



Variation of conditions attached to approval

Moorebank Avenue Realignment, Moorebank, NSW (EPBC 2020/8839)

This decision to vary conditions of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).


Approved action

approval holder	National Intermodal Corporation ABN: 64 161 635 105
approved action	To realign a section of Moorebank Avenue, from south of Anzac Road to the East Hills Railway, in Moorebank, NSW. [See EPBC Act referral 2020/8839.
period for which the approval has effect	This approval has effect until 03 December 2051.

Variation

variation of conditions attached to approval	The variation is: Delete Appendix A attached to the approval dated 7 December 2021 and substitute with the Appendix A specified in the table below.
date of effect	This variation has effect on the date this instrument is signed.

Person authorised to make decision

name and position	Brendan Linton-Smith Acting Branch Head Environment Assessments (Vic and Tas) and Post Approvals
signature	
date of decision	14 January 2025

date of decision	Conditions attached to 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
<i>Original dated 7/12/2021</i>	1) The approval holder must undertake the action as described in and in accordance with the NSW Approval .
<i>Original dated 7/12/2021</i>	2) The approval holder must not clear outside of the project area .
	Listed threatened species and ecological communities and biodiversity on Commonwealth Land
<i>Original dated 7/12/2021</i>	3) The approval holder must comply with conditions E2 – E3 of the NSW Approval as they relate to minimising the impact on protected matters .
<i>Original dated 7/12/2021</i>	4) Within the project area , the approval holder must not clear more than: <ul style="list-style-type: none"> a. 0.91 hectares of Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest. b. 5.41 hectares of Castlereagh Scribbly Gum and Agnes Banks Woodlands of the Sydney Basin Bioregion. c. 6.84 hectares of Koala habitat.
<i>Original dated 7/12/2021</i>	5) The approval holder must comply with conditions E4 – E6 and E8 of the NSW Approval as they relate to offsetting the impact to protected matters .
<i>Original dated 7/12/2021</i>	6) In retiring the number and class of credits in accordance with condition E5 of the NSW Approval , the following number and class of credits are specified for listed threatened species and communities: <ul style="list-style-type: none"> a. 27 ecosystem credits for Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest, and b. 128 ecosystem credits for Castlereagh Scribbly Gum and Agnes Banks Woodlands of the Sydney Basin Bioregion, and c. 168 species credits for Koala habitat.
	Commonwealth land
<i>Original dated 7/12/2021</i>	7) The approval holder must comply with conditions E32 – E43 of the NSW Approval as they relate to minimising contamination impacts on the environment, including in the Commonwealth lands surrounding the study area .

<i>Original dated 7/12/2021</i>	8) The approval holder must comply with conditions E47 – E48 of the NSW Approval as they relate to minimising impacts to property access to the Commonwealth lands .
Construction Environmental Management Plans	
<i>Original dated 7/12/2021</i>	9) The approval holder must comply with conditions C1 – C11 of the NSW Approval as they relate to the preparation and implementation of a Construction Environmental Management Plan, to avoid, mitigate, and manage impacts on protected matters during construction .
<i>Original dated 7/12/2021</i>	10) The Construction Environmental Management Plan must include measures in accordance with Table A.1 of the Response to Submissions to manage environmental impacts during construction, including to protected matters .
Part B – Standard administrative conditions	
Notification of date of commencement of the action	
<i>Original dated 7/12/2021</i>	11) The approval holder must notify the department in writing of the date of commencement of the action within 30 business days after the date of commencement of the action .
Compliance records	
<i>Original dated 7/12/2021</i>	12) The approval holder must maintain accurate and complete compliance records .
<i>Original dated 7/12/2021</i>	13) 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	
<i>Original dated 7/12/2021</i>	14) Plans required under NSW Approval in accordance with this approval must be submitted electronically for the information of and/or consultation with the department .
<i>Original dated 7/12/2021</i>	15) Each plan must be published on the website within 20 business days of the date the plan is approved by the NSW Planning Secretary, and until the end date of this approval.
Annual compliance reporting	
<i>Original dated 7/12/2021</i>	16) The approval holder must prepare a compliance report for each 12 month period for the life of the approval, 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:

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- 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 5 **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**
 - 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

*Original dated
7/12/2021*

- 17) 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 2 **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
 - 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.

*Original dated
7/12/2021*

- 18) 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
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

*Original dated
7/12/2021*

- 19) The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
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<i>Original dated 7/12/2021</i>	<p>20) 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 c. submit an audit report to the department within the timeframe specified in the approved audit criteria.
<i>Original dated 7/12/2021</i>	<p>21) 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.</p>
Completion of the action	
<i>Original dated 7/12/2021</i>	<p>22) Within 30 days after the completion of the action, the approval holder must notify the department in writing and provide completion data.</p>
date of decision	definitions attached to approval
<p>Part C Definitions</p> <p>In these conditions, except where contrary intention is expressed, the following definitions are used:</p>	
<i>Original dated 7/12/2021</i>	<p>Business day means a day that is not a Saturday, a Sunday, or a public holiday in the state of NSW.</p>
<i>Original dated 7/12/2021</i>	<p>Castlereagh Scribbly Gum and Agnes Banks Woodlands of the Sydney Basin Bioregion means the threatened ecological community, listed under the EPBC Act on 15 March 2017 as endangered, as specified in the <i>Approved Conservation Advice (including listing advice) for Castlereagh Scribbly Gum and Agnes Banks Woodlands of the Sydney Basin Bioregion</i> (Department of the Environment, 2015). The location of Castlereagh Scribbly Gum and Agnes Banks Woodlands of the Sydney Basin Bioregion in the study area is shown in Map 1 at <u>Appendix A</u> by the areas shaded in dark and fluoro green, which are designated '883 - Hard-leaved Scribbly Gum - Parramatta Red Gum heathy woodland of the Cumberland Plain, Sydney Basin Bioregion (High and Medium)'.</p>
<i>Original dated 7/12/2021</i>	<p>Clear, clearance, or clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the <i>Australian weeds strategy 2017 to 2027</i> for further guidance).</p>
<i>Original dated 7/12/2021</i>	<p>Commencement of the action means the first instance of any specified activity associated with the action including clearing and construction.</p>

	Commencement of the action does not include minor physical disturbance necessary to carry out low impact work .
<i>Original dated 7/12/2021</i>	Commonwealth land means land owned or leased by the Commonwealth or a Commonwealth agency. Commonwealth lands are shown in Map 2 at <u>Appendix A</u> , shaded in blue and green, and respectively designated 'Defence Joint Logistics Unit' (Lot 3 DP 1197707 and Lot 3002 DP 1125930) and 'Boot Land' (Lot 41 DP 1197707 and Lot 42 DP 1197707).
<i>Original dated 7/12/2021</i>	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 .
<i>Original dated 7/12/2021</i>	Completion of the action means the date on which all specified activities associated with the action have permanently ceased.
<i>Original dated 7/12/2021</i>	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.
<i>Original dated 7/12/2021</i>	<p>Compliance reports means written reports:</p> <ul style="list-style-type: none"> 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 iv. annexing a schedule of all plans prepared and in existence in relation to the conditions during the relevant 12 month period.
<i>Original dated 7/12/2021</i>	Construction means all work required to construct the action including commissioning trials of equipment and temporary use of any part of the action, but excluding low impact work which is carried out or completed before approval of the Construction Environmental Management Plan.
<i>Original dated 7/12/2021</i>	Credit(s) means biodiversity credits under the <i>Biodiversity Conservation Act 2016</i> (NSW).
<i>Original dated 7/12/2021</i>	Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest means the threatened ecological community, listed under the EPBC Act on 9 December 2009 as critically endangered, as specified in the <i>Approved Conservation Advice for Cumberland Plain Shale Woodlands and Shale Gravel Transition Forest</i> (Department of the Environment, Water, Heritage and the Arts, 2009). The location of Cumberland Plain Shale Woodlands and Shale-

	Gravel Transition Forest in the study area is shown in Map 1 at <u>Appendix A</u> by the areas shaded in dark and medium brown, which are designated '724 - Broad-leaved Ironbark - Grey Box - <i>Melaleuca decora</i> grassy open forest on clay/gravel soils of the Cumberland Plain, Sydney Basin Bioregion (High and Medium)'. ¹ .
<i>Original dated 7/12/2021</i>	Department means the Australian Government agency responsible for administering the EPBC Act .
<i>Original dated 7/12/2021</i>	EPBC Act means the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).
<i>Original dated 7/12/2021</i>	Incident means any event which has the potential to, or does, impact on one or more protected matter(s) other than as authorised by this approval.
<i>Original dated 7/12/2021</i>	Independent audit means an audit conducted by an independent and suitably qualified person as detailed in the <i>Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines</i> (2019).
<i>Original dated 7/12/2021</i>	Koala means the threatened species <i>Phascolarctos cinereus</i> (combined populations of Queensland, New South Wales and the Australian Capital Territory), listed under the EPBC Act on 2 May 2012 as vulnerable, as specified in the <i>Approved Conservation Advice for Phascolarctos cinereus (combined populations in Queensland, New South Wales and the Australian Capital Territory</i> (Department of Sustainability, Environment, Water, Population and Communities, 2012); habitat means the location of Koala habitat in the study area , shown in Map 1 at <u>Appendix A</u> by the areas shaded in all shades of brown, pink, green, and purple (excluding areas marked "DNG"), which are designated '724 - Broad-leaved Ironbark - Grey Box - <i>Melaleuca decora</i> grassy open forest on clay/gravel soils of the Cumberland Plain, Sydney Basin Bioregion', '725 - Broad-leaved Ironbark - <i>Melaleuca decora</i> shrubby open forest on clay soils of the Cumberland Plain, Sydney Basin Bioregion', '883 - Hard-leaved Scribbly Gum - Parramatta Red Gum heathy woodland of the Cumberland Plain, Sydney Basin Bioregion' and '1067 - Parramatta Red Gum woodland on moist alluvium of the Cumberland Plain, Sydney Basin Bioregion'.
<i>Original dated 7/12/2021</i>	<p>Low impact work means:</p> <ul style="list-style-type: none"> i. survey work including carrying out general alignment survey, installing survey controls (including installation of global positioning systems), installing repeater stations, carrying out surveys of existing and future utilities and building and road dilapidation surveys ii. investigations including investigative drilling, contamination investigations and excavation

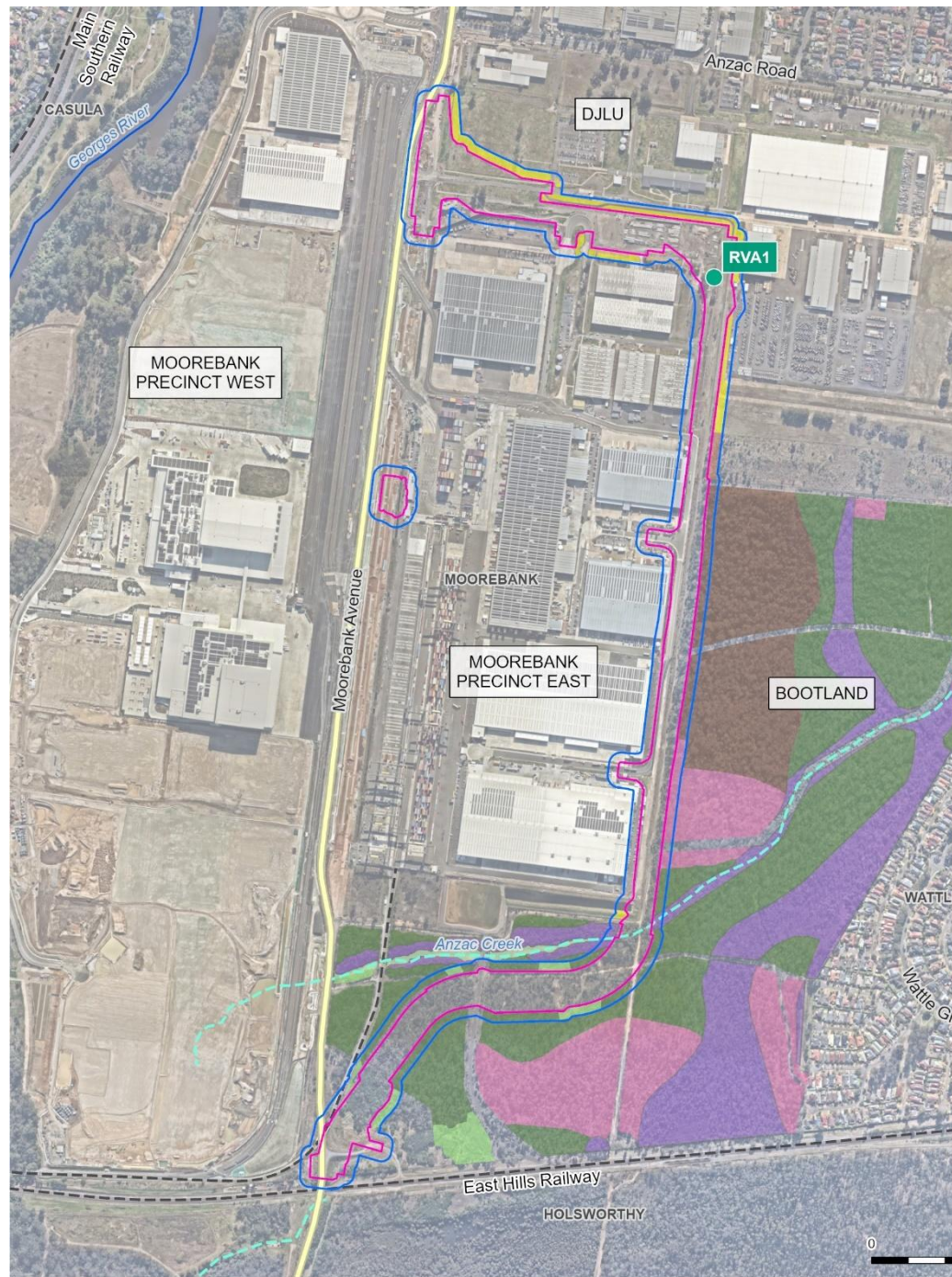
	<ul style="list-style-type: none"> iii. use of ancillary facilities if the NSW Environmental Representative has determined the operational activities will have minimal impact on the environment and community iv. minor clearing and relocation of native vegetation, as identified in the documents listed in Condition A1 of the NSW Approval v. installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and at-property treatments vi. property acquisition adjustment work including installation of property fencing vii. relocation and connection of utilities where the relocation or connection has been determined by the NSW Environmental Representative to have a minor impact to the environment viii. archaeological testing under the <i>Code of practice for archaeological investigation of Aboriginal objects in NSW</i> (DECCW, 2010) or archaeological monitoring undertaken in association with i – vii above to ensure that there is no impact on heritage items ix. maintenance of existing buildings and structures required to facilitate the carrying out of the action x. other activities determined by the NSW Environmental Representative to have minimal environmental impact which may include but not be limited to construction of minor access roads, temporary relocation of pedestrian and cycle paths, and the provision of property access.
<i>Original dated 7/12/2021</i>	Minister means the Australian Government Minister administering the EPBC Act including any delegate thereof.
<i>Original dated 7/12/2021</i>	NSW Approval means the NSW Government Infrastructure Approval under section 5.19 of the <i>Environmental Planning & Assessment Act 1979</i> , for the Moorebank Avenue Realignment project, application number SSI-10053, dated 14 October 2021.
<i>Original dated 7/12/2021</i>	NSW Environmental Representative means the person approved by the NSW Planning Secretary for the State Significant Infrastructure.
<i>Original dated 7/12/2021</i>	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).
<i>Original dated 7/12/2021</i>	Project area means the area to be directly impacted by the action, shown in Map 1 at <u>Appendix A</u> by the area enclosed in the solid maroon line, and designated 'Construction footprint'.

<i>Original dated 7/12/2021</i>	Protected matter means a matter protected under a controlling provision in Part 3 of the EPBC Act for which this approval has effect.
<i>Original dated 7/12/2021</i>	Response to Submissions means the Moorebank Avenue Realignment – Response to Submissions document, prepared by Sydney Intermodal Terminal Alliance, dated May 2021.
<i>Original dated 7/12/2021</i>	Sensitive ecological data means data as defined in the Australian Government department of the Environment (2016) <i>Sensitive Ecological Data – Access and Management Policy V1.0</i> .
<i>Original dated 7/12/2021</i>	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.
<i>Original dated 7/12/2021</i>	Study area means the area comprising the project area and a 20 metre buffer around the project area , shown in Map 1 at Appendix A by the entire area enclosed in the blue solid line, and designated 'Indirect impact area'.
<i>Original dated 7/12/2021</i>	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.
<i>Original dated 7/12/2021</i>	Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

date of decision	Attachments	
<i>As varied on the date this instrument was signed.</i>	Appendix A	
	Map 1	Project area, Study area and plant community type to be impacted.
<i>As varied on the date this instrument was signed.</i>	Map 2	Commonwealth lands to be impacted.

As varied
on the date
this
instrument
was signed.

Map 1 – Project area, Study area and plant community type to be impacted.



Legend

Construction footprint

Indirect impact area

Major road

Railway

Rapid vegetation assessment

Strahler stream order

1st order

7th order

Plant community type

Exotic grassland

724 - Broad-leaved Ironbark - Grey Box - Melaleuca decora grassy open forest on clay/gravel soils of the Cumberland Plain, Sydney Basin Bioregion

High

Medium

Poor

725 - Broad-leaved Ironbark - Melaleuca decora shrubby open forest on clay soils of the Cumberland Plain, Sydney Basin Bioregion

High

883 - Hard-leaved Scribbly Gum - Parramatta Red Gum heathy woodland of the Cumberland Plain, Sydney Basin Bioregion

High

Medium

DNG

1067 - Parramatta Red Gum woodland on moist alluvium of the Cumberland Plain, Sydney Basin Bioregion

High

G
Date is



Path: C:\Users\lemaz466\ARCADIS\30100351 - Moorebank Detail Design - GIS\A_Current\B_Maps\DetailedDesign\Details

As varied
on the date
this
instrument
was signed.

Map 2 – Commonwealth lands to be impacted.

