

# APPROVAL

## Rockhampton Ring Road, Rockhampton, Queensland (EPBC 2020/8628)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act)*.* Note that section 134(1A) of the EPBC Act applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

## Details

|  |  |
| --- | --- |
| **Person to whom the approval is granted (approval holder)** | Department of Transport and Main Roads |
| **ACN or ABN of approval holder** | 39 407 690 291 |
| **Action** | To construct a highway standard ring road, and associated infrastructure, within the Rockhampton Region, Queensland [see EPBC Act referral 2020/8628]. |

**Approval decision**

My decision on whether to approve the taking of the action for the purposes of each controlling provision for the action are as follows.

## Controlling Provisions

|  |  |
| --- | --- |
| **Listed Threatened Species and Communities** | |
| Section 18 | Approve |
| Section 18A | Approve |
|  | |
| **Listed migratory species** | |
| Section 20 | Approve |
| Section 20A | Approve |

***Period for which the approval has effect***

This approval has effect until 31 December 2032.

## Decision-maker

|  |  |
| --- | --- |
| ***Name and position*** | Andrew McNee Assistant Secretary  Environment Assessments Queensland and Sea Dumping Branch |
| ***Signature*** |  |
| ***Date of decision*** | 16 June 2022 |

**Conditions of approval**

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

# ANNEXURE A – CONDITIONS OF APPROVAL

## Part A – Conditions specific to the action Maximum clearance limits

1. To minimise **impacts** on **protected matters**, the approval holder must not **clear** outside of the

## project area.

1. For the protection of **protected matters** during **clearance**, the approval holder must ensure that a **fauna spotter/catcher** supervises all **clearing** activities and is given sufficient authority to ensure that such activities do not cause injury or death of animal **protected matters**, including authority to cease **clearing** where one or more animal **protected matters** may be **impacted**.

## Environmental management plan

1. To avoid and mitigate **impacts** on **protected matters**, the approval holder must implement the

## Environmental management plan until the completion of the action.

**Water quality management**

1. To avoid impacts on **protected matters**, the approval holder must ensure water for **construction**

works is not sourced from **wetlands**.

1. The approval holder must ensure drainage lines are configured such that during the **construction** process construction-related water discharge is always directed into sediment controls in accordance with the **Environmental management plan**.
2. The approval holder must capture runoff in sediment basins and ensure that:
   1. captured water is only released to the receiving environment where within the **water quality criteria (discharge)**;
   2. there is no direct discharge to **wetlands**; and
   3. outlets from sediment basins are designed to direct discharge away from **wetlands**.
3. If dewatering is undertaken during **construction**, the approval holder must:
   1. for works in the Fitzroy River, return abstracted water to the Fitzroy River only if **water quality criteria (waterway and wetland)** are achieved; and
   2. for works outside the Fitzroy River, capture abstracted water in sediment basins and only release to the receiving environment if **water quality criteria (discharge)** are achieved or, if to be released to land, only where the **water quality criteria (dewatering to land)** are achieved.

## Rehabilitation requirements

1. Following **construction**, the approval holder must actively rehabilitate all **rehabilitation areas** to reinstate the pre-disturbance vegetation community, using endemic native species appropriate to their position in the landscape and in accordance with the **MRTS16 Technical Specification**.
2. To ensure the establishment and long-term sustainability of **rehabilitated areas** in accordance with condition 8, the approval holder must:
   1. ensure rehabilitated areas achieve the **completion criteria** within 12 months of **completion of the action**; and
   2. monitor rehabilitated areas to ensure **completion criteria**, once met, are maintained for a further minimum of 12 months.
3. At the first annual **compliance report** following the achievement of the **completion criteria**, the approval holder must submit a report to the **department** that demonstrates that the entirety of the **rehabilitation areas** have fully achieved and maintained the **completion criteria** in accordance with conditions 8 and 9.

## Part B – Standard administrative conditions Notification of date of commencement of the action

1. The approval holder must notify the **department** in writing of the date of **commencement of the**

**action** within 10 **business days** after the date of **commencement of the action.**

1. If the **commencement of the action** does not occur within 5 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

## Compliance records

1. The approval holder must maintain accurate and complete **compliance records**.
2. If the **department** makes a request in writing, the approval holder must provide electronic copies of

**compliance records** to the **department** within the timeframe specified in the request.

**Note**: **Compliance records** may be subject to audit by the **department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **department**’s website or through the general media.

## Submission and publication of plans

1. The approval holder must:
   1. submit **plans** electronically to the **department** for approval by the **Minister**;
   2. publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister** or of the date a revised action management plan is submitted to the **Minister** or the **department**, unless otherwise agreed to in writing by the **Minister**;
   3. exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
   4. keep **plans** published on the **website** until the end date of this approval.
2. The approval holder must ensure that any **monitoring data** (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under a **plan**, is prepared in accordance with the **department’s** *Guidelines for biological survey and mapped data* (2018) and submitted electronically to the **department** in accordance with the requirements of the **plan**.

## Annual compliance reporting

1. The approval holder must prepare a **compliance report** for each 12-month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:
   1. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12-month period;
   2. notify the **department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within 5 **business days** of the date of publication;
   3. keep all **compliance reports** publicly available on the **website** until this approval expires;
   4. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
   5. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **department** within 5 **business days** of publication.

**Note**: **Compliance reports** may be published on the **department**’s website.

## Reporting non-compliance

1. The approval holder must notify the **department** in writing of any **incident**. The notification must be given as soon as practicable, and no later than 2 **business days** after becoming aware of the **incident**. The notification must specify:
   1. a short description of the **incident**; and
   2. the location (including co-ordinates), date, and time of the **incident**. In the event the exact information cannot be provided, provide the best information available.
2. The approval holder must notify the **department** in writing of any **non-compliance** with the conditions or **non-compliance** with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than 2 **business days** after becoming aware of the **non- compliance**. The notification must specify:
   1. any condition which is or may be in breach;
   2. a short description of the **non-compliance**; and
   3. the location (including co-ordinates, if relevant), date, and time of the identified **non- compliance**. In the event the exact information cannot be provided, provide the best information available.
3. The approval holder must provide to the **department** the details of any **incident** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident**, specifying:
   1. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
   2. the potential **impacts** of the **incident**; and
   3. the method and timing of any remedial action that will be undertaken by the approval holder.
   4. where access to the site of the **incident** is unsafe for more than 5 **business days** (e.g. flood event), the approval holder must inform the **department** every 5 **business days** of the status of the **incident** until such time as actions identified in a) to c) have been complied.
4. The approval holder must provide to the **department** the details of any **non-compliance** with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident**, specifying:
   1. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
   2. the potential **impacts** of the **non-compliance**; and
   3. the method and timing of any remedial action that will be undertaken by the approval holder.

## Independent audit

1. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
2. For each **independent audit**, the approval holder must:
   1. provide the name and qualifications of the independent auditor and the draft audit criteria to the **department**;
   2. only commence the **independent audit** once the audit criteria have been approved in writing by the **department**; and
   3. submit an audit report to the **department** within the timeframe specified in the approved audit criteria.
3. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **department’s** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

## Revision of management plans

1. The approval holder may, at any time, apply to the **Minister** for a variation to a **plan** approved by the **Minister** by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves a revised **plan,** then, from the date specified, the approval holder must implement the revised **plan** in place of the previous **plan**.
2. The approval holder may choose to revise a **plan** approved by the **Minister** under condition 3, or as subsequently revised in accordance with these conditions, without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the **plan** would not be likely to have a **new or increased impact**.
3. If the approval holder makes the choice under condition 24 to revise a **plan** without submitting it for approval, the approval holder must:
   1. notify the **department** in writing that the approved plan has been revised and provide the

**department** with:

* + 1. an electronic copy of the revised **plan**;
    2. an electronic copy of the revised **plan** marked up with track changes to show the differences between the approved **plan** and the revised **plan**;
    3. an explanation of the differences between the approved **plan** and the revised **plan**;
    4. the reasons the approval holder considers that taking the action in accordance with the revised **plan** would not be likely to have a **new or increased impact**; and
    5. written notice of the date on which the approval holder will implement the revised **plan** (revised **plan** implementation date), being at least 20 **business days** after the date of providing notice of the revision of the **plan**, or a date agreed to in writing with the **department**.
  1. subject to condition 27, implement the revised **plan** from the revised **plan** implementation date.

1. The approval holder may revoke their choice to implement a revised **plan** under condition 24 at any time by giving written notice to the **department**. If the approval holder revokes the choice under condition 24, the approval holder must implement the **plan** in force immediately prior to the revision undertaken under condition 24.
2. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of the action in accordance with the revised **plan** would be likely to have a **new or increased impact**, then:
   1. condition 24 does not apply, or ceases to apply, in relation to the revised **plan**; and
   2. the approval holder must implement the **plan** specified by the **Minister** in the notice.
3. At the time of giving the notice under condition 27, the **Minister** may also notify that for a specified period of time, condition 24 does not apply for one or more specified **plans**.

**Note:** conditions 24, 25, 26 and 27 are not intended to limit the operation of section 143A of the **EPBC Act** which allows the approval holder to submit a revised action management plan, at any time, to the **Minister** for approval.

## Completion of the action

1. Within 20 **business days** after the **completion of the action**, or in any case at least 80 **business days** before the expiry of this approval, the approval holder must notify the **department** in writing of the status of the action and provide **completion data**.

## Part C – Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

**Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

**Clear/ing/ance** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance).

**Commence the action** or **Commencement of the action** means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

1. undertake pre-clearance surveys or monitoring programs
2. install signage and /or temporary fencing to prevent unapproved use of the **project area**
3. protect environmental and property assets from fire, weeds and pests, including installation of temporary fencing, and use of existing surface access tracks
4. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no **impact** on the **protected matters**.

**Completion criteria** means the ‘Monitoring Period completion criteria’ as set out in section 9.2.2 of

## the MRTS16 Technical Specification.

**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 the action** means the date on which all specified activities associated with the action have permanently ceased.

**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:

1. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**
2. consistent with the **department’s** *Annual Compliance Report Guidelines* (2014), or subsequent version
3. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12-month period
4. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12-month period.

**Construction** means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.

**Department** means the Australian Government agency responsible for administering the **EPBC Act**.

**Environmental management plan** means the *Rockhampton Ring Road Environmental Management Plan* (dated 21 January 2022), or a subsequent version currently approved in writing by the **Minister**.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**Fauna spotter/catcher** means a person licenced under the Queensland *Nature Conservation Act 1992* to detect, capture, care for, assess, and release wildlife disturbed by vegetation **clearance** activities.

**Impact/ed** means to cause any measurable direct or indirect disturbance or harmful change as a result of any activity associated with the action. **Impact** (noun) means any measurable direct or indirect disturbance or harmful change as a result of any activity associated with the action.

**Incident** means any event which has the potential to, or does, **impact** on one or more **protected matter**.

**Independent audit** means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019), or subsequent revision.

**Monitoring data** means the data required to be recorded under the conditions of this approval.

**Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

**MRTS16 Technical Specification** means the *Technical Specification: Transport and Main Roads Specifications MRTS16 Landscape and Revegetation Works* (2017), or subsequent revision.

**New or increased impact** means a new or increased environmental impact or risk relating to any **protected matter**, when compared to the likely impact of implementing the **plan** that has been approved by the **Minister** under condition 3, including any subsequent revisions approved by the **Minister,** as outlined in the *Guidance on ‘New or Increased Impact’ relating to changes to approved management plans under EPBC Act environmental approvals (2017)*, or subsequent revision.

**Non-compliance** means an occurrence, set of circumstances or development that is a breach of this approval.

**Plan/s** means any of the documents required to be prepared, approved by the **Minister**, implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

**Project area** means the location of the action, shown by the red hatched polygon labelled 'Project Area' on the maps at Attachments A1-A5.

**Protected matter/s** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

**Rehabilitation area/s** means the areas within the **project area** to be rehabilitated, represented in Attachment B1 and Attachment B2 by the blue shaded polygons labelled ‘Rehabilitation Area’.

**Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*, or subsequent revision.

**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**.**

**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.

**Water quality criteria (discharge)** means the water quality parameters specified in column 2 of Table 5-3.1 of the **Environmental management plan**. Where a parameter is not listed, reference

should be made to the relevant water quality objectives defined in the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019*.

**Water quality criteria (waterway and wetland)** means the water quality parameters specified in columns 4 and 5 of Table 5-3.1 of the **Environmental management plan**. Where a parameter is not listed, reference should be made to the relevant water quality objectives defined in the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019*.

**Water quality criteria (dewatering to land)** means the water quality parameters specified in column 3 of Table 5-3.1 of the **Environmental management plan**. Where a parameter is not listed, reference should be made to the relevant water quality objectives defined in the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019*.

**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

**Wetlands** means the areas represented in Attachment C by the solid blue polygons labelled ‘HES Wetlands’.

**Part D – Attachments Attachment A1: Project area**















