

# Coffs Harbour Bypass Pacific Highway Upgrade

Commonwealth Approval EPBC 2017/8005

## Compliance Tracking Report

Transport for NSW | 27 August 2021 to 27 August 2022

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Prepared by Transport for NSW

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# Glossary

Acronym	Definition
Business day	means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
Commencement of the action	means the first instance of any specified activity associated with the action including clearing of vegetation and construction.
Completion data	means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The Department's preferred spatial data format is shapefile.
Completion of construction	has the same meaning as "Completion of Construction" stated in the terms and definitions in Table 1 of the State Infrastructure approval.
Compliance records	means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.
Compliance reports	means written reports: <ul style="list-style-type: none"> <li>i. providing accurate and complete details of compliance, incidents, and non-compliance with the conditions and the plans;</li> <li>ii. consistent with the Department's <i>Annual Compliance Report Guidelines</i> (2014);</li> <li>iii. include a shapefile of any clearance of any protected matters, or their habitat, undertaken within the relevant 12 month period; and</li> <li>iv. annexing a schedule of all plans prepared and in existence in relation to the conditions during the relevant 12 month period.</li> </ul>
Construction	has the same meaning as "Construction" stated in the terms and definitions in Table 1 of the State Infrastructure approval SSI-7666.
Department	means the Australian Government agency responsible for administering the EPBC Act.
EPBC Act	means the <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i> .
Incident	means any event which has the potential to, or does, impact on one or more protected matter(s) other than as authorised by this approval.
Independent audit	means an audit conducted by an independent and suitably qualified person as detailed in the <i>Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines</i> (2019).
Minister	means the Australian Government Minister administering the EPBC Act including any delegate thereof.
Plan(s)	means any of the documents required to be prepared, implemented by the approval holder and/or published on the website in accordance with these conditions.
Protected matter(s)	means a matter protected under a controlling provision in Part 3 of the EPBC Act for which this approval has effect.
Sensitive ecological data	means data as defined in the Australian Government Department of the Environment (2016) <i>Sensitive Ecological Data - Access and Management Policy V1.0</i> .
Shapefile	means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.
State Infrastructure Approval	means the NSW Government <i>Critical State Significant Infrastructure: Conditions of Approval for Pacific Highway Upgrade - Coffs Harbour Bypass, made under Section 5.19 of the Environmental Planning &amp; Assessment Act 1979</i> , for application number SSI-7666, dated 2 November 2020.
Suitably qualified person	means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.
Website	means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

# Introduction

## Project description

The Coffs Harbour Bypass (CHB) is a 14 km bypass of Coffs Harbour from south of England's Road to Korora Hill in the north. The project was declared Critical State Significant Infrastructure under the NSW Environmental Planning & Assessment Act 1979 (EP&A Act) as it is considered to be essential for the State for economic, environmental or social reasons. It is funded by the Australian and NSW governments.

The project was approved by NSW Government (SSI-7666) on 2 November 2020, with Federal approval (EPBC 2017/8005) granted on 8 December 2020. Early construction activities have commenced and the major construction contract was awarded to the Joint Venture between Ferrovial and Gamuda in June 2022. Major construction is anticipated to start early in 2023 and is expected to take between four and five years to complete.

The location and key features of the CHB include (refer Figure 1.1):

- Four-lane divided highway from south of England's Road roundabout to the dual carriageway highway at Sapphire Beach
- Bypass of the Coffs Harbour urban area from south of England's Road intersection to Korora Hill
- Upgrade of the existing Pacific Highway between Korora Hill and the dual carriageway highway at Sapphire Beach
- Grade separated interchanges at England's Road, Coramba Hill and Korora Hill
- A one-way local access road along the western side of the project between the southern tie-in and England's Road, connecting properties to the road network via England's Road
- A new service road, located east of the project, connecting Solitary Islands Way with James Small Drive and the existing Pacific Highway near Bruxner Park Road
- Three short tunnels through ridges at Roberts Hill (around 190 metres long), Shepards Lane (around 360 metres long) and Gatelys Road (around 450 metres long)
- Relocation of the Kororo Public School bus interchange and Luke Bowen footbridge

## Purpose of this report

The purpose of this document is to facilitate demonstration by Transport for NSW of satisfactory compliance with the Commonwealth approval conditions for the Coffs Harbour Bypass Pacific Highway Upgrade project with particular reference to Condition 7. The report covers the reporting period from 27 August 2021 to 27 August 2022.

For each condition, one or more actions are identified which, once implemented, will achieve satisfactory compliance with the condition. Where appropriate, the timing for completion of individual actions is identified.

For each action, the minimum relevant documentation to support demonstration of compliance is identified. This documentation would inform any future compliance audit.

The status of each of the compliance requirements and the timeframes for action have generally been addressed in accordance with the following definitions, unless specific dates are requested.

Compliance status	Description
Compliant	Requirements of the condition have been met, including implementation of management plans
Non-Compliant	Where the requirements of the condition have not been met

TBA	To be arranged – further works required prior to starting actions, or actions not triggered yet
Timeframes	Description
Pre-Construction	Activities undertake prior to main construction activities in order to facilitate construction phase of the project.
Detailed design	Detailed design phase of the project
Construction	Includes all work in respect of the CSSI, other than exceptions provided in NSW MCoA definitions
Operation	Meaning the operation of the CSSI, but does not include commissioning trials of equipment or temporary use of parts of the CSSI during construction, or maintenance.
Ongoing	Action or requirement throughout all phases of project.

## Work undertaken during the reporting period

During the reporting period the Coffs Harbour Bypass has commenced early works which included geotechnical investigations to further develop the detailed design as well as undertaking utility relocation works (power, water and telecommunications).

Other pre-construction activities undertaken during reporting period include:

- Archaeological and cultural salvage activities
- Translocation of Rusty Plum, Slender Marsdenia and Pittosporum Coffs Harbour sp in accordance with management plans submitted to the Department of Planning and Environment.
- Commencement of at-house noise treatments for properties identified as being eligible for treatment the Coffs Harbour Bypass Amendment Report (June 2020)
- Baseline surface water and groundwater monitoring data collection
- Site contamination investigation and associated remediation work were also undertaken during the reporting period.

None of the above activities have triggered Construction as defined under the project conditions of approval.

## Non-compliance with EPBC conditions

There have been no non-compliance with EPBC conditions during the reporting period.

# EPBC Conditions of Approval

Part A – Conditions specific to the action	Timing	Status	Compliance evidence
1. To minimise the impacts of the action on <b>protected matters</b> the approval holder must not <b>clear</b> within the <b>project area</b> more than the following specified amounts (as mapped in Figures 1 to 8 at Annexure 1):			
a. 39.71 hectares of known habitat for the Koala ( <i>Phascolarctos cinereus</i> ); and	Detailed Design Construction	TBA	Noted. Mainline clearing within Koala and GBF habitat has not commenced.
b. 3.56 hectares of known habitat for the Giant Barred Frog ( <i>Mixophyes iterates</i> )	Detailed Design Construction	TBA	Noted. Mainline clearing within Koala and GBF habitat has not commenced.
2. To compensate for impacts on <b>protected matters</b> the approval holder must:			
a. Implement conditions C4 and C7 of Part C, Schedule 2 of the <b>State Infrastructure approval</b> , where they relate to monitoring, managing, avoiding, mitigating, offsetting, recording, or reporting on, impacts to <b>protected matters</b> .	Pre- Construction Construction	TBA	C4 (CEMP Sub-plans) - The CEMP is in preparation to meet the requirements of C4.  C7 (Biodiversity Management Sub-plan) - The Biodiversity Sub-plan is in preparation to meet the requirements of C7.
b. Implement conditions C13(c) and C14 of Part C, Schedule 2 of the <b>State Infrastructure approval</b> , where they relate to monitoring, managing, avoiding, mitigating, offsetting, recording, or reporting on, impacts to <b>protected matters</b> .	Pre- Construction Construction	TBA	C13(c) (Surface & Ground Water Quality Construction Monitoring Program) – Construction Monitoring Programs are currently being developed in consultation with agencies to meet the requirements of C13(c).  C14 (Construction Monitoring Programs) - Construction Monitoring Programs are currently being developed in consultation with agencies to meet the requirements of C14.
c. Implement biodiversity conditions E2--E16, with the exception of conditions E8 and E14, of Part E, Schedule 2 of the <b>State Infrastructure approval</b> where they relate to monitoring, managing, avoiding, mitigating, offsetting, recording, or reporting on, impacts to <b>protected matters</b> .	Pre-construction Detailed Design Construction	TBA	E2 (minimising clearing of native vegetation) - Clearing of native vegetation will be minimised wherever reasonable and feasible throughout the project. Clearing limits will be determined during the detailed design phase and will be monitored and managed during the construction phase.



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E3 (biodiversity offsets) – TfNSW is on track to deliver the required offsets within the specified timeframe. TfNSW has prepared a Biodiversity Offset Package that demonstrates how the project will meet the requirements of the projects condition of approval.

E4 (amendments to the ecosystem and species credit requirements) – Noted. No amendments have been proposed to date.

E5 (amendments to the ecosystem and species credit requirements) – Noted. No amendments have been proposed to date.

E6 (verification surveys) – Noted. If verification surveys are required, they will be undertaken in consultation with EESG.

E7 (Credit Retirement Report & payment receipt to BCF & EESG) – Progressive submission of Credit Retirement Reports to DPE have been undertaken.

Payment to the BCF for Common Planigale was made on 29 June 2022. DPE acknowledge receipt of payment on 12 July 2022

Payment to the EESG for Scrub Turpentine funding (\$274,000) was made on 13 April 2021. DPE acknowledge receipt of payment on 5 July 2022.

E9 (reduce koala habitat impacts) - Clearing of koala habitat will be minimised wherever reasonable and feasible throughout the project.

E10 (report on final construction footprint demonstrating reduction in impacts on koala habitat) – A report will be submitted within six months of determining the final construction footprint.

E11 – (Koala offset credits) – A minimum of 1032 Koala species credits have been identified and included in the Biodiversity Offset Package.

E12 (Koala offset credits sourced from the same IBRA subregion) - Koala species credits from the Coffs Coast and Escarpment IBRA subregion have been identified and included in the Biodiversity Offset Package.

E13 (koala habitat restoration) – Planning for the proposed koala habitat restoration is underway. TfNSW is in consultation with DPE regarding the proposed conservation mechanism.

E15 and E16 (Threatened Species Management Plan (TSMP)) – The TSMP for the early works program affecting threatened species habitat has been submitted to DPE for information on 24 March 2021 and was prepared in consultation with EESG, DAWE, DPI Fisheries and Coffs Harbour City Council. DPE responded on the 24 June 2021 acknowledging TfNSW response to DPE comments.

The draft TSMP for mainline construction was submitted to agencies including Department of Climate Change, Energy, the Environment and Water for review on 26 October 22, prior to resubmission to DPE.

d.	Notify the <b>Department</b> in writing within 2 business days of formally proposing any change to the conditions of the <b>State Infrastructure approval</b> for which Conditions 2a, 2b and 2c apply, and within 5 <b>business days</b> of becoming aware of the NSW Government proposing a change.	Within 2 business days	Compliant	Noted – There has been no changes to the CoA to date.
e.	Notify the <b>Department</b> in writing of any change to the <b>State Infrastructure approval</b> for which Conditions 2a, 2b and 2c apply, within 5 <b>business days</b> of a change to the <b>State Infrastructure approval</b> being finalised.	Within 5 business days	Compliant	Noted – There has been no changes to the CoA to date.

Part B - Standard administrative conditions		Timing	Status	Compliance evidence
<b>Notification of date of commencement of the action</b>				
3.	The approval holder must notify the <b>Department</b> in writing of the date of <b>commencement of the action</b> within 10 <b>business days</b> after the date of <b>commencement of the action</b> .	Within 10 business days	Compliant	The action commenced on 27 August 2021. The Department was notified on 31 August 2021. The Department acknowledge receipt of the notification on 23 September 2021.
4.	If the <b>commencement of the action</b> does not occur within 5 years from the date of this approval, then the approval holder must not <b>commence the action</b> without the prior written agreement of the <b>Minister</b> .	5 years after date of approval	Compliant	Noted. The action commenced on 27 August 2021.
<b>Compliance records</b>				
5.	The approval holder must maintain accurate and complete <b>compliance records</b> .	N/A	Compliant	Noted.
6.	If the <b>Department</b> makes a request in writing, the approval holder must provide electronic copies of <b>compliance records</b> to the <b>Department</b> within the timeframe specified in the request.	Upon request from the Department	TBA	Noted.
<b>Annual compliance reporting</b>				
7.	The approval holder must prepare a <b>compliance report</b> for each 12 month period following the date of <b>commencement of the action</b> , or otherwise in accordance with an annual date that has been agreed to in writing by the <b>Minister</b> . The approval holder must:	Within 60 business days following the relevant 12 month period	Compliant	Noted.
	a. publish each <b>compliance report</b> on the <b>website</b> within 60 <b>business days</b> following the relevant 12 month period;	Within 60 business days following the relevant 12 month period	Compliant	Noted.
	b. notify the <b>Department</b> by email that a <b>compliance report</b> has been published on the <b>website</b> and provide the weblink for the <b>compliance report</b> and documentary evidence providing proof of the date of	Within five business days of publication	Compliant	Noted.

	publication within five <b>business days</b> of the date of publication;			
	c. keep all <b>compliance reports</b> publicly available on the <b>website</b> until this approval expires;	Until 18 Dec 2100	Compliant	Noted.
	d. exclude or redact <b>sensitive ecological data</b> from <b>compliance reports</b> published on the <b>website</b> ; and	N/A	Compliant	Noted. No sensitive ecological data is included in this report. Where applicable, reports on the project website have redacted sections which conceal sensitive ecological data.
	e. where any <b>sensitive ecological data</b> has been excluded from the version published, submit the full <b>compliance report</b> to the <b>Department</b> within 5 <b>business days</b> of publication.	Within 5 business days	Compliant	Noted. No sensitive ecological data is included in this report.
<b>Reporting non-compliance</b>				
8.	The approval holder must notify the <b>Department</b> in writing of any: <b>incident</b> ; non-compliance with the conditions; or non-compliance with the commitments made in any element of the <b>plans</b> that must be implemented as part of a requirement under condition 2. The notification must be given as soon as practicable, and no later than two <b>business days</b> after becoming aware of the <b>incident</b> or non-compliance. The notification must specify:	Within two business days	Compliant	Noted. No incidents or non-compliances have occurred in the reporting period as they relate to the EPBC approval conditions (2017/8005)
	a. any condition which is or may be in breach;	Within two business days	Compliant	Noted. No incidents or non-compliances have occurred to date.
	b. a short description of the <b>incident</b> and/or non-compliance; and	Within two business days	Compliant	Noted. No incidents or non-compliances have occurred to date.
	c. the location (including co-ordinates), date, and time of the <b>incident</b> and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.	Within two business days	Compliant	Noted. No incidents or non-compliances have occurred to date.
9.	The approval holder must provide to the <b>Department</b> the details of any <b>incident</b> or noncompliance with the conditions or commitments made in any element of a plan that must be implemented as part of a requirement under condition 2 as soon as practicable and no later than 10 <b>business days</b> after becoming aware of the <b>incident</b> or non-compliance, specifying:	Within 10 business days	Compliant	Noted. No incidents or non-compliances have occurred to date.

a.	any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;	Within 10 business days	Compliant	Noted. No incidents or non-compliances have occurred to date.
b.	the potential impacts of the <b>incident</b> or non-compliance; and	Within 10 business days	Compliant	Noted. No incidents or non-compliances have occurred to date.
c.	the method and timing of any remedial action that will be undertaken by the approval holder.	Within 10 business days	Compliant	Noted. No incidents or non-compliances have occurred to date.
<b>Independent audit</b>				
10.	The approval holder must ensure that <b>independent audits</b> of compliance with the conditions are conducted as requested in writing by the <b>Minister</b> .	Upon direction of the Minister	TBA	Noted.
11.	For each <b>independent audit</b> , the approval holder must:			
a.	provide the name and qualifications of the independent auditor and the draft audit criteria to the <b>Department</b> ;	Upon direction of the Minister	TBA	Noted.
b.	only commence the <b>independent audit</b> once the audit criteria have been approved in writing by the <b>Department</b> ; and	Upon direction of the Minister	TBA	Noted.
c.	submit an audit report to the <b>Department</b> within the timeframe specified in the approved audit criteria.	Upon direction of the Minister	TBA	Noted.
12.	The approval holder must publish the audit report on the <b>website</b> within 10 <b>business days</b> of receiving the <b>Department's</b> approval of the audit report and keep the audit report published on the <b>website</b> until the end date of this approval.	Upon direction of the Minister	TBA	Noted.
<b>Publication of plans</b>				
13.	The approval holder must:			
a.	unless otherwise agreed to in writing by the <b>Minister</b> , publish each <b>plan</b> on the <b>website</b> within 20 <b>business days</b> of the date:	Within 20 business days	Compliant	Noted. All approved plans have been published to the TfNSW website. <a href="https://www.pacifichighway.nsw.gov.au/coffsharbourbypass">https://www.pacifichighway.nsw.gov.au/coffsharbourbypass</a>
i.	of this approval, if the version of the <b>plan</b> to be implemented has been prepared on or before the date of this approval; or	Within 20 business days	Compliant	Noted. All approved plans have been published to the TfNSW website. <a href="https://www.pacifichighway.nsw.gov.au/coffsharbourbypass">https://www.pacifichighway.nsw.gov.au/coffsharbourbypass</a>

ii.	that the <b>plan</b> is was finalised if the <b>plan</b> was not finalised before the date of this approval;	Within 20 business days	Compliant	Noted. All approved plans have been published to the TfNSW website. <a href="https://www.pacifichighway.nsw.gov.au/coffsharbourbypass">https://www.pacifichighway.nsw.gov.au/coffsharbourbypass</a>
b.	exclude or redact <b>sensitive ecological data</b> from <b>plans</b> that are to be published on the <b>website</b> or provided to a member of the public; and	Within 20 business days	Compliant	Noted. No sensitive ecological data is included in this report. Where applicable, reports on the project website have redacted sections which conceal sensitive ecological data.
c.	keep <b>plans</b> published on the <b>website</b> for the period for which this approval has effect.	Within 20 business days	Compliant	Noted. All approved plans have been published to the TfNSW website. <a href="https://www.pacifichighway.nsw.gov.au/coffsharbourbypass">https://www.pacifichighway.nsw.gov.au/coffsharbourbypass</a>
<b>Completion of construction</b>				
14.	Within 20 days after the <b>completion of construction</b> , the approval holder must notify the <b>Department</b> in writing and provide <b>completion data</b> .	Within 20 days after completion of construction	TBA	Noted.