



APPROVAL

Narrabri to North Star Section of Inland Rail, NSW (EPBC 2016/7729)

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)	Australian Rail Track Corporation Limited
ACN or ABN of approval holder	ABN 75 081 455 754
Action	To construct and operate Phase 1 of the Narrabri to North Star section of the Inland Rail. This action includes all ancillary construction that is involved in the process, subject to the variation of the action accepted by the Minister under section 156B on 25 June 2020. [See EPBC Act referral 2016/7729, request for variation of proposal received on 1 June 2020].

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 31 October 2100.

Decision-maker

Name and position	The Hon Sussan Ley MP Minister for the Environment
Signature	
Date of decision	1 October 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:
 - a. Implement conditions C4 and C9 of Part C, Schedule 2 of the **State Infrastructure approval**, where they relate to monitoring, managing, avoiding, mitigating, offsetting, recording, or reporting on, impacts to **protected matters**, with the exception of C9(a).
 - b. Ensure that the Weed Management Plan included in the Biodiversity Management Sub-plan required under condition C9 of Part C, Schedule 2 of the **State Infrastructure approval**, includes appropriate weed control measures to prevent the introduction and/or spread of weeds from construction areas to any retained area of Belson's Panic (*Homopholis belsonii*), Natural Grassland on Basalt and Fine-textured Alluvial Plains of Northern New South Wales and Southern Queensland, Brigalow (*Acacia harpophylla* dominant and codominant) and Weeping Myall Woodlands ecological communities.
 - c. Implement biodiversity conditions E17 – E21 and E23 – E26 of Part E, Schedule 2 of the **State Infrastructure approval**, where they relate to monitoring, managing, minimising, reducing, avoiding, mitigating, offsetting, recording, or reporting on, impacts to **protected matters**.
 - d. For any aspect of the **action**, for the **period for which the approval has effect**, the approval holder must not exceed the maximum impacts to **protected matters** specified under the **State Infrastructure approval**.
 - e. Notify the **Department** in writing of any proposed change to the conditions of the **State Infrastructure approval** for which Conditions 1a, 1b, 1c and 1d apply, within **10 business days** of formally proposing a change or becoming aware of the NSW Government proposing a change.
 - f. Notify the **Department** in writing of any change to the **State Infrastructure approval** for which Conditions 1a, 1b, 1c and 1d apply, within **10 business days** of a change to the **State Infrastructure approval** being finalised.

Part B – Standard administrative conditions

Notification of date of commencement of the action

2. 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**.
3. 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

4. The approval holder must maintain accurate and complete **compliance records**.
5. 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.

Annual compliance reporting

6. 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

7. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions of this approval; or non-compliance with the commitments made in any element of the Construction Environmental Management Plan (required under Part C, Schedule 2 of the **State Infrastructure approval**) referred to in condition 1. 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.
8. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions of this approval or commitments made in any element of the Construction Environmental Management Plan (required under Part C, Schedule 2 of the **State Infrastructure approval**) referred to in condition 1 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

9. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
10. 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.
11. 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 construction

12. Within 20 **business days** after the **completion of construction**, 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:

Action means construction and operation of Phase 1 of the Narrabri to North Star section of the Inland Rail. This action includes all ancillary construction that is involved in the process, subject to the variation of the action accepted by the Minister under section 156B on 25 June 2020.

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

Commencement of the action means the commencement of **Construction**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department's** preferred spatial data format is **shapefile**.

Completion of construction has the same meaning as "Completion of Construction" stated in the terms and definitions in Table 1 of the **State Infrastructure approval**.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

Compliance reports means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the Construction Environmental Management Plan (required under Part C, Schedule 2 of the **State Infrastructure approval**);
- 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 sub-plans of the Construction Environmental Management Plan (required under Part C, Schedule 2 of the **State Infrastructure approval**) prepared and in existence in relation to the conditions during the relevant 12 month period.

Construction has the same meaning as "Construction" stated in the terms and definitions, in Table 1 of the **State Infrastructure approval**.

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

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

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).

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

Protected matters means threatened species and ecological communities listed under Part 3 of the **EPBC Act**.

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.

State Infrastructure approval means the NSW Government *Critical State Significant Infrastructure: Conditions of Approval for Inland Rail – Narrabri to North Star Phase 1*, made under Section 5.19 of the *Environmental Planning & Assessment Act 1979*, for application number SSI-7474, dated 13 August 2020.

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

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