

Appendix F

Draft EPBC Approval
Conditions

Accessibility Statement

We are committed to making our information accessible to all individuals, including those with disabilities. This commitment is in line with our dedication to inclusive community values and equal access to published information.

Please note there may be content within appendices to this report that are not fully accessible to individuals using assistive technology. This may be due to the technical nature of these documents, which can contain complex tables, graphics, and legal language that are not compatible with certain accessibility tools.

If you require them in an alternative format, please email info@tmr.qld.gov.au or telephone 13 74 68. Please provide your name, contact information, and a detailed description of the issue you encounter or the format you require.

APPENDIX F Draft EPBC Approval Conditions

EPBC 2022/09439 Logan Gold Coast (LGC) Faster Rail

To assist DCCEEW with the assessment of the Proposed action, the Proponent has developed a draft set of EPBC Approval Conditions for consideration. The proposed conditions demonstrate both understanding of the compliance matters required to avoid and minimise impacts on Matters of National Environmental Significance (MNES) and assist in streamlining the generation of conditions throughout the final stages of the Assessment Phase leading up to the Minister's Decision. The draft conditions also reflect on the readiness of the Proposed action based on the effort of "front-loading" the Preliminary Documentation with detailed Offset Area Management Plans (OAMP) and having both offset properties in hand in advance of the approval being granted.

In developing this suite of draft EPBC Approval Conditions, the Proponent has undertaken a comparative exercise of approved Proponent projects within areas containing similar protected matters to establish a "baseline" of potential conditions. Consistent with those projects, the Proponent has linked suggested conditions where relevant to key documents that outline how the Proposed action will comply with its obligations under the EPBC Act.

As an example of this, management plans fundamental to prescribing mitigation and management measures throughout delivery of the Proposed action have been called out as standalone conditions to allow these plans to be fully conditioned – therefore providing a more holistic mechanism as opposed to itemising individual requirements.

The Overarching Environmental Mitigation Plan (OEMP) referred to in the conditions has been prepared based on the Preliminary Documentation investigations into impacts and appropriate mitigations. The measures proposed in the OEMP are specific to the protected matters associated with the proposed action and aim to ensure impacts on protected matters are avoided and, where not possible, are appropriately mitigated and managed. The OEMP sets the outcomes and performance criteria required for the site-specific construction environmental management plans throughout project delivery.

The OAMP for the Undullah and Benobble properties incorporate additional baseline survey information to support the current habitat quality / condition enabling development of key performance metrics at defined milestones to measure offset delivery success. The Proponent has provided substantial information upfront in the approval process – in addition to have both offset properties in hand with the intent to demonstrate project readiness relating to EPBC requirements and avoid approval conditions that require additional plans prior to the commencement of the action.

TMR believes that the set of Draft Conditions are suitable and encourage their consideration throughout the Assessment Phase by DCCEEW representatives.

For Consideration – Draft EPBC Approval Conditions

Note: Words appearing in bold have the meaning assigned to them at PART C – DEFINITIONS.

Part A – Conditions specific to the Action

DISTURBANCE LIMIT

1. The approval holder must not **clear** outside of the development area as part of this Action.
2. Within the **development area**, the approval holder must not **clear** or cause the functional loss of more than:
 - a. 107.74 ha of **Koala habitat**
 - b. 45.33 ha of **Grey-headed Flying-fox habitat**
 - c. 41.74 ha of **South-eastern Glossy Black Cockatoo habitat**
 - d. 42.28 ha of **Swift parrot habitat**
 - e. 42.28 ha of **Regent honeyeater habitat**.

COMPENSATORY MEASURES

3. To compensate for the loss of up to 107.74 ha of **Koala habitat**, up to 45.33 ha of **Grey-headed Flying-fox habitat**, up to 41.74 ha of **South-eastern Glossy-black Cockatoo habitat**, up to 42.28 ha of **Swift parrot habitat**, and up to 42.28 ha of **Regent honeyeater habitat** the approval holder must:
 - a. Provide written confirmation of an application for the **legal security** of 640.6 ha of land within the **Undullah Offset area** and 356.65 ha of land within the **Benobble Offset area** within 6 months from the date of this approval.
 - b. Within 20 **business days** of **legally securing** the areas within the **Undullah offset area** and the **Benobble offset area** specified in condition 3(a), provide the Department with:
 - i. Written evidence demonstrating that the areas within the **Undullah Offset area** and the **Benobble Offset area** specified in condition 3(a), have been **legally secured**
 - ii. Shapefiles and offset attributes of the areas within the **Undullah Offset area** and **Benobble Offset area** specified in condition 3(a).
4. The approval holder must implement the **Offset Area Management Plans (OAMP)** as approved by the Minister.

ACTION MANAGEMENT PLANS

5. To avoid and mitigate harm to the **Koala, Grey-headed Flying-fox, Swift Parrot, Regent Honeyeater, South-eastern Glossy Black Cockatoo** as a result of the Action, the approval holder must implement the **Overarching Environmental Mitigation Plan (OEMP)**.

REVISION OF ACTION MANAGEMENT PLANS

6. The approval holder may, at any time, apply to the **Minister** for a variation to an action management plan approved by the **Minister** or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the Minister approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.
7. The approval holder may choose to revise an action management plan approved by the **Minister** under condition 5, 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 this **Action** in accordance with the RAMP would not be likely to have a new or increased impact.
8. If the approval holder makes the choice under condition 7 to revise an action management plan without submitting it for approval, the approval holder must:
 - a. Notify the **Department** electronically that the approved action management plan has been revised and provide the **Department** with:
 - i. An electronic copy of the RAMP.
 - ii. An electronic copy of the RAMP marked up with track changes to show the differences between the approved action management plan and the RAMP.

- iii. An explanation of the differences between the approved action management plan and the RAMP.
 - iv. The reasons the approval holder considers that taking this **Action** in accordance with the RAMP would not be likely to have a new or increased impact.
 - v. Written notice of the date on which the approval holder will implement the RAMP (RAMP implementation date), being at least 20 **business days** after the date of providing notice of the revision of the Action management plan, or a date agreed to in writing with the Department.
- b. Subject to condition 10, implement the RAMP from the RAMP implementation date.
9. The approval holder may revoke its choice to implement a RAMP under condition 7 at any time by giving written notice to the **Department**. If the approval holder revokes the choice under condition 7, the approval holder must implement the action management plan in force immediately prior to the revision undertaken under condition 7.
10. If the **Minister** gives a notice to the approval holder that the **Minister** is satisfied that the taking of this **Action** in accordance with the RAMP would be likely to have a new or increased impact, then:
- a. Condition 7 does not apply, or ceases to apply, in relation to the RAMP.
 - b. The approval holder must implement the action management plan specified by the **Minister** in the notice.
11. At the time of giving the notice under condition 10, the **Minister** may also notify that for a specified period of time, condition 7 does not apply for one or more specified action management plans.

Note: Conditions 6 – 11 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.

SUBMISSION & PUBLICATION OF PLANS

12. The approval holder must submit all **plans** required by these conditions electronically to the Department.
13. Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish each plan on the website within 15 **business days** of the date:
- a. of this approval, if the version of the **plan** to be implemented is specified in these conditions; or
 - b. the **plan** is approved by the Minister in writing, if the **plan** requires the approval of the Minister; or
 - c. the **plan** is submitted to the Department in accordance with a requirement of these conditions, if the **plan** does not require the approval of the **Minister**.
14. The approval holder must keep all published **plans** required by these conditions on the website until the expiry date of this approval.
15. The approval holder is required to exclude or redact **sensitive ecological data** or **confidential information** from **plans** published on the website or otherwise provided to a member of the public.
16. If **sensitive ecological data** or **confidential information** is excluded or redacted from a **plan** in accordance with condition 15, the approval holder must notify the **Department** in writing what exclusions and redactions have been made in the version published on the website.

Part B - Administrative Conditions

NOTIFICATION OF DATE OF ACTION COMMENCEMENT

17. The approval holder must notify the **Department** in writing of the date of commencement of the Action within 5 **business days** after the date of **commencement of the Action**.
18. 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

19. The approval holder must maintain accurate and complete **compliance records**.
20. 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 by an independent auditor in accordance with section 458 of the **EPBC Act**, and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the **Department's** website or through the general media.

21. The approval holder must ensure **monitoring data** (including sensitive ecological data), surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the **Department's Guidelines for biological survey and mapped data (2018)**, or any subsequent official version or as otherwise specified by the **Minister** in writing.
22. The approval holder must submit all **monitoring data** (including sensitive ecological data), surveys, maps, other spatial and metadata and all species occurrence record data (sightings and evidence of presence) electronically to the **Department** within 12 months of the approval or in accordance with the requirements of the **OEMP** and the **OAMP/s**.

ANNUAL COMPLIANCE REPORTING

23. The approval holder must prepare a **compliance report** for each 12-month period following the date of this approval, or as otherwise agreed to in writing by the **Minister**.
24. Each **compliance report** must be consistent with the **Department's Annual Compliance Report Guidelines 2023**, or any subsequent official version.
25. The approval holder must:
 - a. Publish each **compliance report** on the website within 60 **business days** following the end of the 12-month period for which that **compliance report** is required.
 - b. Notify the **Department** electronically, within 5 **business days** of the date of publication that a **compliance report** has been published on the **website**.
 - c. Provide the weblink for the **compliance report** in the notification to the **Department**.
 - d. Keep all published **compliance reports** required by these conditions on the **website** until the expiry date of this approval.
 - e. Exclude or redact **sensitive ecological data** or **confidential information** from **compliance reports** published on the **website** or otherwise provided to a member of the public.
 - f. If **sensitive ecological data** or **confidential information** is excluded or redacted from the published version, submit the full compliance report to the **Department** within 5 **business days** of its publication on the **website** and notify the **Department** in writing what exclusions and redactions have been made in the version published on the **website**.

Note: **Compliance reports** may be published on the **Department's** website.

REPORTING NON-COMPLIANCE

26. The approval holder must notify the **Department** electronically, within 5 **business days** of becoming aware of any **incident** and/or non-compliance with the conditions.
27. The approval holder must specify in the notification:
 - a. Any condition which has been breached
 - b. A short description of the **incident** and/or non-compliance
 - c. The location (including co-ordinates), date, and time of the **incident** and/or non-compliance.

Note: If the exact information cannot be provided, the approval holder must provide the best information available.

28. The approval holder must provide to the **Department** in writing, within 15 **business days** of becoming aware of any **incident** and/or non-compliance, the details of that **incident** and/or non-compliance with the conditions. The approval holder must specify:
 - a. Any corrective action or investigation which the approval holder has already taken
 - b. The potential impacts of the **incident** and/or non-compliance
 - c. The method and timing of any corrective action that will be undertaken by the approval holder.

INDEPENDENT AUDIT

29. The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every three-year period following the **commencement of the Action** until this approval expires, unless otherwise specified in writing by the **Minister**.
30. For each **independent audit**, the approval holder must:
- a. Provide the name and qualifications of the nominated **independent auditor**, the draft audit criteria, and proposed timeframe for submitting the **audit report** to the **Department** prior to commencing the **independent audit**.
 - b. Only commence the **independent audit** once the nominated **independent auditor**, audit criteria and timeframe for submitting the **audit report** have been approved in writing by the **Department**.
 - c. Submit the **audit report** to the **Department** for approval within the timeframe specified and approved in writing by the **Department**.
 - d. Publish each **audit report** on the **website** within 15 **business days** of the date for the specified under Condition (c)
 - e. Keep every **audit report** published on the **website** until this approval expires.
31. Each **audit report** must report for the three-year period preceding that **audit report**.
32. Each **audit report** must be completed to the satisfaction of the **Minister** and be consistent with the **Department's Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines (2019)**, or any subsequent official version.

COMPLETION OF THE ACTION

33. The approval holder must notify the **Department** electronically 60 **business days** prior to the expiry date of this approval, that the approval is due to expire.
34. Within 20 **business days** after the **completion of the Action**, and, in any event, before this approval expires, the approval holder must notify the **Department** electronically of the date of **completion of the Action** and provide **completion data**.

Part C – Definitions

Audit report means a written report of compliance and fulfilment of the conditions attached to this approval, objectively evaluated against the audit criteria approved by the **Department**.

Benobble Offset Area means the Benobble property comprising the following Lots:

- Lot 1003 on Plan SP342145,
- Lot 54 on Plan SP342144,
- Lot 53 on Plan SP340166.

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, cleared or clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of native trees and shrubs.

Confidential information means information that:

- a) if released would cause competitive detriment to the person; and
- b) is not in the public domain; and
- c) is not required to be disclosed under another law of the Commonwealth, a State or a Territory; and
- d) is not readily discoverable.

Commence the Action or Commencement of the Action means the date on which the first instance of any activity for the Action (including clearing) is undertaken. Commencement of the Action does not include minor physical disturbance necessary to:

- a. Undertake site investigation works including pre-clearance surveys, geotechnical testing, contaminated land investigations, survey works.

- b. Install signage and /or temporary fencing to prevent unapproved use of the development area.
- c. Protect environmental and property assets from fire, weeds, and feral animals, including use of existing surface access tracks.
- d. Install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on any protected matter.

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

Completion of the Action means the date on which all activities associated with this approval have permanently ceased and/or been completed.

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 report means a written report of compliance with, and fulfilment of, the conditions attached to the approval.

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

Grey-headed Flying-fox/es means the EPBC Act listed threatened species *Pteropus poliocephalus*.

Grey-headed Flying-fox habitat means any area that provides or is likely to provide foraging and roosting habitat of the Grey-headed Flying-fox, as described in Department of Agriculture, Water and the Environment (2021). National Recovery Plan for the Grey-headed Flying-fox *Pteropus poliocephalus*. Canberra: Commonwealth of Australia.

Incident means any event which has the potential to, or does, impact on any 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).

Koala or Koalas means the EPBC Act listed threatened species *Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory).

Koala habitat means any area that provides or is likely to provide the essential life cycle requirements of the Koala, including dispersal, foraging and or breeding habitat as described in:

- a. Conservation Advice for Phascolarctos cinereus (Koala) combined populations of Queensland, New South Wales and the Australian Capital Territory, Commonwealth of Australia 2022
- b. National Recovery Plan for the Koala Phascolarctos cinereus (combined populations of Queensland, New South Wales and the Australian Capital Territory), Commonwealth of Australia 2022
- c. A review of koala habitat assessment criteria and methods, Youngentob, K.N, Marsh, K.F., Skewes, J. 2021.

Legally secure/secured/securing means to provide ongoing conservation protection, on the title of the land, under an enduring protection mechanism, such as a voluntary declaration under the Vegetation Management Act 1999 (Qld) or as a nature refuge under the Nature Conservation Act 1992 (Qld), covenant or another enduring protection mechanism agreed to in writing by the Minister.

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

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

New or increased impact means any direct or indirect increase in the impacts of an Action, an increase to the likelihood of an impact occurring, a reduction to the monitoring or mitigation measures for a protected matter, and/or a change to the nature or management of an environmental offset as outlined in the Guidance on 'new or increased impact' relating to changes to approved management plans under EPBC Act environmental approvals (2017), or any subsequent official version.

Offset Area Management Plan (OAMP) means plans submitted for the Benobble offset area and Undullah offset areas demonstrating the offset management requirements.

Overarching Environmental Mitigation Plan (OEMP) means the management plan developed outlining the MNES avoidance, mitigation and management actions to be implemented throughout the delivery of the proposed action.

Regent Honeyeater means the EPBC Act listed critically endangered species *Anthochaera phrygia*.

Regent Honeyeater habitat means any area that provides or is likely to provide foraging and breeding habitat of the Regent Honeyeater, as described in Department of Climate change, Energy, the Environment and Water - Conservation Advice *Anthochaera phrygia* regent honeyeater (2015). Commonwealth of Australia.

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

South-eastern Glossy Black Cockatoo means the EPBC Act listed vulnerable species *Calyptorhynchus lathami lathami*.

South-eastern Glossy Black Cockatoo habitat means any area that provides or is likely to provide foraging and breeding habitat of the South-eastern Glossy Black Cockatoo, as described in Department of Climate change, Energy, the Environment and Water (2022). Conservation Advice for *Calyptorhynchus lathami lathami* (South-eastern Glossy Black Cockatoo) Canberra: Commonwealth of Australia.

Swift Parrot means the EPBC Act listed critically endangered species *Lathamus discolor*.

Swift Parrot habitat means any area that provides or is likely to provide foraging and breeding habitat of the Swift Parrot, as described in Department of Climate change, Energy, the Environment and Water - Conservation Advice *Lathamus discolor* swift parrot (2016). Commonwealth of Australia.

Undullah Offset area means the Undullah property comprising the following Lots:

- Lot 123 on Plan CH311750,
- Lot 269 on Plan W312014,
- Lot 286 on Plan W312555,
- Lot 280 on Plan W312013,
- Lot 292 on W312183,
- Lot 33 on Plan W312183.

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

Yellow-bellied Glider means the EPBC Act listed vulnerable species *Petaurus australis australis*.

Yellow-bellied Glider habitat means any area that provides or is likely to provide foraging and breeding habitat of the Yellow-bellied Glider as described in Department of Agriculture, Water and the Environment (2022). Conservation Advice for *Petaurus australis australis* (yellow-bellied glider (south-eastern)). Canberra: Commonwealth of Australia.