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South Gippsland Highway Realignment Project

Compliance Assessment Report No.5

March 2024 to March 2025

EPBC Approval No. 2017/8070

DOC/25/32438

Prepared for

Audit and Assurance Section
Compliance and Enforcement Branch
Environment Assessment and Compliance Division
Department of Climate Change, Energy, the Environment and Water
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Approval Information

Approval number:	2017/8070
Approval holder:	Department of Transport and Planning NB. Due to Machinery of Government changes Major Road Projects Victoria is now responsible for the delivery of the Action during the design and construction phase.
ABN:	69 981 208 782 NB. Major Road Projects Victoria is a project office within the Victorian Infrastructure Delivery Authority, which is an administrative office within the Victorian Department of Transport & Planning (ABN 69 981 208 782).
Approved action:	Realign the South Gippsland Highway south of the township of Koonwarra in South Gippsland.

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Terms, abbreviations, and definitions

The terms, abbreviations and definitions that have been used in this document are listed in the below table.

Term/Abbreviation	Definition
CPB	CPB Contractors
DCCEEW (the Department)	Department of Climate Change, Energy, the Environment and Water (previously the Department of Agriculture, Water and the Environment (DAWE) and before that the Department of the Environment and Energy (DoEE))
DEECA	Department of Energy, Environment and Climate Action (previously the Department of Environment, Land, Water and Planning (DELWP))
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
MNES	Matters of National Environmental Significance
MRPV	Major Road Projects Victoria
OMP	Offset Management Plan
RAMP	Revised action management plan

1 Executive Summary

The South Gippsland Highway Realignment Project (the Project) is a road realignment between Koonwarra and Meeniyar, locally known as the Black Spur.

The final approval to Referral No. 2017/8070 under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) was given to Major Road Projects Victoria (MRPV) on the 18 January 2019. A subsequent variation to the approval occurred on 16 May 2022.

Under Condition 13 of the decision notice, an annual compliance report is required to be published on MRPV's website within 60 business days following the relevant twelve-month anniversary of the commencement of the action. The report must address compliance with each of the conditions of the approval, including implementation of any management plans as specified in the conditions.

This compliance report addresses the current status of the Project against the conditions of EPBC Act Approval No. 2017/8070. This is the fifth compliance report to be prepared for the South Gippsland Highway Realignment Project and relates to the period between 30 March 2024 to 30 March 2025.

MRPV is compliant with all conditions referenced in EPBC Act Approval No. 2017/8070 for this reporting period.

2 Introduction

2.1 Purpose of this report

This report details the Project's compliance with the conditions of Approval No. 2017/8070 under the EPBC Act in accordance with Condition No. 13 of the approval.

2.2 Background

The South Gippsland Highway Realignment Project involves realigning a stretch of the South Gippsland Highway between Koonwarra and Meeniyar. CPB Contractors was awarded the contract to deliver the upgrade and construction commenced in early 2020.

The Project involves:

- building a new section of highway between Old Koonwarra-Meeniyar Road and Minns Road to reduce the length of highway from 3.4km to 2.3km
- building two new bridges over the Tarwin River
- building an underpass east of the new Caithness Road intersection for the Great Southern Rail Trail
- realigning the Great Southern Rail Trail under the new river bridge at Minns Road
- closing off access to the old section of highway to through traffic east of Caithness Road while retaining access for local residents
- maintaining access to Caithness Road by a new intersection and upgrades to the existing intersection at Minns Road
- installation of safety barriers.

A project map is provided in Appendix A.

2.3 Description of activities

The approved action is to realign the South Gippsland Highway south of the township of Koonwarra in South Gippsland. Construction of the project are complete however minor defects work, landscaping and monitoring remain ongoing.

Table 1: Key activities

Item	Key Information
EPBC number	2017/8070
Project Name	South Gippsland Highway Realignment Project
Dates for the reporting period	Period from 30 March 2024 to 30 March 2025
Activities during the reporting period	Ongoing implementation of the offset management plan and rectification of defects and landscaping works across the project area.
Key project dates	<ul style="list-style-type: none"> • Commonwealth approval: 18 January 2019 • Commencement of the Action: 30 March 2020 • Notification to the Department of Action commencement: 3 April 2020 • Expiry of commonwealth approval: 31 Dec 2040 • Contract awarded to CPB Contractors (ABN 98 000 893 667): November 2019 • Practical Completion issued: 1 August 2022.

3 Performance and compliance (EPBC 2017/8070)

Table 2 below contains the compliance assessment against the conditions in Approval EPBC 2012/6568 for activities carried out between 30 March 2024 to 30 March 2025.

Table 2: EPBC Act Approval Notice 2017/8070 compliance results Year 5 (2024-25)

Approval condition			Compliance Assessment	Compliance status
1	For the protection of Australian Grayling (<i>Prototroctes maraena</i>):	<p>The approval holder must:</p> <ul style="list-style-type: none"> a. not undertake in-stream works, except to implement the remediation works in accordance with condition 1A below; b. implement the mitigation measures described in Attachment A, and c. only undertake ground-disturbing works on the floodplain, including earthworks, construction of haul roads and hard stand areas and installation of the temporary bridge structure, during December to March (inclusive) unless: <ul style="list-style-type: none"> i. mitigation strategies are implemented in accordance with Attachment B; and ii. monitoring and reporting of Australian Grayling in the Tarwin River within 1 km of the action is undertaken in accordance with Attachment C. 	<p>In-stream remediation works were completed in March 2022 in accordance with the requirements of Condition 1A (see below).</p> <p>Mitigation measures have been implemented in accordance with Attachment A Conditions where required.</p> <p>All ground-disturbing works carried out on the floodplain have been conducted during December to March or been conducted in accordance with Attachment B Conditions.</p> <p>In accordance with the Conditions in Attachment C post-construction targeted species monitoring for Australian Grayling occurred during April 2023 and April 2024.</p>	Compliant
1A	For the protection of Australian Grayling (<i>Prototroctes maraena</i>):	To remediate the Tarwin Riverbank slip event, the approval holder must implement the remediation works.	<p>Remediation works have been completed. Remediation works implemented in-stream during the reporting period were undertaken in accordance with the requirements of the approved remediation plans.</p> <p>An inspection of works by the West Gippsland Catchment Management Authority on 21 July 2022 followed up by email on 22 July 2022 confirmed their satisfaction with remediation works undertaken and</p>	Compliant

Approval condition			Compliance Assessment	Compliance status
			the close out of relevant Works on Waterways Permit conditions.	
2	For the protection of Strzelecki Gum (<i>Eucalyptus strzeleckii</i>):	The approval holder must ensure that no more than 181 Strzelecki Gum individuals are removed as a result of the action.	<p>137 Strzelecki Gums have been removed to-date with all clearing works now complete.</p> <p>One additional Strzelecki Gum fell over within the Project area during inclement weather.</p> <p>The final impact on Strzelecki Gum is below the 181 individual trees permitted to be removed.</p>	Compliant
3	For the protection of Strzelecki Gum (<i>Eucalyptus strzeleckii</i>):	The approval holder must ensure that lopping or root disturbance impacts to remaining Strzelecki Gum are minimised in accordance with directions from an on-site, suitably qualified person.	<p>No-go zone fencing was installed around all vegetation to be retained in consultation with arborists.</p> <p>All vegetation was inspected in pre-clearing site assessments and Tree Protection Zones were established where it was identified that there was any potential for works to impact vegetation, including Strzelecki Gum individuals.</p>	Compliant
4	For the protection of Strzelecki Gum (<i>Eucalyptus strzeleckii</i>):	Prior to commencement of the action, the approval holder must provide written evidence to the Department of a licence agreement placed on the offset area and provide a shapefile of the offset area to the Department.	<p>The signed licence agreement and shapefile of the Strzelecki Gum offset site was provided to the Department by MRPV on 4 March 2020.</p> <p>Receipt of this information was acknowledged by the Department Compliance Monitoring Team on 5 March 2020.</p>	Compliant
5	For the protection of Strzelecki Gum (<i>Eucalyptus strzeleckii</i>):	The approval holder must implement the Offset Management Plan (OMP).	<p>The Offset Management Plan is being implemented with Year 6 of works completed.</p> <p>Actions in Table 4 of the OMP are currently on track.</p>	Compliant

Approval condition			Compliance Assessment	Compliance status
			<p>Annual reports for 2020-2025 (inclusive) have been completed.</p> <p>The report for Year 6 of works is included in Appendix B.</p>	
6	For the protection of Strzelecki Gum (<i>Eucalyptus strzeleckii</i>):	If the management action standards specified at Table 4 of the Offset Management Plan are not achieved by the end of the ten-year offset implementation period, the approval holder must submit an alternative Strzelecki Gum Offset Plan to the Minister for approval within twelve months of the end of the ten-year offset implementation period.	Actions in Table 4 of the OMP are currently on track.	Compliant
7	Notification of date of commencement of the action	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.	Notification was sent to the Department on 3 April 2020 advising that the activity commenced on 30 March 2020. The Department acknowledged receipt of the notification on 8 April 2020.	Compliant
8	Notification of date of commencement of the action	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 approval of the Minister.	The action has commenced.	Compliant
9	Compliance records	The approval holder must maintain accurate and complete compliance records.	Records of the implementation of management plans/programs are being maintained along with ongoing monitoring data.	Compliant
10	Compliance records	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.	Compliance records to be provided to the Department upon request.	Compliant

Approval condition			Compliance Assessment	Compliance status
11	Preparation and publication of plans	<p>The approval holder must:</p> <ul style="list-style-type: none"> a. submit plans electronically to the Department for approval by the Minister; b. 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, unless otherwise agreed to in writing by the Minister; c. exclude or redact sensitive ecological data from plans published on the website or provided to a member of the public; and d. keep plans published on the website until the end date of this approval. 	Plans have been submitted and approved and are currently published on MRPV's website.	Compliant
12	Preparation and publication of plans	The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required by the Offset Management 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.	<p>Monitoring data and reporting has been undertaken to date as defined in the OMP.</p> <p>Relevant data has been submitted electronically to the Department in accordance with the OMP.</p>	Compliant
13	Annual compliance reporting	<p>The approval holder must prepare a compliance report for each 12-month period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:</p> <ul style="list-style-type: none"> 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 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 	This is the fifth compliance report completed for the project and will be published on MRPV's website in accordance with Condition 13.	Compliant

Approval condition			Compliance Assessment	Compliance status
		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.		
14	Reporting non-compliance	<p>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:</p> <ul style="list-style-type: none"> a. the condition which is or may be in breach; and b. a short description of the incident and/or non-compliance. 	There have been no incidents during the current reporting period.	Compliant
15	Reporting non-compliance	<p>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:</p> <ul style="list-style-type: none"> 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. 	There have been no incidents during the current reporting period.	Compliant
16	Independent audit	The approval holder must ensure that independent audits of compliance with the conditions are conducted for the 12 month period from commencement of the action and for every subsequent 12 month period until completion of the action, or as otherwise requested in writing by the Minister.	<p>On 2 March 2021 MRPV contacted the Department to request clarification of the intent of Condition 16.</p> <p>On 29 March 2021 MRPV received a letter from the Department advising that an independent audit of the Approval need only be conducted if an audit is specifically requested in writing by the Minister.</p>	Not applicable during 2024-2025 reporting period.

Approval condition			Compliance Assessment	Compliance status
			<p>This letter is attached as Appendix C.</p> <p>To date MRPV have not received a request from the Minister to submit an annual independent audit report.</p>	
17	Independent audit	<p>For each independent audit, the approval holder must:</p> <ul style="list-style-type: none"> 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. 	No audit requested to be conducted to date.	Not applicable during 2024-2025 reporting period.
18	Independent audit	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.	No audit requested to be conducted to date.	Not applicable during 2024-2025 reporting period.
19	Revision of action management plans	The approval holder may, at any time, apply to the Minister for a variation to an action management plan approved by the Minister under condition 5, 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.	No variation to action management plans has been required to date.	Not applicable during 2024-2025 reporting period.
20	Revision of action management plans	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 the action in accordance with the RAMP would not be likely to have a new or increased impact.	No variation to action management plans has been required to date.	Not applicable during 2024-2025 reporting period.

Approval condition			Compliance Assessment	Compliance status
21	Revision of action management plans (RAMP)	<p>If the approval holder makes the choice under condition 20 to revise an action management plan without submitting it for approval, the approval holder must:</p> <ul style="list-style-type: none"> a. notify the Department in writing that the approved action management plan has been revised and provide the Department with: <ul style="list-style-type: none"> 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 the action in accordance with the RAMP would not be likely to have a new or increased impact; and 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 23, implement the RAMP from the RAMP implementation date. 	No variation to action management plans has been required to date.	Not applicable during 2024-2025 reporting period.
22	Revision of action management plans	The approval holder may revoke their choice to implement a RAMP under condition 20 at any time by giving written notice to the Department. If the approval holder revokes the choice under condition 20, the approval holder must implement the previous action management plan approved by the Minister.	No variation to action management plans has been required to date.	Compliant
23	Revision of action management plans	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 RAMP would be likely to have a new or increased impact, then:	No variation to action management plans has been required to date.	Compliant

Approval condition			Compliance Assessment	Compliance status
		<ul style="list-style-type: none"> a. condition 20 does not apply, or ceases to apply, in relation to the RAMP; and b. the approval holder must implement the action management plan specified by the Minister in the notice. 		
24	Revision of action management plans	<p>At the time of giving the notice under condition 23, the Minister may also notify that for a specified period of time, condition 20 does not apply for one or more specified action management plans.</p> <p>Note: conditions 20, 21, 22 and 23 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.</p>	No variation to action management plans has been required to date.	Compliant
25	Completion of the action	Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data.	Activity is yet to be completed with landscaping works ongoing.	Compliant

Appendix A – Project Map

Figure 1: South Gippsland Highway Realignment -Koonwarra



Appendix B – South Gippsland Highway Realignment, Koonwarra, Strzelecki Gum Offset Site Annual Report 2024-2025

Appendix C – Letter from DAWE 29 March 2021

Ref: 2017/8070