



APPROVAL

Latrobe River Bridge Replacement Project on Tyers Road, Traralgon, Victoria (EPBC 2017/8052)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. 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)	HEAD, TRANSPORT FOR VICTORIA
ABN of approval holder	97 481 088 949
Action	To replace the existing bridge over the Latrobe River, located on Tyers Road, between Traralgon and Tyers, Victoria [See EPBC Act referral 2017/8052]

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.


Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 28 April 2045.

Decision-maker

Name and position	Andrew McNee Assistant Secretary of Assessments and Governance Branch Department of Agriculture, Water and the Environment
Signature	
Date of decision	20 May 2020

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

1. The approval holder must ensure that no more than 49 **Strzelecki Gum** individuals are **cleared** as a result of the action.
2. The approval holder must obtain, record and follow directions from an on-site, **suitably qualified expert** to ensure that lopping and/or root disturbance impacts are not likely to lead to the death of any **Strzelecki Gum** other than the 49 individuals permitted to be cleared.
3. Prior to the **commencement of the action**, to compensate for the loss of up to 49 **Strzelecki Gum** individuals, the approval holder must **secure** the **offset area**.
4. Within 14 days of the **offset area** being **secured**, the approval holder must provide the **Department** with:
 - a. written evidence demonstrating that the offset has been **secured**; and
 - b. **shapefiles** containing the **offset attributes**.
5. The approval holder must implement the **Offset Management Plan**, for the **offset area**, for the duration of the approval.
6. If the Significant OMP Milestones listed at Table 3 of the **Offset Management Plan** are not achieved by the end of the **ten year offset implementation period**, the approval holder must submit a **Strzelecki Gum Offset Plan**, to supersede the **Offset Management Plan** and ensure that the impacts of the action are adequately offset, to the **Minister** for approval within three months of the end of the **ten year offset implementation period**. The revised **Offset Management Plan** must be implemented. The approval holder must implement the approved **Strzelecki Gum Offset Plan** in place of the **Offset Management Plan**.

Part B – Standard administrative conditions

Notification of date of commencement of the action

7. 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**.
8. 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

9. The approval holder must maintain accurate and complete **compliance records**.
10. 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.

Preparation and publication of plans

11. 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

12. 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:
 - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
 - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within five **business days** of the date of publication;
 - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
 - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
 - e. 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

13. The approval holder must notify the **Department** in writing of any: **incident**; 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 two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. any condition which is or may be in breach;
 - b. a short description of the **incident** and/or non-compliance; and
 - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
14. The approval holder must provide to the **Department** the details of any **incident** or 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** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b. the potential impacts of the **incident** or non-compliance; and
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

15. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
16. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.

17. 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.

Completion of the action

18. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing 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.

Clearing (also **Clear** and **Cleared**) 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).

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:

- i. undertake pre-clearance surveys, geotechnical investigations or monitoring programs;
- ii. install signage and /or temporary fencing to prevent unapproved use of the project area;
- iii. protect environmental and property assets from fire, weeds and pests, including installation of temporary fencing, and use of existing surface access tracks; and
- iv. 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 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 time at which all approval conditions (except condition 18) have been fully met.

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:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
- ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
- iv. annexing a schedule of all **plans** and reports 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**.

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

High threat grassy and herbaceous weeds means all weed species referred to in *Appendix 2: High Threat weed species to control, method and timing* in the **offset management plan**.

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

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).

Monitoring data means the data required to be recorded under the conditions of this approval, including monitoring required through the implementation of the **offset management plan**.

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

Offset area means the area shown enclosed by the green line and labelled 'Offset Site Boundary' in Appendix 2.

Offset attributes means relevant features of the **offset area**, including the **EPBC Act** referral reference number, the physical address of the **offset area**, coordinates of the boundary points in decimal degrees, and the **protected matter** or **protected matters** present at the **offset area**.

Offset management plan means the document *Golden Gully Road EPBC 2017/8052 Strzelecki Gum Offset Management Plan* (November 2019), which was publicly exhibited between 23 December 2019 and 16 January 2020 as Appendix 5 of the final **preliminary documentation**, and as revised in accordance with condition 6.

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

Preliminary documentation means the document *EPBC Act Preliminary Documentation (2017/8052) - Latrobe River Bridge Replacement Project, Tyers Road, Traralgon* (November 2020) which was publicly exhibited between 23 December 2019 and 16 January 2020.

Project area means the location of the proposed action, as shown enclosed by the yellow line labelled 'PROJECT AREA' in Appendix 1.

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

Secure (also **secured** and **securing**) means to establish and register a covenant for the long-term protection of the **offset area** under Section 3A of the *Victorian Conservation Trust Act 1972* or under a section 69 agreement under the *Conservation, Forests and Lands Act 1987*.

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*.

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.

Strzelecki Gum means the threatened plant species *Eucalyptus strzeleckii*, listed under the **EPBC Act**.

Suitably qualified expert means a person who has professional qualifications in silviculture and at least three (3) years of work experience in impacts of root disturbance and lopping on Australian native trees, and can give an authoritative assessment and advice on ensuring that lopping and/or root disturbance impacts to **Strzelecki Gum** are not likely to lead to their death.

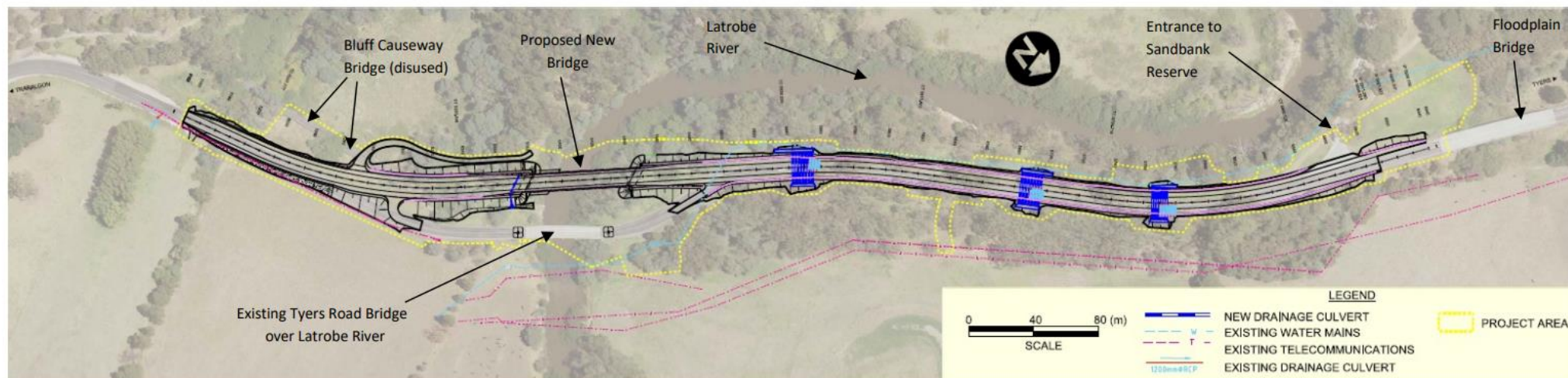
Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

Ten year offset implementation period means the ten-year period commencing from the date the **offset area** is secured.

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

APPENDICES

1. Appendix 1. Project area.





2. **Appendix 2.** Offset area.

