


30049209

15 October 2024


Assistant Director
Department of Climate Change, Energy, the Environment and Water
Ngunnawal Country, John Gorton Building, Kind Edward Terrace
Parkes, ACT 2600

Dear 

RE: Variation of proposal - addendum to EPBC Act referral (2023/09640) for the Calder Highway Overtaking Lanes Project

1. Background

SMEC Australia Pty Ltd (SMEC) was engaged by the Department of Transport and Planning (DTP) to submit the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) referral for the Calder Highway Overtaking Lanes Project (EPBC 2023/09640). The Project proposes to install two new overtaking lanes in Derby and Marong, Victoria (the study sites). This referral was submitted to the Commonwealth *Department of Climate Change, Energy, the Environment and Water* (DCCEEW) on 24 August 2023. On 12 March 2024, a delegate of the minister for DCCEEW decided that the proposed action for the Project is a **controlled action**.

DTP have recently made design adjustments to a small section of the northbound overtaking lane (Marong site) as part of the land acquisition process. Unavoidable design adjustments were required in order to improve access from the north for larger vehicles, as well as address property access issues due to the installation of a centre barrier. As a result, DTP have designed a wider sealed shoulder on the west side of the road opposite the driveway within the existing table drain, and a slight realignment and upgrade of the driveway. However, this will result in a small additional area of impact to the EPBC Act-listed Grey Box Grassy Woodland Threatened Ecological Community and slight adjustment of impacts to the total number of Swift Parrot foraging trees.

2. Scope

Division 5.4 – Variations of proposals to take actions of the EPBC Act Regulations, and Section 156A of the EPBC Act determine how to make a variation to existing EPBC Act referrals. This letter will address these variations and provide DCCEEW with the following information:

- a. Details of the proposed variation to the action;
- b. The reasons for the proposed variation;
- c. How the impacts of the proposed variation on Matters of National Environmental Significance (MNES) compare with those of the original proposal;
- d. If applicable, the impacts of the proposed variation on MNES not considered in the referral or assessment of the original proposal; and

- e. If applicable, alternatives, mitigation measures and offsets to compensate for additional impacts on MNES.

3. Variation of proposal response

3.1 Details of the proposed variation to the action

The Project design has been marginally adjusted within the northbound overtaking lane study site (i.e., Marong). Changes to the design include:

- Extending the roadside safety barrier on the western side of the road by approximately 120m;
- Widening the sealed shoulder, opposite the existing driveway within the existing table drain;
- Due to steep existing batter slopes, widening the road formation to provide a verge behind the barrier and 2:1 batter slope. All barrier works are restricted to within the existing table drain width;
- Upgrades and re-alignment of existing driveway to allow for a 26 m B-Double turn-in;
- Shortening the proposed roadside safety barrier to suit the new driveway on the southern side of the driveway; and
- Relocation of some existing fences and setback gates adjacent to the proposed driveway to facilitate truck movements.

Refer to Figure 1 below which illustrates the amended design provided by DTP.

3.2 Reasons for the proposed variation

The design of the northbound overtaking lane includes the installation of a centre-line barrier along a portion of the study site. The installation of the centre-line barrier is necessary to prevent head on collision crashes. However, it blocks the right in/right out access into the adjacent landowner's property on the north-eastern side of the Calder Highway, associated with the northern section of the northbound overtaking lane study site. The barrier preventing the right in/right out turn also alleviates the safety concerns of allowing large vehicles to sit in the running lane whilst completing the right in turn, and subsequently turning across two lanes of traffic while completing the right out turns. This denial of the right in/right out access to the property will cause daily issues for the landowner, as the property in question supports a busy agricultural business which regularly requires the movement of a large number of trucks, particularly during the harvest seasons.

DTP is therefore proposing to improve the existing property access to provide a suitable alternative entry point to the property and facilitate the movement of B-double trucks into and out of the property in question. The existing driveway cannot safely facilitate the movement of large trucks and may create a safety issue if not improved, as noted above, as large vehicles will have no other access sites available to enter the property. To improve the existing property access, DTP is proposing to widen the sealed shoulder on the west side of the road opposite the driveway to facilitate the required turning movements and propose to install a barrier to protect the turning vehicles. This widening has been limited to occur within the existing table drain. In addition, minor upgrades and a small re-alignment of the driveway is proposed to facilitate the movements of B-double trucks.

These minor improvement works have been contained to the existing impact areas where practicable and have been designed to avoid the highest quality native vegetation and minimise impacts where possible. This includes the avoidance of a large, high-retention value, hollow-bearing tree situated to the north-west of the driveway which can now be retained on site under the guidance of the Project arborist. Note that this tree has been deemed lost and will be offset due to Tree Protection Zone (TPZ) encroachments.

3.3 Comparison of impacts to MNES

The combined findings from the Marong and Derby study sites (northbound and southbound overtaking lanes) identified habitat for the nationally listed Swift Parrot (*Lathamus discolor*) and the presence of Threatened Ecological Community (TEC): Grey Box (*Eucalyptus microcarpa*) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia (Grey Box Grassy Woodland TEC here on). Both of these MNES will be impacted by the Project and were assessed within the original EPBC Act referral submission (2023/09640).

A summary of original impacts to these MNES in comparison to the adjusted impacts is provided below in Table 1. Impacts have been determined by the Project arborist: Ryder Arboriculture & Environment, who was engaged by DTP to assess the trees within the adjusted driveway design limits. The assessment determined whether additional trees can be retained or are required to be removed for the minor amendments to the design. The updated impacts within the northbound study site (Marong) are illustrated in Figure 2 below. Please refer to Attachment 2 which details the updated Significant Impact Assessments undertaken for MNES.

Table 1: Comparison of impacts to MNES

MNES	Original impact (no longer current)	Updated impact (current)
Swift Parrot	3.183 ha comprising: <ul style="list-style-type: none"> 65 Large key foraging trees in fair to good health condition 19 Medium key foraging trees in fair to good health 147 Small key foraging trees in fair to good health 	3.245 ha comprising: <ul style="list-style-type: none"> 62 Large key foraging trees in fair to good health condition¹ 20 Medium key foraging trees in fair to good health 148 Small key foraging trees in fair to good health
Grey Box Grassy Woodland TEC	0.156 ha	0.1901 ha <ul style="list-style-type: none"> Addition of 0.034 ha of understorey vegetation to be impacted within the existing table drain.

3.4 Additional MNES

The variation in the design has not resulted in impacts to any additional MNES. Impacts are restricted to Swift Parrot foraging habitat and the Grey Box Grassy Woodland TEC. Please refer to the updated Detailed Flora and Fauna Assessment (SMEC 2024a, Attachment 1) and Significant Impact Assessment Report (SMEC 2024b, Attachment 2) prepared for the Project for additional details.

3.5 Alternatives, mitigation measures and offsets for additional MNES

Not required as there are no additional MNES that are being impacted as a result of the variation in the proposed action. Note that the following will be prepared to address impacts to Swift Parrot and the Grey Box Grassy Woodland TEC as part of the Preliminary Documentation response required for the referral:

- Project specific Construction Environmental Management Plan (CEMP) to provide details on impact avoidance and mitigation measures; and
- Offsets for impacts to MNES will be acquired based on the amended design and updated impacts provided above in Table 1. This will include an Offset Management Strategy and an Offset Management Plan for impacts to 0.1901 ha of the Grey Box Grassy Woodland TEC and 3.245 ha of Swift Parrot foraging habitat.

¹ Note that on review of the impacts to Swift Parrot foraging trees undertaken by SMEC in response to the minor design changes and updated impact assessment provided by Ryder (2024, Attachment 3), three large key foraging trees have been determined to be retained that were previously considered lost (as detailed within the original EPBC Act Referral).

If you have any queries or wish to discuss our submission further, please do not hesitate to contact me on [REDACTED]
[REDACTED]

Yours sincerely,

[REDACTED]

Experienced Scientist - Ecology

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