



Transport
Roads & Maritime
Services

COMMONWEALTH EPBC APPROVAL 2013/7101 COMPLIANCE REPORT – MAY 2016

Warrell Creek to Nambucca Heads
Pacific Highway Upgrade



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Glossary / Abbreviations

☐ *Acronyms used in this document*

Acronym	Definition
BOS	Biodiversity Offset Strategy
CEMP	Construction Environmental Management Plan
Clear Milkvine	<i>Marsdenia longiloba</i>
Cryptic Forest Twiner	<i>Tylophora Woollsii</i>
DoE	Federal Department of Environment
DPE	State Department of Planning and Environment
Ecological Monitoring Report	Published in the project website at http://www.rms.nsw.gov.au/projects/northern-nsw/warrell-creek-to-nambucca-heads/project-documents.html
Ecos	Ecos Environmental Pty Ltd
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
ER	Independent Environmental Representative
FFMP	Flora and Fauna Management Plan
GBF	Giant Barred Frog
GBFMP	Giant Barred Frog Management Plan
Geolink	Geolink – Project Ecologist for WC2NH Project
GHFFMP	Grey Headed Flying Fox Management Plan
KMP	Koala Management Plan
Pacifico	Acciona Ferrovia Joint Venture (the Roads and Maritime's road construction contractor for the project).
PESCP	Progressive Erosion and Sediment Control Plan
SAP	Sensitive Area Plan
STQ	Spotted-Tail Quoll
STQMP	Spotted-Tail Quoll Management Plan
TFMP	Threatened Flora Management Plan
WC2NH	Warrell Creek to Nambucca Heads Pacific Highway Upgrade Project

1 Introduction

1.1. Purpose of this document

The purpose of this document is to facilitate demonstration by Roads and Maritime Services (Roads and Maritime) of satisfactory compliance with the Commonwealth approval conditions for the Warrell Creek to Nambucca Heads Pacific Highway Upgrade project (the Project) with particular reference to Condition 19 and 20. The report covers the first reporting period from February 2015 to February 2016.

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.

Where an approval condition makes reference to information being provided to the Commonwealth Minister for the Environment, the associated action(s) assumes that this information will be provided, in the first instance, to the Commonwealth Department of the Environment.

1.2. Key dates

The timing for compliance with certain approval conditions is linked to specific dates as follows:

- Commonwealth approval: 11 Dec 2014
- Start of construction: 9 Feb 2015
- Scheduled completion of construction: 15 Dec 2017
- Expiry of Commonwealth approval 31 Dec 2064

1.3. Responsibility for compliance

Responsibility for compliance with all approval conditions sits with Roads & Maritime.

1.4. NSW planning approval

Condition 3 and 4 (of the Commonwealth approval) provides for the use of plans, strategies or reports required under the NSW approval to satisfy the requirements of the Commonwealth approval, subject to provision of a separate document demonstrating how the document addresses the relevant Commonwealth approval requirements.

Specialists in the fields of flora and fauna have been engaged by Roads & Maritime and the construction contractor to undertake various ecology-related management activities with regard to complying with the NSW planning approval and the CEMP. The following specialist had been engaged to undertake ecology related activities prior to the EPBC approval:

- Benchmark Environmental Management (BEM) has prepared an ecological monitoring program that addresses relevant matters in the NSW planning approval. The ecological monitoring program has been incorporated into the Pacifico CEMP to implement during construction.

- Ecos Environmental (Ecos) has been engaged by Roads and Maritime to prepare and Threatened Flora Translocation Program that addresses relevant matters in the NSW planning approval and has additionally been engaged by the contractor to provide advice on the implementation of the translocation program and provide specialist advice on flora to implement other CEMP FFMP requirements.
- Geolink Pty Ltd has been engaged by the contractor to provide specialist advice on fauna to implement CEMP FFMP requirements

This document contains actions relevant to compliance with the NSW planning approval that are also considered to satisfy compliance with Commonwealth approval requirements.

1.5. Definitions for action status conditions

TBA	To Be Arranged - Further works required prior to starting action.
In progress	Action initiated but not yet complete.
Ongoing	Action in place but ongoing works required to ensure compliance.
Complete	Action completed.

1.6. Non Compliances with EPBC Conditions

There were six non-compliances with the EPBC approval for the reporting period as below:

1. Condition 3 – Undertaking of Grey Headed Flying Fox Monitoring not in accordance with approved plan. Monthly frequency has been adopted by RMS in preference to approved fortnightly frequency due to no presence of Grey Headed Flying Fox's during the nominated period within the plan. The frequency adjustment was not approved prior to implementation. Project Environmental Representative has endorsed the frequency change. The amended Grey Headed Flying Fox Management Plan has been submitted to the DoE on 19 April 2016.
2. Condition 7 - Translocated threatened species monitoring not undertaken in accordance with approved TFMP due to fourth Yr1 quarterly monitoring not undertaken in November 2015. The cause of this non-compliance was the principal botanist contracted to undertake the monitoring was not available during this period and was overseas

It is proposed by TFMP Author to modify the frequency of monitoring to the following:

- Year 1 – frequency change to 3 monitoring periods;
- Year 2 – frequency change from six monthly to 3 monitoring periods (6th, 9th and 12th months).

This change will also enable the Plan's Author to complete monitoring in November 2016 which would coincide with the flowering time of Slender Marsdenia.

An application was made to DoE to consider and approve the amended plan in accordance with Condition 22 on 19 April 2016.

3. Condition 11 – Monitoring results were not uploaded onto the project website within two months of the monitoring event. A compliance tracking program will be implemented to include a monthly review of project monitoring and the preparation of the reports for uploading onto the website.
4. Condition 22 – Updated Management Plans were not submitted to DoE for approval prior to implementation. The GHFFMP and TFMP have both been updated to capture updates to the monitoring regime for the species.
5. Condition 25 - DoE not notified of the publishing of relevant documents on the project website within the required timeframes.
6. Condition 18: The above non-compliances not notified to DoE within two business days of RMS becoming aware of the non-compliance. Correspondence has been prepared for submission as written notification of identified non-compliances. A compliance tracking program will be implemented to identify any potential non-compliances in a timely manner to ensure DoE notification.

2. Compliance Tracking Tables

The following sections provide a compliance status for the reporting period for the 26 conditions of approval.

□ Condition 1

The approval holder must not clear more than:

- a) 17.80 hectares (ha) of Slender Marsdenia/Clear Milkvine and Woolfs Tylophora/Cryptic Forest Twiner habitat;
- b) 106.6 ha of Koala habitat, including 86.50 ha critical to the survival;
- c) 106.6 ha of Grey-headed Flying-fox habitat, comprised of 103.50 ha of foraging habitat critical to survival and 3.10 ha of roosting habitat critical to survival;
- d) 113.3 ha of Spotted-tail Quoll habitat;
- e) 0.70 ha of Giant Barred Frog habitat;
- f) 0.40 ha of Australian Painted Snipe (*Rostratula australis*) wetland habitat;
- g) 73 ha of habitat for the Regent Honeyeater (*Anthochaera phrygia*) and Swift Parrot (*Lathamus discolor*) wintering habitat, comprising dry sclerophyll forests containing Swamp Mahogany; and
- h) 24.30 ha of *Parsonsia dorrigoensis* (Milky Silkpod) habitat, comprising Mixed Floodplain Forest, Flooded Gum Open Forest and White Mahogany/Grey Gum/Ironbark Open Forest.

Action	Timing	Status	Compliance evidence
1.1 Progressive review of area cleared	Regularly during construction	Compliant Ongoing	Record of clearing numbers provided in monthly report from Contractor to RMS. Refer to Table 1.1 below for clearing quantities for the reporting period.
1.2 Report on clearing progress	Monthly	Ongoing	Information provided by contractor to RMS in monthly report
1.3 Confirm clearing limitation targets have been met	Post-construction	TBA	As built survey of actual clearing area. Not able to action until after completion of clearing. Memo/short report

Table 1.1: Clearing Quantities for the reporting period .

October 2015 Completed (As-built) Clearing Quantities			
Habitat Type	Clearing Quantity (ha)	Limit (ha) as per Condition 1 Approval	Current Difference showing remaining habitat (ha) under Condition 1 Approval
Slender Marsdenia/Clear milkvine and Woolls Tylophora/Cryptic Forest Twiner habitat	15.71	17.80	2.09
Koala	72.67	106.60	33.93
Koala (Critical Habitat)	59.12	86.50	27.38
Grey-headed Flying-fox	72.67	106.60	33.93
Grey-headed Flying-fox (foraging habitat critical to survival)	70.57	103.50	32.93
Grey-headed Flying-fox (roosting habitat critical to survival)	2.1	3.10	1.0
Giant Barred Frog	0.63	0.7	0.07
Spotted –tail Quoll habitat	77.1	113.30	36.20
Australian Painted Snipe (Rostratula australis)	1.28	3.4	2.12
Regent Honeyeater (<i>Anthochaera phrygia</i>) and Swift Parrot (<i>Lathamus discolor</i>)	3.42	5.30	1.88
Parsonsia dorrigoensis (<i>Milky Silkpod</i>)	20	24.30	4.30

NOTE: The above clearing data represents mainline clearing undertaken to October 2015 and related to the bulk of clearing to date. It is anticipated that minor ongoing clearing associated with utility works and design refinements will be undertaken until the completion of the project. The project clearing register monitors (Attachment 1) the approved clearing to date and demonstrates compliance with the condition.

□ **Condition 2**

Within 30 days of the **completion of construction**, the **approval holder** must:

- a) notify the **Minister** in writing of the **completion of construction**; and
- b) provide a report (supported by maps) that clearly shows the location of all **threatened species**, including the number of individuals of threatened flora and their **habitat cleared** as a result of **action**, which demonstrates compliance with Condition 1.

Action	Timing	Status	Compliance evidence
2.1 Prepare works as executed Environmental and Clearing Plans to show extent of clearing.	Dec 2017	TBA	Report & supporting mapping
2.2 Calculate final clearing quantity and include in summary table.	Dec 2017	TBA	Report & supporting mapping
2.3 Provide written notification (letter) of completion of construction and report to Dept. of the Environment	Dec 2017	TBA	Notification letter Completed document transmittal form or equivalent

□ Condition 3

The **approval holder** must undertake the **action** and implement all mitigation measures in accordance with the **Koala Management Plan, Grey-headed Flying-Fox Management Plan, Spotted-tail Quoll Management Plan** and **Giant Barred Frog Management Plan**. These **Plans** must be implemented.

Action	Timing	Status	Compliance evidence
3.1 Implement the Koala Management Plan	Pre-construction, Construction and Operation	Compliant Ongoing	Sensitive Area Plans Ecological Monitoring Report Roadkill Quarterly Reports Completed Pre-clearing Checklists Fauna Relocation Register Habitat Tree Hollow Register Environmental Work Method Statements (EWMS) for Activities Project Induction Biodiversity Offset Strategy Urban Design and Landscape Plan Fauna Connectivity Report See summary below
3.2 Implement the Grey-Headed Flying Fox Management Plan	Pre-construction, Construction and Operation	Non-compliant Ongoing	Sensitive Area Plans Ecological Monitoring Report Roadkill Quarterly Reports Completed Pre-clearing Checklists Fauna Relocation Register Habitat Tree Hollow Register Environmental Work Method Statements (EWMS) for Activities Project Induction Biodiversity Offset Strategy Urban Design and Landscape Plan Fauna Connectivity Report See summary below
3.3 Implement the Spotted-tail Quoll Management Plan	Pre-construction, Construction and Operation	Compliant Ongoing	Sensitive Area Plans Ecological Monitoring Report Roadkill Quarterly Reports

				Completed Pre-clearing Checklists Fauna Relocation Register Habitat Tree Hollow Register Environmental Work Method Statements (EWMS) for Activities Project Induction Biodiversity Offset Strategy Urban Design and Landscape Plan Fauna Connectivity Report See summary below
3.4	Implement the Giant Barred Frog Management Plan	Pre-construction, Construction and Operation	Compliant Ongoing	Sensitive Area Plans Ecological Monitoring Report Roadkill Quarterly Reports Completed Pre-clearing Checklists Fauna Relocation Register Habitat Tree Hollow Register Environmental Work Method Statements (EWMS) for Activities Project Induction Biodiversity Offset Strategy Urban Design and Landscape Plan Fauna Connectivity Report See summary below

Compliance Tracker

Table 3.1: Compliance with the Koala Management Plan

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
Design Phase/Pre-construction	Minimise areas of Koala habitat to be cleared where feasible and reasonable during the detailed design phase.	The Project design has minimised clearing quantities as much as possible by ensuring the construction corridor is as narrow as possible. Ancillary sites have been located in areas where clearing is minimal.	Design Drawings
Pre-construction	All ancillary sites to be located outside of mapped Koala habitat.	Ancillary sites have been located in areas of minimal clearing and have minimised clearing of Koala habitat trees.	Sensitive Area Plans
Pre-Construction	Prior to any clearing taking place, the Project Ecologist will undertake an inspection of vegetation, to be cleared, to	Prior to construction commencing, only minor clearing (<150mm DBH)	Early Works Permits

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Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
	determine if work activities do not constitute "Construction" as defined in the planning approval under the NSW EP&A Act and are excluded from the Referral under the Federal EPBC Act.	was undertaken. The Project Ecologist inspected all areas of clearing to ensure no Koala habitat was removed during Pre-construction activities.	
Pre-Construction/ Construction	The limits of clearing are to be clearly marked on all relevant work plans and protective fencing erected to mark these limits (i.e. 'no-go' areas).	The clearing limits have been included on the Sensitive Area Plans and marked in the field using yellow flagging.	Sensitive Area Plans Early Works Permits Pre-clearing and Ground Disturbance Permit
Detailed Design/Pre-construction	Areas for Koala habitat restoration/connectivity are to be identified and included in the detailed design.	Habitat connectivity planting has been included in the Urban Design and Landscape Plan	Urban Design and Landscape Plan
Pre-construction/ Construction	Preparation of an EWMS would be undertaken for all work/construction activities and would include where necessary measures to minimise risk to Koalas.	An EWMS has been prepared for all work activities which includes measures to protect flora and fauna in accordance with the Flora and Fauna Management Plan (FFMP)	EWMS
	Induction of all personnel involved with pre- construction/construction activities would be undertaken to advise on Koala management requirements.	Project Induction includes information about identification of Koala's on site.	Project Induction

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
	<p>For any area of vegetation to be cleared during the pre-construction stage of the Project, a suitably qualified ecologist will undertake a search for native fauna (including Koalas) in the vicinity of clearing immediately prior to clearing commencing. During the construction stage, pre-clearing surveys will be undertaken within 48 hours of any clearing commencing (These are to include spotlighting surveys within suitable habitat on the night prior to clearing operations commencing in a given area.) In the event that a Koala is identified within 50 metres of a works area, works will be rescheduled until the construction stage of the Project.</p> <p>During the construction phase clearing works, the suitably qualified expert or an experienced wildlife handler under the supervision of the suitably qualified expert will be available to retrieve and provide appropriate care of any displaced matters of NES and release the fauna into adjacent habitats safe from construction work. Immediately prior to (within 2 hours) of clearing commencing in a given area, an additional ecologist inspection is to be undertaken to confirm that clearing areas remain free of fauna (including Koalas). Where Koalas are identified no works would be undertaken within 50 metres of the animal and the measures within the Fauna Management Protocol for Koalas (refer to Table 4.1 of Koala Management Plan) would be implemented. Should relocation of Koalas be required, a Koala Relocation Strategy included in Appendix C of the Koala Management Plan would be implemented.</p>	<p>The Project Ecologist undertakes inspections of all areas to be cleared and signs off on the Pre-clearing Inspection Checklist prior to commencement.</p> <p>No Koala's have been identified on site during clearing operations.</p>	<p>Pre-clearing and Ground Disturbance Permit</p>
<p>Pre-construction and Construction</p>	<p>Koala Management Protocol to be implemented requiring all personnel to report Koalas (including road kill). An assessment of future road kill risks including adaptive management actions is to be provided by the Project Ecologist where:</p> <ul style="list-style-type: none"> - A Koala is detected within/near the site, or - Koala road kill is detected. <p>Prior to the construction of fauna passage locations and installation of fauna fence, where continuous lines of jersey barriers are to be installed, gaps are to be provided to allow escape of any animals off the highway. Where gaps cannot be provided, a suitable material will be placed over the barrier to allow Koalas to climb over the barrier.</p>	<p>No Koala roadkill has been identified on the Project.</p> <p>No concrete barriers have been placed through Koala habitat areas.</p>	<p>Roadkill records and quarterly report.</p>
<p>Pre-construction/ Construction/ Operation</p>	<p>Appropriate habitat offsets to be identified by including targeted Koala surveys (GeoLINK 2014) using recognised survey approaches to confirm usage of potential offset properties.</p>	<p>Offset properties set up Koala's identified on Norton Property</p>	<p>Monitoring Records</p>

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
Construction	<p>Progressive rehabilitation of identified areas (refer to Appendix B of the Koala Management Strategy) during the construction stage using collected topsoil and seed at specific sites and to develop different successional stages of rehabilitation. Key rehabilitation measures would include:</p> <ul style="list-style-type: none"> - Progressive revegetation/rehabilitation during the construction phase using collected topsoil and seed at specific sites and to develop different successional stages of rehabilitation. - Planting of locally occurring species, including plants representative of groundcover, understorey and canopy strata. - Planting of preferred food trees for native fauna, including appropriate eucalypt species for the Koala. - Plantings are to be undertaken around fauna crossing structures to optimise utilisation of these structures. - Monitoring and maintenance of plantings. - Managing and controlling weeds. 	Progressive rehabilitation of the site has commenced. Site will be rehabilitated in accordance with the Urban Design and Landscape Plan.	<p>Urban Design and Landscape Plan</p> <p>Site Inspection Records</p>
Pre-Construction Detailed Design/ Construction	<p>EPA will be consulted during the detailed design phase on fauna crossing structure specific requirements for fauna furniture and treatments in and around fauna crossing structures. This will include, but not necessarily be limited to</p> <ul style="list-style-type: none"> - requirements for refuge poles and/or horizontal rails, pathways and appropriate plantings and/or - sizing /placement of scour rock & treatment of the substrate e.g. soil and/or mulch over the concrete floor and apron. <p>Advice will be provided by the project ecologist on fauna furniture to be installed within fauna crossing structures.</p>	The EPA/Fisheries has been consulted with and have provided input into the detailed design of the fauna crossing structures including the fauna furniture design.	<p>Detailed Design Drawings</p> <p>ERG Minutes</p>

Table 3.2: Compliance with Grey Headed Flying Fox Management Plan

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
Pre-construction	Identify exclusion zones and install exclusion fencing or marking. Exclusion fencing or marking is intended to exclude construction activities from occurring in flying-fox habitat.	<p>Orange flagging and no-go zone signage placed prior to the commencement of construction activities.</p> <p>Flagging was removed when confirmation received that the flying foxes were not utilising the roost on site.</p>	<p>Inspection records</p> <p>Sensitive Area Plans</p>
Detailed Design/ Pre-construction	Minimise through detailed design the incidence of clearing vegetation containing Swamp Mahogany, <i>Melaleuca quinquenervia</i> , <i>Banksia integrifolia</i> and <i>Eucalyptus</i>	The width of the road corridor through the flying fox roost area has been minimised. The total quantity of clearing foraging habitat	<p>Sensitive Area Plans</p> <p>Detailed Design</p>

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Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
	<i>tereticornis</i> that contribute to foraging habitat during known food bottle necks (i.e. winter period).	for GHFF has been minimised.	Drawings
Pre-construction/ Construction	Construction related infrastructure to be planned and sited within cleared or disturbed areas of the ancillary site. Particularly away from water sources and flying-fox movements areas.	Ancillary sites have been located away from the GHFF roost area and potential habitat.	Consistency review documents for Ancillary site facilities.
Construction	Pre-clearing and clearing surveys of all vegetation within the clearing footprint conducted as per protocol. Implement contingency plan for moving flying-fox out of the clearing corridor during vegetation clearing/construction, refer to Appendix C of the GHFF Management Plan.	Pre-clearing and ground disturbance permits have been signed off by the Project Ecologist prior to commencing clearing activities. No GHFF have been moved from the Project site for clearing operations	Pre-clearing and ground disturbance checklists.
Detailed Design	To minimise the risk of flying-fox vehicle strike during take-off from roosting/foraging, road corridor revegetation and ornamental planting is not to include plants that flower prolifically and produce nectar food sources likely to attract flying-foxes.	The Urban Design and Landscape Plan has considered revegetation that is suitable for the GHFF. Tree species have been located away from the sides of the roadway.	Urban Design and Landscape Plan
Construction	Exclusion zones fenced off and/or clearly marked. Fencing and marking monitored with breaches repaired.	The clearing limits have been clearly marked with yellow flagging and no-go zone signage.	Inspection records
Construction	Installation of temporary exclusion fencing around ancillary facilities.	No Ancillary Site Facilities have been placed adjacent to GHFF habitat	Sensitive Area Plans
Construction	Impacts to the flying-fox camp from construction noise, vibration and light would be managed through maintaining exclusion zone buffers and fencing. Only low noise / low disturbance construction activities to occur within the exclusion zone buffer during mid-September to the following April. Inclusion of cross drainage and the provision of a permeable, free draining rock platform in the vicinity of the camp.	No GHFF have been detected using the camp since prior to the commencement of construction. The GHFF colony has been detected using an alternative roost location and have not returned to the roost adjacent to the worksite. . The GHFF Management Plan has been updated by RMS and is currently with DoE for approval to permit the project to undertake activities such as haulage through the previous camp site buffer zone whilst it isn't occupied.	GHFF Monitoring Reports

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
	Implement contingency plan for moving flying-fox out of the clearing corridor and 100 metre buffer during vegetation clearing/ construction, refer to Appendix C of the GHFF Management Plan.		
Construction	Implement water quality procedures from the CEMP.	Regular inspections of the erosion and sediment controls in the area is ongoing throughout construction. Water quality monitoring is currently ongoing.	Inspection records Water Quality Monitoring Records

A non-compliance with the GHFFMP was raised during the reporting period:

The fortnightly monitoring of Grey Headed Flying Fox Monitoring not undertaken in accordance with the approved plan. Monthly frequency has been adopted by Roads and Maritime due to the absence of Grey Headed The monitoring frequency adjustment was not approved prior to implementation. Project Environmental Representative endorsement of this frequency change has been obtained and a formal request submitted to DoE formalise the amended Grey Headed Flying Fox Management Plan.

Table 3.3: Compliance with Spotted-tail Quoll Management Plan

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
Detailed Design and Construction	Minimise areas of vegetation (STQ habitat) to be cleared where feasible and reasonable during the detailed design and construction phase. Design changes (e.g. additional ancillary facilities, batch plants etc. to) avoid clearing of vegetation (STQ habitat).	The Project design has minimised clearing quantities as much as possible by ensuring the construction corridor is as narrow as possible. Ancillary sites have been located in areas where clearing is minimal and avoids STQ habitat.	Detailed Design
Pre-construction	All ancillary sites to be located outside of STQ habitat.	Ancillary sites have been located in areas where clearing is minimal and avoids STQ habitat.	Ancillary Site Facility Consistency Reviews
Pre-construction	Prior to any clearing taking place, the Project Ecologist will undertake an inspection of vegetation to be cleared to determine if work activities do not constitute "Construction" as defined in the planning approval under the NSW EP&A Act and are excluded from the Referral under the Federal EPBC Act.	Prior to construction commencing, only minor clearing (<150mm DBH) was undertaken. The Project Ecologist inspected all areas of clearing to ensure no STQ habitat was removed during Pre-construction activities.	Early Works Permits
Construction	The limits of clearing are to be clearly marked on all relevant work plans and protective fencing erected to mark these limits (i.e. no-go areas). Fauna habitat resources for the STQ to be marked by the ecologist and	The clearing limits have been included on the Sensitive Area Plans and marked in the field using yellow flagging. Habitat resources are marked by the Project Ecologist where	Sensitive Area Plans Pre-clearing and Ground Disturbance Permit

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Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
	retained within areas adjacent to the clearing footprint and within the Project boundary where appropriate.	appropriate	
Detailed Design	Areas for STQ habitat restoration/connectivity are to be identified and included in the detailed design.	Habitat connectivity planting has been included in the Urban Design and Landscape Plan	Urban Design and Landscape Plan
Construction	Preparation of an EWMS would be undertaken for all work activities and would include where necessary measures to minimise risk to the STQ.	An EWMS has been prepared for all work activities which includes measures to protect flora and fauna in accordance with the Flora and Fauna Management Plan (FFMP).	EWMS
	Induction of all personnel involved with activities would be undertaken to advise of STQ management requirements.	Project Induction includes information about identification of STQ on site.	Project Induction
	For any area of vegetation to be cleared during the pre-construction stage of the project, a suitably qualified ecologist will undertake a search for native fauna (including STQ) in the vicinity of clearing immediately prior to clearing commencing. During construction a suitably qualified ecologist will undertake pre-clearing surveys for threatened fauna species (including STQs) prior to (within 48 hours) any clearing commencing. For the STQ, these would focus on dens, large hollow-bearing trees, scats and any other potential habitat features such as rock formations. Immediately prior to (within 2 hours) of clearing commencing within a given clearing area an additional ecologist inspection is to be undertaken to confirm that clearing areas remain free of fauna (including STQs). In the event that a STQ is identified, no works would be undertaken within 200 metres of the animal and the measures within the Fauna Management Protocol for STQs (refer to Table 4.1) would be implemented. For any STQ detected on/near the site the protocol shown in Table 4.1 is to be implemented.	The Project Ecologist undertakes inspections of all areas to be cleared and signs off on the Pre-clearing Inspection Checklist prior to commencement. No STQ have been identified on site during clearing operations.	Pre-clearing and ground disturbance Permit
Construction	STQ Management Protocol (Table 4-1) to be implemented requiring all personnel to report STQs (including road kill). Assessment of future road kill risk including adaptive management actions to be provided by Project Ecologist where STQ road kill is detected.	No STQ roadkill has been identified on the Project.	Roadkill records and quarterly reports

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
Construction	<p>Progressive rehabilitation of identified areas (refer to Appendix C) during the construction stage using collected topsoil and seed at specific sites and to develop different successional stages of rehabilitation. Key rehabilitation measures would include:</p> <ul style="list-style-type: none"> ☐ Progressive revegetation/rehabilitation during the construction phase using collected topsoil and seed at specific sites and to develop different successional stages of rehabilitation. ☐ Planting of locally occurring species, including plants representative of groundcover, understorey and canopy strata. ☐ Plantings are to be undertaken around fauna crossing structures to optimise utilisation of these structures. ☑ Monitoring and maintenance of plantings. ☑ Managing and controlling weeds. 	Progressive rehabilitation of the site has commenced. Site will be rehabilitated in accordance with the Urban Design and Landscape Plan.	<p>Inspection records</p> <p>Urban Design and Landscape Plan</p>
Detailed Design and Construction	<p>EPA will be consulted during the detailed design phase on fauna crossing structure specific requirements for fauna furniture and treatments in and around fauna crossing structures. This will include, but not necessarily be limited to requirements for refuge poles and/or horizontal rails, pathways and appropriate plantings and/or sizing /placement of scour rock & treatment of the substrate e.g. soil and/or mulch over the concrete floor and apron. Advice will be provided by the project ecologist on fauna furniture to be installed within fauna crossing structures.</p>	The EPA/Fisheries has been consulted with and have provided input into the detailed design of the fauna crossing structures including the fauna furniture design.	Detailed design drawings

Table 3.4 Compliance with the Giant Barred Frog Management Plan

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
Pre-construction	No areas of Giant Barred Frog habitat to be cleared during preconstruction	No areas of GBF were cleared during pre-construction	Early Works Permits
Pre-construction/ Construction	All ancillary sites to be located outside of mapped Giant Barred Frog habitat.	Ancillary sites are located outside of the mapped GBF habitat.	Sensitive Area Plans
Pre-construction/ Construction	Perform field surveys at nominated biodiversity offset sites	Offset properties have been surveyed and area of potential habitat assessed	Shown on draft offset management plans

Timing	Mitigation Measure	Implementation Comment	Compliance Evidence
Construction	Any design changes required during the construction stage would minimise clearing of Giant Barred Frog habitat where feasible and reasonable	The clearing of GBF habitat has been minimised where possible. Only necessary infrastructure has been placed in the GBF habitat area.	Sensitive Area Plans
Construction	Preparation of an EWMS would be undertaken for all construction activities to clearly communicate relevant measures within this plan to work crews Ongoing induction of all personnel involved with construction activities would be undertaken to advise of Giant Barred Frog management requirements Early Works – Establishing Site Controls (Temporary Frog Fencing) (4.4.2) Pre-clearing Survey for Giant Barred Frogs (4.4.3) Clearing Supervision in Giant Barred Frog areas Dewatering Procedures in Giant Barred Frog areas (4.5.5) Permanent Frog Fencing (4.5.6) Unexpected Finds Procedure (4.5.7) (4.5.4) All mitigation measures applied during construction as per Table 5-1	An EWMS has been prepared for all work activities which includes measures to protect flora and fauna in accordance with the Flora and Fauna Management Plan (FFMP). Project Induction includes information about identification of GBF on site. Temporary frog fencing has been installed prior to the commencement of clearing. The Project Ecologist undertakes inspections of all areas to be cleared and signs off on the Pre-clearing Inspection Checklist prior to commencement. The Project Ecologist has supervised the clearing operations in the GBF habitat.	EWMS Project Induction Pre-clearing and Ground Disturbance Permit Site Inspection Record Urban Design and Landscape Plan
Construction	Giant Barred Frog road kill to be reported to the Project Ecologist during daily/weekly monitoring An assessment of future road kill risks including adaptive management actions is to be provided by the Project Ecologist where: <input checked="" type="checkbox"/> Giant Barred Frog is detected within/near the site; or <input type="checkbox"/> Giant Barred Frog road kill is detected	No GBF roadkill has been identified on the Project.	Roadkill records and quarterly report.
Construction	Progressive rehabilitation of identified areas (refer to Appendix C of the GBF Management Plan) Key rehabilitation measures will include planting of the northern bank of Upper Warrell Creek on either side of the bridge Progressive revegetation/ rehabilitation during construction Use of locally endemic native species representative of those currently growing along Upper Warrell Creek Monitoring and maintenance of plantings Managing and controlling weeds	Progressive rehabilitation of the site has commenced. Site will be rehabilitated in accordance with the Urban Design and Landscape Plan.	Urban Design and Landscape Plan

The Ecological Monitoring Annual Report 2015 contains the results of the monitoring required for the Management Plans.

□ **Condition 4**

To mitigate impacts to **threatened species**, the **approval holder** must submit the Flora and Fauna Management Sub Plan and Construction Environment Management Plan to the **Department** for approval prior to **commencement**. The Plans must include the additional mitigation measures not included in the **management plans** and as described in the **Biodiversity Offset Strategy**. The approved **plans** must be implemented.

Action	Timing	Status	Compliance evidence
4.1 Submit Flora and Fauna Management Plan and Construction Environment Management Plan to the Department	Prior to commencement	Compliant Complete	The CEMP and FFMP were submitted to DoE on the 17 & 22 December 2014.
4.2 Plans must include the additional mitigation measures not included in the management plans as described in the Biodiversity Offset Strategy.	Prior to commencement	Compliant Complete	The plans were accepted by DoE on the 9 January 2015.
4.3 Implement the FFMP and CEMP	Construction	Compliant Ongoing	Compliance with the FFMP and CEMP is continuously monitored on site. The Project has an independent Environmental Representative to monitor compliance with these documents. See summary below.

Compliance with the CEMP is reviewed regularly by Roads and Maritime, the independent Environmental Representative (ER) and Pacifico. There were no non-compliances reported in the 6-monthly compliance report provided to the state DPE. The Project is continuing to implement the CEMP.

Compliance with the FFMP is also regularly reviewed by Roads and Maritime, the ER and Pacifico. Non-compliances were reported in the 6 monthly compliance report provided to the state DPE in relation to the monitoring program for threatened microchiropteran bats. The non-compliances have been rectified and the Project is continuing to implement the CEMP.

The ER performed an audit on the TFMP in April 2016. The report is yet to be finalised.

A non-compliance with the TFMP has been reported in the 6 monthly compliance report provided to the state DPE due to the omission of the November 2015 monitoring record for translocated individuals. Details are provided under Condition 7 below.

□ **Condition 5**

In the event of any inconsistency, ambiguity or discrepancy between the **management plans** and the Flora and Fauna Management Plan or the Construction Environmental Management Plan, the **management plans** have precedence.

Action	Timing	Status	Compliance evidence
5.1 Identify discrepancies in the CEMP/FFMP and Management Plans	Construction	Compliant Ongoing	No discrepancies noted

□ Condition 6

Prior to commencement, the approval holder must amend the monitoring program proposed in the Threatened Flora Management Plan to:

- (i) include detailed monitoring methodology designed to monitor the success of the management and mitigation measures proposed for pre-construction, construction and operations; and
- (ii) ensure all performance thresholds, corrective actions and monitoring/timing frequency are specific, measurable, auditable, enforceable and time-bound to monitor the success of the management and mitigation measures proposed.

Action	Timing	Status	Compliance evidence
6.1 Update the TFMP to include detailed monitoring methodology designed to monitor the success of the management and mitigation measures	Prior to commencement	Compliant Complete	The TFMP has been approved by DoE on the 9 January 2015
6.2 Update the TFMP to ensure all performance thresholds, corrective actions and monitoring/timing frequency are specific, measurable auditable, enforceable and time-bound	Prior to commencement	Compliant Complete	The TFMP has been approved by DoE on the 9 January 2015.

□ Condition 7

The **approval** holder must not **commence** the **action** until the **Threatened Flora Management Plan** has been approved by the **Minister**. The approved **Threatened Flora Management Plan** must be implemented.

Action	Timing	Status	Compliance evidence
7.1 The action must not commence until the TFMP is approved by the Minister	Prior to commencement	Compliant Complete	The TFMP was approved by DoE on the 9 January 2015.
7.2 Implement the TFMP	Construction	Non-compliant Ongoing	Translocation Annual Report Ecological Monitoring Report Summary Below

The TFMP has been implemented on site with the following activities undertaken:

- There has been no loss or damage to threatened flora species during the pre-construction phase;
- The translocation of threatened species has been completed with a total of 169 Slender Marsdenia individuals translocated. In February 2016, the survival rate for translocated individuals was 91%.
- 6 unconfirmed Woolls Tylophora individuals have also been translocated. As of February 2016 there was a 100% survival rate of these individuals.
- Habitat restoration of one receival site to remove a lantana infestation has occurred;
- Seed collection for Slender Marsdenia will take place in December 2016;
- In-situ monitoring of threatened plant species has been undertaken and the results provided in the Ecological Monitoring Report. The results of monitoring in-situ Slender Marsdenia has found a number of individuals have recently experienced die-back, which is known to occur in this species naturally during its lifecycle. The Project Ecologist has noted this is not due to the construction works and is a natural part of the lifecycle of this plant species.

A non-compliance with the TFMP has been reported in the 6 monthly compliance report provided to the state DPE due to the omission of the November 2015 monitoring record for translocated individuals.

Translocated threatened species monitoring was not undertaken in accordance with approved TFMP due to fourth Yr1 quarterly monitoring not undertaken in November 2015. The cause of this non-compliance was the principal botanist contracted to undertake the monitoring was not available during this period and was overseas

It is proposed by TFMP Author to modify the frequency of monitoring to the following:

Year 1 – frequency change to 3 monitoring periods;

Year 2 – frequency change from six monthly to 3 monitoring periods (6th, 9th and 12th months).

This change will also enable the Plan's Author to complete monitoring in November 2016 which would coincide with the flowering time of Slender Marsdenia.

A request to the Environmental Representative has been made for a minor amendment to the CEMP (TFMP, Appendix B of FFMP) under Condition B29 (g) minor change to CEMP

□ **Condition 8**

The **approval holder** must monitor all mitigation measures until they are demonstrated to be successful, and with written agreement from the **Department**.

Action	Timing	Status	Compliance evidence
8.1 Monitor implementation of the mitigation measures	Construction and Operation	Compliant Ongoing	Ecological Monitoring Annual Report This Report
8.2 Obtain written agreement from the Department that all mitigation measures have been demonstrated as successful	Completion of construction and operation	Compliant TBA	Written agreement with the Department

□ Condition 9

If **MNES** not previously identified and reported to the **Department**, are found in the **action** area, the **approval holder** must notify the **Department** in writing within five business days of finding the **MNES**, and within a further 30 business days, the **approval holder** must outline in writing how **impacts** to these **MNES** will be avoided, mitigated and/or **offset**.

Action	Timing	Status	Compliance evidence
9.1 Notify the Department in writing within five business days of finding MNES	Pre-Construction, Construction, Operation	Ongoing	Notification made to DoE in December 2014 when <i>Persicaria elatior</i> found on site. See summary below
9.2 Outline in writing within 30 business days how the impacts to MNES will be avoided, mitigated and/or offset	Pre-Construction, Construction, Operation	Ongoing	Report provided to DoE in February 2014 when <i>P.elatior</i> found on site, see summary below. Mixophyes tadpoles found on site, see below.

In December 2014, an unexpected find of *Persicaria elatior* (Tall Knotweed) was found on the WC2NH Project on the northern side of Nambucca River within and adjacent to the approved Project Boundary. The Tall Knotweed was identified during a routine inspection by the Project Ecologist and notified to the contractor and RMS immediately. A notification was provided to DoE within 5 days (17 December 2014) and a full report provided to DoE on the 23 December 2014 with follow up information provided on 5 March 2015.

The Project Ecologist undertook an Assessment of Significance consisting of a seven-part test under Section 5A of the Environment Planning and Assessment Act 1979 (EP&A Act) and a Significant Impact Criteria Assessment for listed threatened species under the Environment Protection and Biodiversity Conservation Act 1999. The assessments concluded that Proposal is unlikely to have a significant impact on the population of Tall Knotweed. Preparation of an Environmental Impact Statement (EIS) was not required, nor was a referral to the DoE.

It was determined that the population of Tall Knotweed would be protected from construction activities by exclusion fencing and no-go zone signage. The construction activities would avoid the population.

The population was inspected as part of the State Approval Ecological Monitoring Program referenced 2 The findings determined that the population had died back, which is a natural occurrence for the species. A control population was monitored to the north of the Project and found to have also died back. It was concluded that the die back was not a consequence of construction activities.

On the 31st August 2015 a large number of Mixophyes tadpoles (320) were captured/ relocated by the Project's aquatic ecologist whilst dewatering a section of Butchers Creek where a creek diversion was to be constructed. The aquatic ecologist was present on site in order to undertake capture/ relocation of aquatic fauna which is undertaken routinely as part the project. Tadpoles captured were relocated to areas downstream within Butchers Creek deemed by the aquatic ecologist to be appropriate habitat. Formal identification of the tadpoles was undertaken by frog expert, Michael Mahony as the similar Great Barred Frog (*Mixophyes fasciolatus*) is known from Butchers Creek. Michael made a determination based on photographs provided

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that the tadpoles were that of the Giant Barred Frog. Based on the above, Pacifico initiated the Unexpected Find Procedure described within the Flora and Fauna Management Plan for the WC2NH project. Immediate actions undertaken were:

- Chytrid Hygiene Protocols in accordance with the WC2NH Weed and Pathogen Management Plan were initiated.
- Additional target surveys for Giant Barred Frogs were undertaken along Butchers Creek.
- Provision of temporary frog exclusion fencing which was installed along Butchers Creek with preclearing surveys undertaken to ensure that frogs were not present within the works area.
- Ecologist supervision of all works undertaken within potential habitat associated with Butchers Creek.
- A site inspection of Butchers Creek was undertaken by Lewis Ecological Service (LES) on behalf of RMS on 2 October 2015 involving an assessment of habitat, nocturnal surveys and tadpole surveys. No Giant Barred Frogs were detected during nocturnal surveys although the commonly occurring Great Barred Frog was recorded visually and via calls. Tadpole surveys captured several large tadpoles and all were subsequently identified as *M. fasciolatus*. In addition to this, two tadpoles were retained as samples and grown on to confirm identification. LES made contact with Professor Michael Mahony and a number of other people recognized as having expertise with the Mixophyes genus. There was a general consensus that the tadpoles and metamorph (grown on) were indeed *M. fasciolatus* and not *M. iteratus*.

The design of the culvert to be installed for Butchers Creek has been modified to include comments made by the EPA in light of this unexpected find. The changes to the design were:

- Vary the height of cell floor levels to best match the natural creek line shape and bank grades.
- Where required, modify the existing five cell culvert to:
- Locate the floor level of the 2 cells adjacent to the central cell 200 – 300 mm higher than the centre cell to provide enhanced potential connectivity for tadpoles.
- Depending on any impact on afflux, increase the floor level of the outer 2 cells by a further 200 – 300 mm (being a total of 400 – 600 mm above the central cell floor level) to further enhance connectivity for frogs.
- Partially embed natural rocks in a scattered arrangement across the floor of the culverts to present a more natural substrate to enhance functionality for fauna.
- Restore site habitat by:
- Implementing “soft scour” planting treatments to the degree allowed by the hydrological design of the culvert.
- Regenerating adjoining riparian areas by planting out with indigenous rainforest shrub and tree species (subject to urban design advice).
- Provide frog exclusion fencing to the fauna fence already designed for the area.

- In addition to the proposed changes to the culvert design, RMS proposes the following additional mitigation measures:
- The Butchers Creek site will be included as a site to be monitored as part of the existing WC2NH GBF Monitoring Program.

Barred Frog habitat occurring at Butchers Creek will be offset as part of the Biodiversity Offset Strategy for the project.

The DoE was advised verbally on the 23 October and in writing on the 27 October 2015.

□ Condition 10

Prior to **commencement**, all **management plans** must be made publicly available on the **approval holder's website**, for 10 years following **commencement**. The monitoring results must also be made available on request for the duration of the **approval**.

Action	Timing	Status	Compliance evidence
10.1 Upload Management Plans on to the public website	Construction	Compliant Complete	All management plans uploaded to the RMS website.
10.2 Monitoring results must be made available on request for the duration of the approval	Construction	Compliant Ongoing	Monitoring results are available on request.

□ Condition 11

The **approval** holder must make all monitoring results required by the **management plans** publicly available on the **approval holder's website** within two months of the monitoring event, for 10 years following **commencement**. The monitoring results must also be made available on request for the duration of the **approval**.

Action	Timing	Status	Compliance evidence
11.1 All monitoring results to be uploaded to the Project website	Construction	Non-compliant	Monitoring records uploaded onto the public website however were not uploaded within the stipulated timeframe of 2 months after the monitoring event. It is noted the monitoring records are available upon request as stated in Condition 10.

The Project has raised a non-compliance as monitoring results were not uploaded onto the project website within two months of the monitoring event. A compliance tracking program will be implemented to include a monthly review of project monitoring and the preparation of the reports for uploading onto the website.

The Project is currently reviewing the procedure for uploading of documents and will ensure all monitoring records are uploaded within two months of the monitoring event going forward.

□ **Condition 12**

To compensate for the loss of threatened species habitat, within 12 months of the approval of the action, the approval holder must submit to the Minister for approval a Biodiversity Offset Package. The Package must:

- (a) provide known habitat and compensate for the residual significant impacts on the threatened species and their habitat in Condition 1a) to e);
- (b) demonstrate consistency with and meets the requirements of the EPBC Act Environmental Offsets Policy;
- (c) detail the offset attributes (including maps in electronic Geographic Information System (GIS) format with accompanying shapefiles), site descriptions environmental values relevant to threatened species being offset, connectivity with other habitat and biodiversity corridors;
- (d) include detailed surveys and quantitative and qualitative descriptions of any proposed offset areas which clearly identify baseline conditions. This must include:
 - (i) a baseline description (prior to any management activities) of the current quality of the habitat for each relevant threatened species in each offset area, including the location of survey points (GPS reference);
 - (ii) the quantity (in hectares) of suitable habitat present within the offsets areas for the threatened species the quality of the habitat for the relevant threatened species found within the offset areas;
 - (iii) vegetation condition mapping; and
 - (iv) photo reference points.
- (e) be prepared by a suitably qualified ecologist;
- (f) include conservation and management measures for long-term protection and adaptive management of the offsets to improve habitat for threatened species within the offset areas from baseline conditions, including but not limited to:
 - (i) a map showing offset areas to be managed;
 - (ii) conservation management actions for each offset area and the details of methods to be used;
 - (iii) offset management must be consistent with threat abatement plans for threatened species;
 - (iv) the timing of management activity for each offset area and anticipated timeframes for achieving performance objectives;
 - (v) clear performance measures and performance indicators for each offset area including contingency actions, criteria for triggering contingency actions and a commitment to the implementation of these actions in the event that performance objectives are not met that will enable maintenance and enhancement of habitat within the offset area, as well as contribute to the better protection of individuals and/or populations of threatened species and their habitat;

- (vi) a monitoring program to assess the effectiveness of the management actions measured against the baseline condition. This must include, but not be limited to, control sites and periodic ecological surveys to be undertaken by a suitably qualified ecologist;
- (vii) a risk assessment and a description of the contingency measures that would be implemented to mitigate these risks;
- (viii) details of the various parties responsible for the management, monitoring and implementing the management activities, including their experience and qualifications and employment or engagement status; and
- (ix) details of qualifications and experience of persons responsible for undertaking monitoring, review, and implementation of the Biodiversity Offset Package, including the role of the independent expert in preparing, reviewing, and implementing the Biodiversity Offset Package; and
- (x) a description of protection and funding arrangements or agreements including work programs and responsible entities

Action	Timing	Status	Compliance evidence
12.1 Submit a BOP to Minister of DoE for approval	Within 12 months of the approved action	Compliant	Documentation sent via email 11 December 2015. Email receipt received of DoE representative can be supplied if requested.

□ **Condition 13**

The **approval holder** must implement the approved Biodiversity Offset Package within 24 months of the date of this **approval**.

Action	Timing	Status	Compliance evidence
13.1 Implement the actions approved under the BOP	Within 24 months off approval	Compliant – pending DoE Approval	The BOP is yet to be approved by DoE

RMS are anticipating DoE approval to be received in August 2016 thus will commit to implementation within 24 months of the formal BOP approval date

□ Condition 14

If an **offset** site proposed as a part of the Offset Package is already required to be protected as a result of a separate **EPBC Act** approval, only the management actions which can be demonstrated to be additional to those required for the separate approval, can be considered as an **offset** for this project. The legal protection of the site and management action required for separate approvals cannot be considered a part of the **offsets**, in accordance with the **Environmental Offsets Policy**.

Action	Timing	Status	Compliance evidence
14.1 Allocate offsets under the BOP from one section of a designated property. No cross over of allocation to occur.	Pre During and post construction	ongoing	The allocation of the Norton property to the various approved EPBC projects is listed below. The area allocated for WC2NH is 185 Ha

To comply with the EPBC Act offset policy, RMS has allocated separate areas of the Norton property (503 ha in total) to each project as follows:

NH2U:	281 ha (includes 5 ha domestic exclusion area)
WC2NH:	185 ha
OH2K:	37 ha

A map showing the area dedicated to each property will be included in the next draft of WC2NH OMP (July 2016) and the NGOMP for NH2U. This will give DoE confidence that no doubling or cross over of allocations between the approved projects has or will occur.

To-date in assessing the OH2K OMP and earlier drafts of the NGOMP and WC2NH OMP, DoE have not raised any concerns with this approach.

□ Condition 15

The **approval holder** must, within 12 months of the **approval** of the Biodiversity Offset Package, register a legally binding conservation mechanism to provide long-term protection to the **offsets** approved by the **Minister** in the Biodiversity Offset Package, which prohibits any activities that are not conservation activities from being undertaken in the **offsets**

Action	Timing	Status	Compliance evidence
15.1 register within 12 months of the approval of the Biodiversity Offset Package, a legally binding conservation mechanism to provide long-term protection to the offsets approved by the Minister in the Biodiversity Offset Package, which prohibits any activities that are not conservation activities from being undertaken in the offsets	12 months from BOP approval date	Ongoing	The BOP is yet to receive DoE approval. See details below

The WC2NH Biodiversity Offset Package has yet to be approved, so condition 15 hasn't been triggered yet. The final BOP is anticipated to be approved by August 2016. RMS is progressing with securing the offset properties as follows:

Offset property (tenure)	Offset mechanism	Status
Norton (RMS)	Bio Banking Agreement (provides a legally binding conservation mechanism under the Threatened Species Conservation Act)	A Bio Banking application is currently being prepared by GHD, expected to be submitted to the Office of Environment and Heritage in June 2016 with the agreement finalised and placed on the property title by December 2016 (assuming BOP approved by then). Also an offset site for NH2U and OH2K.
Boambee (State Forest)	Newly declared Flora Reserve (provides a legally binding conservation mechanism under the Forestry Act)	To be gazetted by the Forestry Corporation of NSW upon approval of the WC2NH Biodiversity Offset Package. Gazettal process expected to take up to 6 months to be finalised (expected first quarter 2017 pending BOP approval in August 2016).
Swain (private)	Bio Banking Agreement.	Ecological surveys have been undertaken. Negotiation commencing with the landowner in May 2016 to finalise the Bio Banking application. Expected to be submitted to OEH

Offset property (tenure)	Offset mechanism	Status
		in September 2016 and finalised by March 2017. Also an offset site for W2B.

□ Condition 16

If the results of the monitoring required in the Grey-headed Flying-fox Management Plan, shows that the Macksville Grey-headed Flying-fox Camp is abandoned from September to May for two or more consecutive years within a six year period after impacts to Grey-headed Flying-fox habitat occurs, the approval holder must then offset the entire 23.50 ha roosting habitat critical to survival, rather than 3.10 ha required by Condition 1.

Note: The provision of the additional offset, if required, would be additional to the requirements of Condition 13-16.

Action	Timing	Status	Compliance evidence
16.1 Monitoring GHFF camp. From monitoring results, determine if camp unoccupied continually for 2 consecutive years within a 6 year monitoring period. If unoccupied provide for the full 23.50 Ha offset area else provide for the 3.1 Ha.	By 9 February 2021	Ongoing	The camp has not been occupied since before construction commenced on 9 February 2015 to present. The first year since substantive construction commenced within the prescribed 6 year monitoring period.

As Construction as defined under the approvals, did not commence until 9 February 2015 and the camp was unoccupied for 12 months prior to this time, less a few days over December 2015, the camp for all intents and purposes, is considered abandoned.

RMS is to apply to DoE for dispensation to the offset area prescribed as the abandonment occurred prior to substantive construction and thus disturbance to the camp. It is noted that main line clearing and grubbing within the camp commenced 1 May 2015. The offset area requested to be committed to is 3.1 Ha.

The request to DoE for the GHFFMP at time of finalising this report was yet to be determined.

□ **Condition 17**

Within 14 days after the **commencement** of the **action**, the person taking the **action** must advise the **Department** in writing of the actual date of **commencement**.

Action	Timing	Status	Compliance evidence
17.1 Advice in writing to be provided to DoE 14 days prior to the commencement of the action.	14 days prior to the commencement of the action	Complete	A letter was provided to DoE by RMS on the 17 February 2015.. The Commencement date for the action was the 9/2/15.

□ Condition 18

The **approval holder** must notify the **Department** in writing of potential non-compliance with any condition of this **approval** as soon as practical and within no later than two business days of becoming aware of the non-compliance. The notice provided to the **Department** under this condition must specify:

- a) the condition which the **approval holder** has potentially breached;
- b) the nature of the non-compliance; and
- c) when and how the **approval holder** became aware of the non-compliance.

Further to providing any such notice, the **approval holder** must provide the following information within 10 business days of becoming aware of a potential non-compliance:

- a) how the non-compliance will affect the anticipated impacts of the **approved action**, in particular how the non-compliance will affect the impacts on the **MNES**;
- b) the measures the **approval holder** will take to address the impacts of the non-compliance on the **MNES** and rectify the non-compliance; and
- c) the time by when the **approval holder** will rectify the non-compliance.

Action	Timing	Status	Compliance evidence
18.1 Details of any non-compliance to be reported to DoE within 2 business days of being made aware of the non-compliance	Construction	Non-compliant	Non-compliances have been determined whilst preparing this report, however not reported to DoE within two business days as stipulated by this condition. The DoE has been advised of the non-compliances in writing.

Six non-compliances have been raised in this reporting period :

1. Condition 3 – Undertaking of Grey Headed Flying Fox Monitoring not in accordance with approved plan. Monthly frequency has been adopted by RMS in preference to approved fortnightly frequency due to no presence of Grey Headed Flying Fox's during the nominated period within the plan. The frequency adjustment was not approved prior to implementation. Project Environmental Representative has endorsed the frequency change. The amended Grey Headed Flying Fox Management Plan has been submitted to the DoE on 19 April 2016.
2. Condition 7 - Translocated threatened species monitoring not undertaken in accordance with approved TFMP due to fourth Yr1 quarterly monitoring not undertaken in November 2015. The cause of this non-compliance was the principal botanist contracted to undertake the monitoring was not available during this period and was overseas

It is proposed by TFMP Author to modify the frequency of monitoring to the following:

Year 1 – frequency change to 3 monitoring periods;

Year 2 – frequency change from six monthly to 3 monitoring periods (6th, 9th and 12th months).

This change will also enable the Plan's Author to complete monitoring in November 2016 which would coincide with the flowering time of Slender Marsdenia.

An application was made to DoE to consider and approve the amended plan in accordance with Condition 22 on 19 April 2016.

3. Condition 11 – Monitoring results were not uploaded onto the project website within two months of the monitoring event. A compliance tracking program will be implemented to include a monthly review of project monitoring and the preparation of the reports for uploading onto the website.
4. Condition 22 – Updated Management Plans were not submitted to DoE for approval prior to implementation. The GHFFMP and TFMP have both been updated to capture updates to the monitoring regime for the species.
5. Condition 25 - DoE not notified of the publishing of relevant documents on the project website within the required timeframes.
6. Condition 18 - The above non-compliances not notified to DoE within two business days of RMS becoming aware of the non-compliance. Correspondence has been prepared for submission as written notification of identified non-compliances. A compliance tracking program will be implemented to identify any potential non-compliances in a timely manner to ensure DoE notification.

□ Condition 19

Within three months of every 12 month anniversary of the **commencement** of the **action**, the **approval holder** must publish a report on its **website** addressing compliance with each of the conditions of this **approval**, including implementation of any **management plan, package** as specified in the conditions. **Documentary** evidence providing proof of the date of publication must be included in the published **compliance report**. The **compliance report** must remain on the **website**, for 10 years following **commencement**. The monitoring results must also be made available on request for the duration of the **approval**. Reports of any non-compliance must also be included in the annual **compliance report**.

Action	Timing	Status	Compliance evidence
24.1 Prepare compliance report and upload to project website	By 9 May 2016	Compliant Ongoing	Report uploaded to project website. Advice provided to Dept. on date of publication.
24.2 Prepare compliance report and upload to project website	By 9 May 2017	TBA	Report uploaded to project website. Advice provided to Dept. on date of publication.
24.3 Prepare compliance report and upload to project website	By 9 May 2018	TBA	Report uploaded to project website. Advice provided to Dept. on date of publication.
24.4 Prepare compliance report and upload to project website	By 9 May 2019	TBA	Report uploaded to project website. Advice provided to Dept. on date of publication.

□ Condition 20

The **approval holder** must maintain accurate **compliance records** substantiating all activities associated with or relevant to the conditions of **approval**, including measures taken to implement the **management plans, package** required by this **approval**, and make them available upon request to the **Department**. Such **compliance 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**. Summaries of audits will be posted on the **Department's website**. The results of audits may also be publicised through the general media.

Action	Timing	Status	Compliance evidence
20.1 Maintain compliance records for the management plans	Construction, operation	Ongoing	Compliance records are available on the Project Website and internally via Teambinder. Maintenance of records is regularly audited by the Project Environmental Representative.
20.2 Maintain compliance records for the Biodiversity Offset Strategy	Construction, operation	Ongoing	Works on implementing the BOS yet to commence however offset properties secured

An inspection of the site was undertaken by representatives from DoE on the 3rd December 2015. Also present at the pre-inspection meeting were representatives of Roads and Maritime, DPE and Pacifico. The meeting consisted of an opening meeting where DoE discussed the EPBC Conditions associated with the project specific approval and highlighted an issue where the EPBC Approval states that annual reporting will be continued past the completion of the project for a significant period of time. It was stated that a request to modify this reporting period will limit additional reports into the operational phase of the project. It was also stated that the DoE team was part of the approvals team and was not part of compliance auditing team for DoE and that in the future they may attend site to verify compliance with the EPBC Conditions. Questions were asked by both DPE and DoE on the status of the project. A site inspection was then undertaken onsite with locations in both the North and South of the Project, including the northern stockpile site and the Precast and Batch Plant Sites. Some information of PESCP and control measures onsite was also discussed with DPE.

□ Condition 21

Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of **approval** is conducted and a report submitted to the **Minister**. The audit must not commence unless and until the **Minister** has approved the independent auditor and audit criteria. The audit report must address the criteria to the satisfaction of the **Minister**.

Action	Timing	Status	Compliance evidence
21.1 Prepare independent audit of compliance with the conditions of approval if directed by the Minister to do so.	When Directed	TBA	An independent audit of the conditions of approval has not been required during the reporting period.

□ Condition 22

If the **approval holder** wishes to carry out any activity otherwise than in accordance with a **management plans, strategy, package** as specified in the conditions, the **approval holder** must submit to the **Department** for the **Minister's** written approval a revised version of that **management plan, package**. The varied activity must not commence until the **Minister** has approved the varied **management plan, package** in writing. The **Minister** will not approve a varied **management plan, package** unless the revised **management plan, package** would result in an equivalent or improved environmental outcome over time. If the **Minister** approves the revised **management plan, package** that **management plan, package** must be implemented in place of the **management plan, package** originally approved.

Action	Timing	Status	Compliance evidence
22.1 Provide updated management plan or package for approval	Construction, operation	Non-compliant	Two non-compliances have been raised relating to monitoring undertaken for the TFMP and the GHFFMP. Both management plans require updating to capture a more accurate monitoring regime. A summary has been provided below. These updated documents have not been provided to DoE for approval.

A non-compliance has been raised for this condition. The GHFFMP and the TFMP have both been updated to reflect an updated monitoring regime.

The GHFFMP has been updated to remove the requirement for fortnightly monitoring considering the flying fox camp have not returned to the roost adjacent to the worksite. The change has been accepted by the EPA and the Project ER. Following endorsement from DPE, an application will be made to DoE to accept the change in monitoring frequency.

The TFMP has been updated to change the frequency of monitoring of translocated individuals in the first year from four monitoring surveys to three monitoring surveys due to the inadvertent omission of the November 2015 monitoring survey. The second year monitoring requirements have been updated from two monitoring surveys to three monitoring surveys to better capture the flowering period of the Slender Marsdenia in November. This has been agreed with the Project Botanist, the EPA and the Project ER. The change to the management plan is currently with the ER for approval. Once approved, this document will be provided to DoE for consideration with a request for approval.

□ Condition 23

If the **Minister** believes that it is necessary or convenient for the better protection of **MNES** to do so, the **Minister** may request that the **approval holder** make specified revisions to a **management plan, package** required by the conditions and submit the revised **management plan, package** for the **Minister's** written approval. The **approval holder** must comply with any such request. The revised **management plan, package** must be implemented. Until the **Minister** has approved a revised **management plan, package**, the **approval holder** must continue to implement the previously approved **management plan, package**, as specified in the conditions.

Action	Timing	Status	Compliance evidence
23.1 Update the Management Plan or Package in response to a direction from the Minister and provide for approval.	As directed	TBA	No updates to the management plans or package has been required.

□ **Condition 24**

If, at any time after five years from the date of this **approval**, the **approval holder** has not **commenced** the **action**, then the **approval holder** must not **commence** the **action** without the written agreement of the **Minister**.

Action	Timing	Status	Compliance evidence
24.1 Notify the Minister of the commencement of the action	Prior to Commencement	Compliant Complete	RMS notified the Minister of the commencement of the action on the 17 February 2015.

□ Condition 25

Unless otherwise agreed to in writing by the **Minister**, the **approval holder** must publish the **management plans, package**, monitoring data in these conditions of **approval** on its **website**. Each **management plans, package**, monitoring data must be published on the **website** within one month of being approved (unless otherwise specified in these conditions) or within one month of data collection.

Action	Timing	Status	Compliance evidence
25.1 Publish management plans on the Project Website	Within one month of being approved	Complete	Management Plans uploaded onto the Project website
25.2 Publish the Biodiversity Offset Package on the Project Website	Within one month of being approved	TBA	The Biodiversity Offset Package has not been approved.
25.3 Publish monitoring data onto the website	Within two months of undertaking the monitoring	Non-Compliant	Not all monitoring results have been published on the Project website within the stipulated timeframe of two months.

A non-compliance has been raised in relation to this condition. The monitoring data has been uploaded onto the website, however it was not uploaded within the two month timeframe stipulated in Condition 11. The contractor and RMS will review the documents to be uploaded onto the website on a monthly basis and ensure the monitoring data is uploaded onto the website within two months of the monitoring event going forward.

□ Condition 26

The **approval holder** must notify the **Department** within 5 business days of publishing the **management plan, package**, monitoring data on their website and the **management plan, package**, monitoring data must remain on the website for the life of this **approval**.

Action	Timing	Status	Compliance evidence
26.1 Management plans uploaded on RMS website	With 5 days	Compliant	The CEMP TFMP and FFMP were uploaded on the project web site on 17 February 2015
26.2 Monitoring data	Within 2 months of receipt	Non complaint	Monitoring undertaken per approved schedule. Reports uploaded but not strictly within 2 months of receipt.

The RMS acknowledges that all monitoring data collected over the last 12 months has not strictly been uploaded onto the web site in compliance with CoC 11. The data to date has been uploaded in an ad hoc fashion. RMS has implemented procedures to ensure that within 2 months of receipt of a monitoring report it will be uploaded and the Department advised within 5 days of the upload via email notification, thus ensuring ongoing compliance throughout the next and subsequent review periods.

Attachment 1 – Project Vegetation Clearing Register

Description	Approved clearing area (ha)	Approved clearing as at 05/05/16	As-built clearing totals to October 2015	Compliant?
Slender Marsdenia/Clear Milkvine and Wooll's Tylophora/Cryptic Forest Twiner habitat	17.80	16.12	15.71	Yes
Koala habitat comprising:				
• Blackbutt Open Forest	77.00	54.61	49.25	Yes
• Mixed Floodplain Forest	4.00	3.32	2.68	Yes
• White Mahogany/Grey Gum/Ironbark Moist Open Forest	5.50	5.50	4.98	Yes
• Flooded Gum Moist Open Forest	14.80	13.44	12.34	Yes
• Swamp Mahogany/Paperbark Swamp Forest	5.30	4.26	3.42	Yes
<i>Total</i>	<i>106.60</i>	<i>81.13</i>	<i>72.67</i>	<i>Yes</i>
Koala habitat (critical to the survival)	86.50	59.81	59.12	Yes
Grey-headed Flying-fox habitat (foraging habitat critical to survival) comprising:				
• Blackbutt Open Forest	77.00	54.61	49.25	Yes
• Mixed Floodplain Forest	4.00	3.32	2.68	Yes
• White Mahogany/Grey Gum/Ironbark Moist Open Forest	5.50	5.50	4.98	Yes
• Flooded Gum Moist Open Forest	14.80	13.44	12.34	Yes
• Swamp Mahogany/Paperbark Swamp Forest	5.30	4.26	3.42	Yes
<i>Total</i>	<i>106.60</i>	<i>81.13</i>	<i>72.67</i>	<i>Yes</i>
Grey-headed Flying-fox habitat (roosting habitat critical to survival)	3.10	2.10	2.10	Yes
Spotted-tail Quoll habitat comprising:				
• Blackbutt Open Forest	77.00	54.61	49.25	Yes
• Mixed Floodplain Forest	4.00	3.32	2.68	Yes
• White Mahogany/Grey Gum/Ironbark Moist Open Forest	5.50	5.50	4.98	Yes
• Flooded Gum Moist Open Forest	14.80	13.44	12.34	Yes
• Swamp Mahogany/Paperbark Swamp Forest	5.30	4.24	3.42	Yes
• Swamp Forest-Swamp Oak	0.40	0.33	0.02	Yes
• Freshwater Wetlands	3.40	2.83	1.28	Yes
• Mangrove Forest	0.10	0.07	0.04	Yes
• Hardwood Plantation	3.60	3.52	3.14	Yes
<i>Total</i>	<i>114.10</i>	<i>87.89</i>	<i>77.15</i>	<i>Yes</i>
Giant Barred Frog habitat	0.70	0.64	0.63	Yes
Australian Painted Snipe (<i>Rostratula australis</i>) wetland habitat	3.40	2.59	1.28	Yes
Regent Honeyeater (<i>Anthochaera Phrygia</i>) and Swift Parrot (<i>Lathamus discolor</i>) wintering habitat, comprising dry sclerophyll forests containing Swamp Mahogany	5.30	4.24	3.42	Yes
Parsonsia dorrigoensis (Milky Silkpod) habitat, comprising:				
• Mixed Floodplain Forest	4.00	3.32	2.68	Yes
• Flooded Gum Open Forest	14.80	13.44	12.34	Yes
• White Mahogany/Grey Gum/Ironbark Open Forest	5.50	5.50	4.98	Yes
<i>Total</i>	<i>24.30</i>	<i>22.26</i>	<i>20.00</i>	<i>Yes</i>

