



Our reference: 2011/6228

Mr Terry Johannesen
Project Manager
RATCH-Australia Corporation Limited
Level 7, 111 Pacific Highway
PO BOX 1058
SYDNEY NSW 2059

Dear Mr Johannesen

EPBC 2011/6228: Mount Emerald Wind Farm Proposal, Queensland - Variation of condition 2 and approval of the Turbine Location and Development Footprint Plan

Thank you for your letter of 17 October 2016, on behalf of Mt Emerald Wind Farm Pty Ltd, seeking variation of condition 2 of EPBC approval decision 2011/6228 dated 26 November 2015, and your email of 4 January 2017, on behalf of Mt Emerald Wind Farm Pty Ltd, seeking approval of the Turbine Location and Development Footprint Plan submitted as required under condition 3 of EPBC approval decision 2011/6228 dated 26 November 2015.

Variation of Condition 2

Officers of this Department have reviewed your request for variation of Condition 2, to increase vegetation removal from 58 to 73 hectares. As a delegate of the Minister for Environment and Energy, I have agreed to vary condition 2 under section 143(1)(c) of the *Environment Protection and Biodiversity Conservation Act 1999* to enable the clearing, for turbine footprints and associated infrastructure, of 73 ha of habitat for EPBC Act listed threatened species. Condition 2 must now be undertaken in accordance with the varied condition specified in the variation notification, which has been attached for your information.

Approval of Turbine Location and Development Footprint Plan (Condition 3-6)

Officers of this Department have reviewed the *Turbine Location and Development Footprint Plan, January 2017*. As a delegate of the Minister, I have agreed to approve the *Turbine Location and Development Footprint Plan, January 2017* as meeting the requirements of conditions 3 and 4 of EPBC Approval 2011/6228.

EPBC 2011/6228 condition 29 allows you (under certain circumstances) to implement revised plans without seeking the Minister's approval. However, condition 31 precludes this option in relation to the Offset Area Management Plan. If you require any advice on whether or not to submit a revised plan for approval, please contact the officer below. When submitting any revised plan to the Minister under condition 29, please provide a 'tracked changes' version of the plan. I also attach a fact sheet providing guidance on 'new or increased impact' relating to changes to approved management plans under EPBC Act environmental approvals.

As you are aware, the Department has an active monitoring program which includes monitoring inspections, desk top document reviews and audits. Please ensure that you maintain accurate records of all activities associated with, or relevant to, the

conditions of approval so that they can be made available to the Department on request.

Should you require any further information please contact, Robin Nielsen, on 02 6274 1004 or by email: post.approvals@environment.gov.au.

Yours sincerely



Monica Collins
Assistant Secretary
Compliance & Enforcement Branch
Environment Standards Division

18 January 2017

Note: Under s 491 of the *Environment Protection and Biodiversity Conservation Act 1999* it is an offence to knowingly provide false and/or misleading information to a departmental officer.



Guidance on 'New or Increased Impact' relating to changes to approved management plans under EPBC Act environmental approvals

Introduction

This guidance is for those environmental approvals under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) containing an approval condition which uses the reference 'new or increased impact' in relation to revisions to approved management plans. This condition, referred to in this document as the Revised Management Plan (RMP) condition, allows revised plans to be implemented without approval by the Minister, provided that the proposed changes do not have a new or increased impact on matters protected under the approval.

The aim of this guidance is to assist approval holders and officers of the Department in determining whether or not a change is likely to have a 'new or increased impact' on a protected matter.

Background

Many EPBC Act Part 9 approvals include conditions for management plans, strategies or programs to be implemented, and usually these documents must be submitted for approval by the Minister prior to implementation. For the purposes of this guidance, such documents are referred to collectively as 'plans'.

Section 143A of the EPBC Act allows an approval holder to submit revisions to approved plans for re-approval by the Minister in certain circumstances. In some cases, revisions to approved plans under section 143A will incur a fee under cost recovery provisions of the EPBC Act and regulations.

From late 2015, the RMP condition was included in new approvals where appropriate, and in some cases the RMP condition has been retrospectively added to projects with an existing EPBC Act approval through formal variations to conditions.

In approvals that have the revised management plan condition, a 'new or increased impact' is typically defined as: *a new or increased impact on any matter protected by the controlling provisions for the action, when compared to the plan, program or strategy that has been approved by the Minister.*

In broad terms, section 527E of the EPBC Act defines the term 'impact' as an 'event or circumstance' that is a direct or indirect result of the action taken by the approval holder or someone acting on behalf of the approval holder. A 'new or increased impact' in the context of the RMP condition is therefore very broad, and includes any direct or indirect increase in the impacts of an action, an increase to the risk of an impact occurring, or a change that reduces the acceptability of an impact such as a change to an environmental offset.

Scope of changes to a plan

Approvals are given for the purposes of one or more controlling provisions described in Part 3 of the EPBC Act, and plans may be required to avoid, mitigate or offset impacts to matters protected under those provisions (protected matters).

In some cases a plan may be required under both Commonwealth and state or territory approvals. It is possible that such a plan may require a revision in relation to state or territory matters only, and the changes may not relate to EPBC Act protected matters.

When considering whether a revised plan would have a new or increased impact, approval holders should have regard to all changes to the approved plan (ie. the latest version of that

What is unlikely to be a new or increased impact?

Changes unlikely to be a new or increased impact include:

- changes to the structure or layout of a plan or other administrative changes that are unrelated to environmental impacts or risks;
- a change to a plan which does not affect EPBC Act protected matters; or
- a clear improvement to a measure that avoids, mitigates or offsets the impacts of a proposal.

Examples unlikely to be a new or increased impact

Although determined on a case-by-case basis, the following changes to a plan are **unlikely** to result in a new or increased impact:

- Changes to a person's contact details.
- Changes to the name of a plan, or title page of a plan including version number or date.
- Changes to pagination or chapter format where content is not altered.
- Rectification of a clear typographical, grammatical error or mapping error, where the change does not relate to an impact or an avoidance, mitigation or offsetting measure.
- Changes to a plan that covers both state and EPBC Act requirements, and the change only relates to matters protected under state laws.
- The introduction of an additional mitigation measure.
- An increase in the frequency of monitoring.
- A change to the timing of a temporary impact, to a time when a listed migratory species is less prevalent.

Who decides whether a revised plan is likely to have a 'new or increased impact'?

The onus is on the approval holder to decide if a revision to a plan is likely to result in a new or increased impact.

If, after considering this guidance, approval holders are still unsure whether a proposed revision to a plan is likely to result in a new or increased impact, they may request advice or further information from the Department.

When submitting a revised plan under the RMP condition, the approval holder should include a document clearly explaining the revisions (such as a 'tracked changes' version of the plan) and reasoning why they believe that the revisions will not have a new or increased impact.

Approvals that include the RMP condition also include a condition which gives the Minister the power to require implementation of the previously approved plan if the Minister believes that a revision is likely to result in a new or increased impact. In order to reduce the likelihood of the Minister making this decision, the approval holder should contact the Department for advice if they have any doubt about whether a change is likely to result in a new or increased impact.

Option to submit revised plan to Minister for approval

Nothing in the RMP condition prevents an approval holder from choosing to submit a revised management plan to the Minister for formal approval under section 143A of the EPBC Act at any time.

Advice and further information

Approval holders may request advice relating to the matters described in this document by emailing: post.approvals@environment.gov.au



VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Mount Emerald Wind Farm Proposal, Queensland (EPBC No 2011/6228)

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

Approved action

Person to whom the approval is granted	Mount Emerald Wind Farm Pty Ltd ABN: 149 050 322
Approved action	To develop a wind farm within the Springmount Station, on the Atherton Tablelands, in North Queensland (See EPBC Act referral 2011/6228).

Variation

Variation of conditions of approval	The variation is: Delete condition 2 attached to the approval dated 26 November 2015 and substitute with the condition specified below.
Date of effect	This variation has effect on the date the instrument is signed

Person authorised to make decision

name and position	Monica Collins Assistant Secretary Compliance & Enforcement Branch
Signature	
Date of decision	18 January 2017

Conditions attached to the approval

2. To minimise impacts to **EPBC Act listed threatened species**, the **approval holder** must not disturb more than 73 ha of habitat for **EPBC Act listed threatened species** on the **wind farm site**.