



Approval

Sapphire Wind Farm, NSW (EPBC 2011/5854)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

person to whom the approval is granted SWF1 Operations Pty Ltd (ACN 601 425 316)
SWF2 Operations Pty Ltd (ACN 601 425 325)
SWF3 Operations Pty Ltd (ACN 601 425 334)

proposed action To construct and operate a wind farm and associated infrastructure comprising up to 159 wind turbines, with a maximum generating capacity of approximately 238 to 425 megawatts between Glen Innes and Inverell, NSW [See EPBC Act referral 2011/5854].

Approval decision

Controlling Provisions	Decision
Listed threatened species and communities (sections 18 & 18A)	Approved
Listed migratory species (sections 20 & 20A)	Approved

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 1 January 2090

Decision-maker

name and position James Tregurtha
Assistant Secretary
South-Eastern Australia Environment Assessments

signature

date of decision 5 December 2014

Conditions attached to the approval

1. The **approval holder** may elect to construct and/or operate the project in stages. Where staging is proposed, the person taking the action must provide **the Minister** with a staging plan. The staging plan must:
 - a. identify any stages in which groups of turbines will be constructed and / or operated, using maps or other descriptive parameters specifically including number of turbines and area of land;
 - b. schedule the indicative timing for the construction and operation of each stage;
 - c. describe for each stage identified in a. above any potential impacts on **listed threatened species** and **listed migratory species** and how these will be managed in accordance with these conditions; and
 - d. in consideration of Condition 2d, 2e and 2f below, identify any biodiversity offsets to be established in association with stages identified pursuant to Condition 1a.

Commencement of construction must not occur until the staging plan has been approved by **the Minister** in writing or the **approval holder** advises **the Minister** in writing that they do not intend to construct the project in stages.

2. Prior to **commencement of operation** of each stage of the action, the **approval holder** must provide for **the Minister's** approval a Biodiversity Offset Strategy (the Offset Strategy) to protect and manage White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community (BGW), and habitat for the regent honeyeater, swift parrot and border thick-tailed gecko in perpetuity. The Offset Strategy must:
 - a. Outline the purpose of the Offset Strategy;
 - b. Provide a map, including GPS coordinates and accompanying **shapefiles**, that clearly depicts:
 - i. the offset areas for the relevant stage of the action; and
 - ii. existing BGW and regent honeyeater, swift parrot and border thick-tailed gecko habitat at the site;
 - c. provide a qualitative and quantitative analysis of ecological values of proposed offset sites in relation to the matter(s) being offset, with a declaration by a **suitably qualified expert** that it meets the requirements of these conditions;
 - d. Provide for the protection at any given time of at least:
 - i. if a staging plan has been approved by the Minister under Condition 1, 1.9 hectares of BGW per turbine to be implemented in accordance with Condition 3 within one year of the **commencement of operation** of each stage as set out in the staging plan; or
 - ii. if the approval holder advises the Minister in writing under Condition 1 that they do not intend to construct the project in stages, a total of at least 296.84 hectares of BGW to be implemented in accordance with Condition 3 within ten years of this approval;
 - e. Provide for the protection at any given time of at least:
 - i. if a staging plan has been approved by the Minister under Condition 1, 6.5 hectares of habitat for the regent honeyeater and swift parrot per turbine to

- be implemented in accordance with Condition 3 within one year of the **commencement of operation** of each stage as set out in the staging plan; or
- ii. if the approval holder advises the **Minister** in writing under Condition 1 that they do not intend to construct the project in stages, a total of at least 1000 hectares of habitat for the regent honeyeater and swift parrot to be implemented in accordance with Condition 3 within ten years of this approval;
- f. Provide for the protection at any given time of at least:
- i. if a staging plan has been approved by the **Minister** under Condition 1, 1.5 hectares of habitat for the border thick-tailed gecko per turbine to be implemented in accordance with Condition 3 within one year of the **commencement of operation** of each stage as set out in the staging plan; or
 - ii. if the approval holder advises the **Minister** in writing under Condition 1 that they do not intend to construct the project in stages, a total of at least 184 hectares of habitat for the border thick-tailed gecko to be implemented in accordance with Condition 3 within ten years of this approval;
- g. Describe how each site will be legally secured to ensure the enduring value of the offset.

Operation of each stage of the action may not commence until an Offset Strategy has been approved in writing by **the Minister** for that stage (or where the approval holder advises **the Minister** in writing under Condition 1 that they do not intend to construct the project in stages, until the Offset Strategy has been approved in writing by **the Minister** for the entire action).

3. For each offset site identified in Condition 2 above, the **approval holder** must:
- a. Prior to **commencement of operation** of the stage(s) to which an offset site applies, provide for the approval of **the Minister** an Offset Site Management Plan (Offset Plan), including:
 - i. measures to manage edge effects;
 - ii. measures to manage feral pests, weeds and pathogens;
 - iii. measures to control unauthorised public access;
 - iv. measures to rehabilitate or enhance the site to the level required by the Offset Strategy; and
 - v. details about the timing and responsibility for implementing and funding the Offset Plan.
 - b. Within twelve (12) months of **commencement of operation** of the stage(s) to which an offset site applies, legally secure the site in accordance with the Biodiversity Offset Strategy. Evidence of the legal securing of the offset site must be provided to **the Department** within 1 month of the offset site being secured.

For any given stage, **operation** must not commence until sufficient offsets have been identified in accordance with Condition 2, and an Offset Plan approved in writing by **the Minister**. The relevant Offset Plan, once approved, must be implemented.

Note: For convenience, Offset Plans for multiple offset sites may be combined.

4. To compensate for indirect impacts on habitat for the regent honeyeater and swift parrot, the **approval holder** must contribute no less than \$250 000 (GST exclusive) in funding towards research by an **appropriate institution**, to assist in building the body of knowledge regarding these species and how they interact with, and are impacted by, wind farms; or to assist with practical actions to improve the conservation of these species in regions impacted by wind farms.

This sum may be donated in five increments of at least \$50,000 to be paid annually, commencing on **operation** of any of the potential stages of the action and thereafter on each anniversary of this date up until the fourth anniversary, with evidence of payment provided to **the Department** within 30 days of each payment being made. An alternative payment structure may be implemented, in communication with the **Department**, if it is to the greater benefit of the research project/s to be funded..

The expected outcomes and milestones of this research project/s must:

- a. be consistent with the relevant Recovery Plans for the species;
- b. take into account any results from the Bird and Bat Adaptive Monitoring Program referred to in Condition C6 of the NSW Minister for Planning and Infrastructure's approval of the proposed action dated 26 June 2013; and
- c. be made available to **the Department**, relevant state government agencies and the public within 20 business days of their approval and published on the **approval holder's** website throughout the duration of the research project and action.

Operation of the action must not commence until the payment structure, expected outcomes and milestones of the research project/s have been approved in writing by **the Minister**.

5. If at any time the NSW Director General's Assessment Report and approval conditions (June 2013) are modified, the **approval holder** must notify the Department in writing of the actual date of the modification.
6. Within 10 days after the **commencement** of the action, the **approval holder** must advise **the Department** in writing of the actual date of **commencement**.
7. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the Offset Site Management Plan required by this approval, and make them available upon request to **the Department**. Such records may be subject to audit by **the Department** or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on **the Department's** website. The results of audits may also be publicised through the general media.
8. By 31 December of each year after the **commencement** of the action, the **approval holder** must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months, including implementation of the **Management Documents**. These compliance reports must remain on the website for 12 months from the date of publishing. Potential or actual non-compliance with any of the conditions of this approval must be reported to **the Department** in writing within five business days of the **approval holder** becoming aware of the actual or potential non-compliance.

9. Upon the direction of **the Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to **the Minister**. The independent auditor must be approved by **the Minister** prior to the commencement of the audit. Audit criteria must be agreed to by **the Minister** and the audit report must address the criteria to the satisfaction of **the Minister**.
10. If the **approval holder** wishes to carry out any activity otherwise than in accordance with the **Management Documents** as specified in the conditions, the **approval holder** must submit to **the Department for the Minister's** written approval a revised version of that **Management Document**. The varied activity shall not commence until **the Minister** has approved the varied **Management Document** in writing. **The Minister** will not approve a varied **Management Document** unless the revised **Management Document** would result in an equivalent or improved environmental outcome over time. If **the Minister** approves the revised **Management Document**, that **Management Document** must be implemented in place of the **Management Document** originally approved.
11. If **the Minister** believes that it is necessary or convenient for the better protection of listed threatened species, listed ecological communities or listed migratory species to do so, **the Minister** may request that the **approval holder** make specified revisions to the **Management Document** specified in the conditions and submit the revised **Management Document** for **the Minister's** written approval. The **approval holder** must comply with any such request. The revised approved **Management Document** must be implemented. Unless **the Minister** has approved the revised **Management Document**, then the **approval holder** must continue to implement the **Management Document** originally approved, as specified in the conditions.
12. If, at any time after five years from the date of this approval, the **approval holder** has not commenced the action, then the **approval holder** must not commence the action without the written agreement of **the Minister**.
13. Unless otherwise agreed to in writing by **the Minister**, the **approval holder** must publish the Offset Plan(s) referred to in these conditions of approval on their website. The Offset Plan(s) must be published on the website within 1 month of being approved by **the Minister** and remain on the website for the life of the approval.

Definitions

Appropriate institution means a recognised research institution with recognised experience and capability in the areas of conservation research and/or recovery planning implementation relating directly to the EPBC Act listed threatened species and ecological communities being impacted by this action.

Approval holder means the person to whom the approval is granted, or to whom the approval is transferred under s145B of the *Environment Protection and Biodiversity Conservation Act 1999*.

Commencement – where relating to the action – means the first instance of any **construction** relating to the action. This term may be applied to individual stages or to the action as a whole.

Construction includes any construction associated with the action, including:

- any use of heavy machinery such as bulldozers, excavators or articulated vehicles on the site of the action
- any preparatory works such as clearing of vegetation, earthworks or the erection of any temporary buildings or structures (excluding signage and fencing)
- erection of any permanent buildings or structures (excluding signage and fencing),

apart from geotechnical investigations including the drilling of boreholes or test pits.

Listed migratory species means species listed in the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention), the China-Australia Migratory Bird Agreement (CAMBA) and the Japan-Australia Migratory Bird Agreement (JAMBA). The listed migratory species likely to be significantly impacted by the action include the regent honeyeater (*Anthochaera phrygia*).

Listed threatened ecological communities means ecological communities listed as threatened under the *Environment Protection and Biodiversity Conservation Act 1999*. The listed ecological communities likely to be significantly impacted by the action include the critically endangered White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native grassland ecological community (BGW).

Listed threatened species means species listed as threatened under the *Environment Protection and Biodiversity Conservation Act 1999*. The listed threatened species likely to be significantly impacted by the action include the endangered regent honeyeater (*Anthochaera phrygia*), the endangered swift parrot (*Lathamus discolor*) and the vulnerable border thick-tailed gecko (*Uvidicolus sphyrurus*).

Management Documents means the staging plan, offset strategy and offset site management plan required by the conditions of this approval. To avoid any doubt, multiple management documents may be combined.

Operation means power generation pursuant to a contract to supply power or for which payment is otherwise received.

Shapefiles means an ESRI shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the offset site, including the shape, EPBC Act reference ID number and EPBC Act protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

Suitably qualified expert means a person with relevant tertiary qualifications with experience surveying for BGW, regent honeyeaters, swift parrots and border thick-tailed geckos.

The Department is the Australian Government Department administering the *Environment Protection and Biodiversity Conservation Act 1999*.

The Minister is the Commonwealth minister responsible for administering the *Environment Protection and Biodiversity Conservation Act 1999* and includes delegates of **the Minister**.