated with the project.
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
DPIE	NSW Department of Planning, Industry and Environment
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 (former)
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 the project
TfNSW	Transport for NSW
the Department	Australian 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 has been built at Kangy Angy on the NSW Central Coast (New Intercity Fleet Maintenance Facility Project, 'the Project').

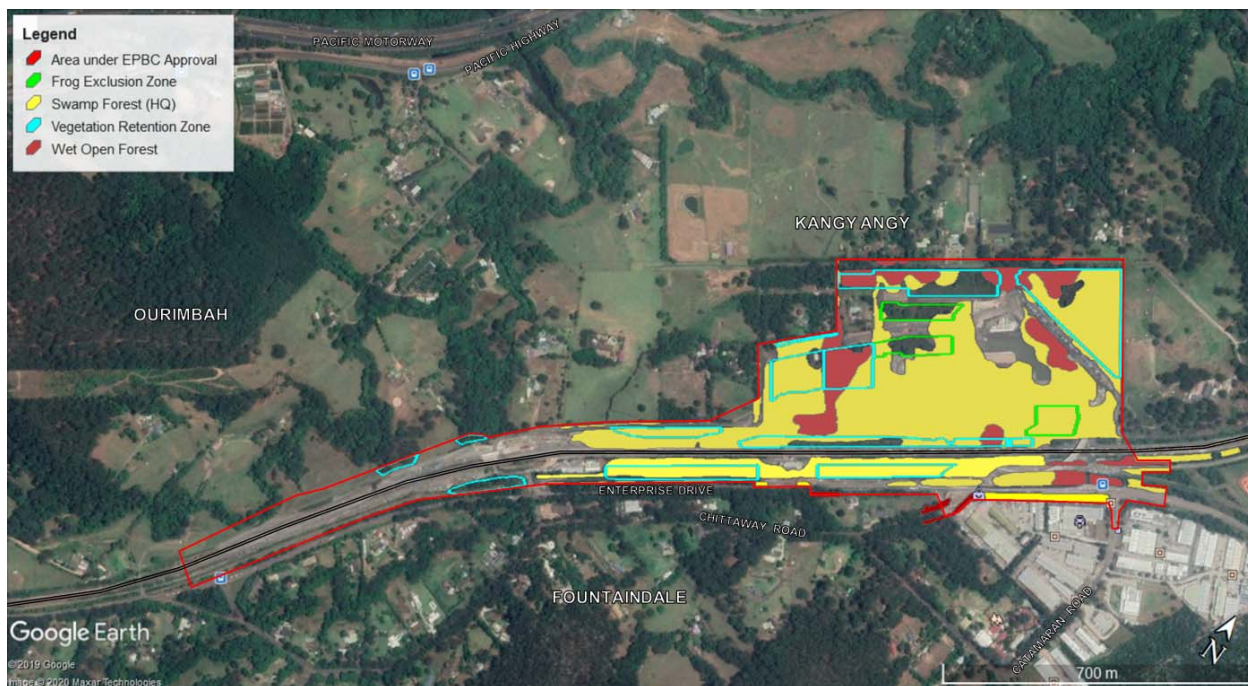
In 2016, the Project was referred to the Department of the Agriculture, Water and the Environment (the Department) for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) due to potential for significant impacts to Matters of National Environmental Significance (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. Construction of the facility was completed in late 2020.

This is the third annual report that has been prepared to meet the requirements of EPBC Condition 10 for the period 24 January 2020 to 24 January 2021 (i.e. 2020 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 .	<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 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> <p>The Construction Environmental Management Plan traffic management subplan was revised during this reporting period. The construction of the facility concluded in late 2020.</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 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> <p>The Construction Environmental Management Plan traffic management subplan was revised during this reporting period. The construction of the facility concluded in late 2020.</p>	Compliant
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		<p>13: Environmental Controls Map</p>	<p>The Environmental Control Maps were endorsed by the Project's EMR on the 4 June 2018 and approved by TfNSW on 4 June 2018.</p> <p>There were no revisions to the Environmental Control Maps made during this reporting period.</p>	
		<p>14: Operational Environmental Management Plan</p>	<p>The Operational Environmental Management Plan (OEMP) was endorsed by the Project's independent EMR on 7 December 2020 and was conditionally approved by TfNSW on 16 December 2020. There were no revisions made to the OEMP during the reporting period.</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 construction activities during this reporting period. During the construction phase, 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) was removed in accordance with the approvals listed in state condition 1 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). 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>	
		<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. The induction has incorporated the location of and measures to protect all sensitive vegetation on site. The</p>	

			<p>location of and measures to protect this vegetation were clearly marked on all Environmental Control Maps during construction.</p> <p>A separate induction has been prepared for the operational phase of the project.</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 in accordance with the requirements of this condition. The Plan was approved by the Department on 15 June 2018.</p> <p>Two updates were made to the Groundwater and Dewatering Management Plan during the reporting period. The Groundwater and Dewatering Management Plan Revision 2 was issued to the Department on 14 February 2020 in accordance with the requirements of Condition 13 and was made available on the TfNSW website. Revision 3 of the management plan was issued to the Department on the 12 January 2021, outlining the results of the construction groundwater monitoring programme and amending the operational monitoring requirements. The four week review (as required by Condition 13) had not concluded by the end of the reporting period (i.e. 24 January 2021).</p> <p>There have been no non-compliances recorded against the Groundwater and Dewatering Management Plan during this reporting period.</p> <p>The Groundwater and Dewatering Management Plan (Rev 2) is available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-maintenance-facility.</p>	Compliant

		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 would not have an impact on surrounding properties. The model's results show negligible changes upstream of the facility and no changes downstream. 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> <p>This condition is considered closed.</p>	
		57: Groundwater Assessment	<p>A Groundwater Assessment was completed by a suitably qualified specialist as part of detailed design and construction of the Project. This Groundwater Assessment fed into the development of the Groundwater and Dewatering Management Plan.</p> <p>The groundwater assessment was prepared for construction activities and with the completion of construction, this condition is considered closed.</p>	
3	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.	0.05 hectares of high quality swamp forest was cleared during this reporting period.	<p>The total amount of Swift Parrot and Regent Honeyeater habitat cleared to date has not exceeded the approved clearing limits set out in this condition as outlined below:</p> <ul style="list-style-type: none"> • High Quality Swamp Forest – 15.95ha • Wet Open Forest - 2ha. 	Compliant
4	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:	Biodiversity offsets are 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 from the Central Coast, Lake Macquarie and Hunter regions. Further work has been done during this reporting period to investigate options to secure local biodiversity offsets, however this process has been hindered by the change in NSW Biodiversity Assessment Methodology. All required biodiversity offsets will be secured for the project.		Compliant

	<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>		
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 be consistent with actions identified in the national recovery plan for the Regent Honeyeater.</p>	<p>Biodiversity offsets are 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 from the Central Coast, Lake Macquarie and Hunter regions. Further work has been done during this reporting period to investigate options to secure local biodiversity offsets, however this process has been hindered by the change in NSW Biodiversity Assessment Methodology. All required biodiversity offsets will be secured for the project.</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 Department of Planning, Industry and Environment (DPIE) Species Impact Statement (SIS) Concurrence Conditions 2 and 3. The BOS was approved by the Department on 15 June 2018 and is publically available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-maintenance-facility.</p> <p>The Biodiversity Offset Package (BOP) has continued to be developed during this reporting period. Due to a number of factors outside the control of the project, including changes in legislation and biodiversity assessment methodology; DPIE granted several extensions to the submission of the final BOP. The final BOP is expected to be delivered in 2021.</p> <p>Whilst not applicable to biodiversity offsets required under this EPBC Approval (2016/7681), the biodiversity offsets for Mahony's Toadlet and Wallum Froglet (under the Additional SIS Concurrence requirements) have been secured.</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>No SIS Concurrence modifications were obtained during this reporting period.</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. 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 2020 Annual Compliance Report meets the requirements for the 24 January 2020 to 24 January 2021 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 12 month anniversary (i.e. prior to 24 April 2021).	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 required by the conditions of this approval,	There were no actual or potential non-compliances with the conditions of this approval recorded during the reporting period.	Compliant

	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: <ol style="list-style-type: none"> an electronic copy of the revised management plan showing changes to the plan; an explanation of the differences between the revised management plan and the approved management plan; 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. 	<p>Two revisions were made to the Groundwater and Dewatering Management Plan during this reporting period in accordance with the requirements of this condition.</p> <ul style="list-style-type: none"> Groundwater and Dewatering Management Plan Revision 2 was issued to the Department on 14 February 2020. The plan was updated with minor editorial changes, a change to the frequency of manual water level readings during construction following results from the annual groundwater monitoring report and an update to the phosphate trigger value. None of these changes were considered new or increased impacts. Groundwater and Dewatering Management Plan Revision 3 was issued to the Department on 12 January 2021. The plan was updated at the conclusion of construction, with the recommendations from the final construction groundwater monitoring report. No operational groundwater monitoring is proposed in the plan. The four week review (as required by Condition 13) had not concluded by the end of the reporting period (i.e. 24 January 2021). <p>The Groundwater and Dewatering Management Plan Revision 2 is available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-maintenance-facility</p>	Compliant

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	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: a. Condition 13 does not apply, or ceases to apply, in relation to the revised plan or strategy; and b. The person taking the action must implement the plan or strategy approved by the Minister . 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.	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>The Groundwater and Dewatering Management Plan and Biodiversity Offset Strategy are available on the TfNSW website: https://www.transport.nsw.gov.au/projects/current-projects/new-intercity-fleet-programmaintenance-facility</p> <p>No additional plans or strategies were required to be published in accordance with Condition 19 during this reporting period.</p>	Not Applicable

3. Correcting non-compliances

There were no non-compliances recorded during the 24 January 2020 to 24 January 2021 reporting period.

4. New environmental risks

No new environmental risks were identified during the reporting period.