

Review of environmental factors: Decision memo (roads)

To	██████████ Regional Director North
Copied to	██████████, Director Environment & Sustainability (Regions) ██████████, Project Director ██████████, Senior Manager Community & Customer Engagement North
From	██████████, Senior Manager Environment & Sustainability
Priority	ROUTINE
Due date	2 December 2022
Subject	REF Decision Memo – Golden Highway Upgrade, Mudies Creek Flood Mitigation Works

Proposal

Golden Highway Upgrade, Mudies Creek Flood Mitigation Works

Location

Whittingham, Hunter Region, New South Wales

Context

Division 5.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) applies to the proposal. The review of environmental factors (REF) has been reviewed and considered against the requirements of sections 5.5 and 5.7 of the *EP&A Act*.

In considering the proposal this assessment has examined and taken into account to the fullest extent possible, all matters affecting or likely to affect the environment by reason of that activity as addressed in the REF. This assessment is considered to be in accordance with the factors required to be considered under section 171 of the *Environmental Planning and Assessment Regulation 2021*.

In addition, this assessment has considered impacts to threatened species, ecological communities and migratory species listed under *Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)* (EPBC Act). The consideration of these matters is in accordance with the strategic assessment approval granted under the *EPBC Act* in September 2015.

Discussion

Significance of impact on the environment

The proposal described in the REF will have some environmental impacts which can be ameliorated satisfactorily. This assessment has considered that these impacts are unlikely to be significant and therefore an environmental impact statement does not need to be prepared and approval for the proposal does not need to be sought under Division 5.2 of the EP&A Act. Various safeguards and management measures are proposed.

Significance of impact on NSW-listed biodiversity matters

The assessment has considered the potential impacts of the proposal on areas of outstanding biodiversity value and on threatened species, ecological communities or their habitats for both terrestrial and aquatic species as defined by the BC Act and the Fisheries Management Act 1994.

The proposal described in the REF will not affect areas of outstanding value or significantly affect other biodiversity values listed under the BC Act. Therefore, the concurrence of the Coordinator-General Environment, Energy and Science Group, DPE and a species impact statement or a Biodiversity Development Assessment Report (BDAR) is not required.

The proposal described in the REF will not significantly affect biodiversity values listed under the FM Act.

Offsets and replacement for any impacted biodiversity values have been considered in accordance with Transport for NSW Biodiversity Policy and associated guidelines. A Tree and Hollow Replacement Plan is in development to offset the impacts of the proposal to achieve a No Net Loss of biodiversity values, consistent with the Transport for NSW Biodiversity Guideline (2022).

Significance of impact on nationally-listed biodiversity matters

The assessment has considered the potential impacts of the proposal on threatened species, ecological communities and migratory species as defined in the EPBC Act.

The proposal is not likely to significantly impact nationally listed threatened species, ecological communities or migratory species.

Significant impacts to nationally-listed biodiversity

The assessment has considered the potential impacts of the proposal on threatened species, ecological communities and migratory species as defined in the EPBC Act. The proposal is not likely to significantly impact nationally listed threatened species, ecological communities or migratory species.

Impacts to Commonwealth land and other matters of national environmental significance

The assessment has also addressed the potential impacts of the proposal on other matters of national environmental significance and any impacts on the environment of Commonwealth land and concluded that there will be no significant impacts. Therefore, there is no need for a referral to be made to the Australian Department of Climate Change, Energy, the Environment and Water for a decision by the Australian Government Minister for the Environment on whether assessment and approval is required under the EPBC Act.

The proposal is partially on Commonwealth government land within the Singleton Military Area. The EPBC Act self-assessment concluded that the action is not likely to have a significant impact on the environment of the Commonwealth land.

Quality of the REF

The REF is considered to be of adequate quality and meets all relevant requirements. Improvements made to the REF during the review process include:

- Retention and relocation of existing structure 'Dochra Gate sentry box' after discovery of roosting microbats. A supplementary microbat habitat program will be delivered to mitigate impacts during construction
- Comprehensive historical and Aboriginal heritage site investigations resulting in design amendments to minimise impacts on historical and Aboriginal heritage sites of potential state significance
- Adoption of recent changes to the TfNSW Biodiversity Policy including a Tree and Hollow Replacement Plan to achieve No Net Loss of biodiversity values for the project

Recommendation

It is recommended that the proposal to provide flood immunity at Mudies Creek on the Golden Highway at Whittingham, New South Wales, as described in the Golden Highway Upgrade, Mudies Creek Flood Mitigation Works Review of Environmental Factors (October 2022), proceed subject to the implementation of all safeguards identified in the REF and compliance with all other relevant statutory approvals, licences, permits and authorisations.



This project determination will remain current for five years until 19 November 2027 at which time it shall lapse if works have not been physically commenced.

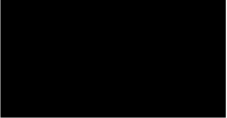
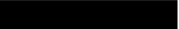
In accordance with the current Transport for NSW Delegations Manual the appropriate delegated manager for this REF is the Regional Director North (Item 5.6 of the property and environment delegations, 16 August 2021).

Recommended by:

 14/11/2022
 Senior Manager Environment and Sustainability



Supported / ~~not supported~~ by:

 15/11/22
 Director Environment and Sustainability (Regions)

 16/11/2022
 Project Director

Decision

Determined in accordance with the above recommendation under delegated authority and in accordance with sections 5.5 and 5.7 of the EP&A Act:

 22/11/2022
 Regional Director North

Attachments

1. Executive Summary from the Golden Highway Upgrade, Mudies Creek Flood Mitigation Works Review of Environmental Factors (REF) (October 2022)
2. Decision not to display REF - proposed Mudies Creek Flood Mitigation Works at Golden Highway, Whittingham (September 2020)