



Statement of Reasons for Approval under the *Environment Protection and Biodiversity Conservation Act 1999*

I, Murray Watt, Minister for the Environment and Water, provide the following statement of reasons for my decision of 28 August 2025, under subsection 130(1) and section 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**), to approve the proposed action by ACEN Robbins Island Pty Ltd (the **proponent**) to construct, operate and decommission a wind farm with up to 100 wind turbine generators and associated infrastructure, including a bridge, a wharf, and four quarries, on Robbins Island, Tasmania (**EPBC 2017/8096**).

Legislation

- 1) Relevant legislation is set out in **Annexure A**.

Background

Description of the proposed action and location

- 2) The proponent proposes to construct, operate and decommission a wind farm with up to 100 wind turbine generators (**WTGs**) and associated infrastructure, including a bridge, a wharf, and four quarries, on Robbins Island, north-west Tasmania (the **proposed action**). The proposed action will generate up to 900 megawatts (**MW**) of renewable energy.
- 3) Robbins Island is a privately owned 9,900 ha island located in the Bass Strait, lying approximately 1.3km off the north-west coast of Tasmania, Australia. The island is separated from the Tasmanian mainland by a highly tidal area known as Robbins Passage.
- 4) The project area is approximately 8,254 ha of predominantly agricultural land. The total construction footprint is 366.2 ha, with approximately 280 ha clearing native vegetation and the remainder impacting non-native (agricultural) land.
- 5) The total operational life for the project is expected to be approximately 50 years.
- 6) Key components of the proposed action include:
 - the construction of up to 100 WTGs with a maximum individual height of 212m and a generating capacity of up to 900 megawatts of electricity
 - construction of a 1.29km bridge between Robbins Island and mainland Tasmania
 - a wharf structure, extending 510 m off Back Banks Beach on the east coast of Robbins Island
 - up to three sub-stations in total with underground cabling from each WTG
 - underground 220kV electrical cables from the substations to the bridge
 - multiple conduits through the bridge connecting the Project to mainland transmission infrastructure (noting that the transmission line is a separate proposed action, EPBC 2020/8656)
 - new and upgraded on-site road infrastructure

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John Gorton Building - King Edward Terrace, Parkes ACT 2600 Australia

GPO Box 3090 Canberra ACT 2601 ABN: 63 573 932 849

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- four quarries - one siltstone quarry (total extraction of 210,000 m³), two quartzite quarries (total extraction of 1,410,000 m³) and one sand extraction site (total extraction of 105,000 m³)
 - construction facilities, including waters storage dams, laydown areas and concrete batching plants
 - operational facilities, including a maintenance and service compound, washdown facility and quarry.
- 7) The project will be implemented in two stages. Stage 1 involves constructing key infrastructure, including a bridge to the mainland, roads, WTGs and three meteorological masts along with operating three quarries.
- 8) Stage 2 focuses on additional roadworks, two meteorological masts, additional WTGs, and a fourth quarry. Stage 2 is contingent on external transmission infrastructure, such as the Marinus Link, or increased electricity demand, such as would be required from hydrogen production developments. At the time of assessment, it was estimated that construction of Stage 1 would take approximately 44 months, with Stage 2 taking an additional 22 months.

Regional context and land use

- 9) The project area supports agricultural use, specifically cattle grazing on the eastern side of the island. The remainder of the project area is composed of native vegetation communities dominated by coastal heath.
- 10) Robbins Island is privately owned, with approximately 2,267 ha, or around 23 per cent of the area of the island, being cleared pasture used for grazing cattle for beef production. Existing development on the island includes a quarry, outbuildings, three meteorological masts, two dwellings and accommodation for farm workers.
- 11) To the south of Robbins Island between the mainland and island coastline is Robbins Passage, which is used for recreational boating and contains a number of oyster farm leases.
- 12) To the west and south-west of Robbins Island, is the Robbins Passage – Boulanger Bay wetland area which consists of approximately 10,000 ha of intertidal mudflats. The wetland complex provides habitat for the largest aggregation of migratory birds in the state, including more than 20 species of trans-continental migratory waders.
- 13) The nearest township to the island is Smithton, which is approximately 20 km to the south-west, located on mainland Tasmania.

Procedural history

Referral and assessment approach

- 14) On 6 November 2017, the department received a valid referral from the proponent for the proposed action.
- 15) On 19 December 2017, a delegate of the then Minister determined under s 75 of the EPBC Act that the proposed action is a controlled action, because there are likely to be significant impacts on listed threatened species and ecological communities (sections 18 and 18A) and listed

migratory species (sections 20 and 20A). The delegate noted that the proposed action would be assessed under the Bilateral agreement made under section 45 of the EPBC Act, relating to environmental assessment between the Commonwealth and Tasmania (**bilateral agreement**).

Variation of the proposed action

- 16) On 18 September 2019, the proponent submitted a request to vary the proposed action. The reasons for the variation were:
- to clarify that the scope of the project referred did not include the transmission line to the grid (which is the subject of a separate referral – EPBC 2020/8656 – and currently being assessed under the bilateral agreement)
 - to specify the starting location on mainland Tasmania for the transmission line to the grid
 - to expand the project area by 10.88 ha to include the proposed causeway, wharf, additional road upgrades and a lay-down area
 - to advise that solar photovoltaic generation would no longer be proposed as part of the action.
- 17) A delegate of the then Minister accepted the variation on 4 October 2019.

State assessment, approval and appeals

- 18) On 15 November 2017, the Environment Protection Authority Tasmania (**EPA**) received a Notice of Intent for the proposed action. On 3 June 2020, the Circular Head Council referred the development application for the proposed action to the EPA under the *Environmental Management and Pollution Control Act 1994 (Tas)* (**EMPC Act**).
- 19) The EPA required the proponent to prepare a Development Proposal and Environmental Management Plan (**DPEMP**) for the assessment of the proposed action under the EMPC Act.
- 20) The draft DPEMP Guidelines were issued for a 14-day public comment period from 10 January 2018 and the final DPEMP Guidelines were issued to the proponent on 30 January 2018.
- 21) On 16 December 2021, the final DPEMP was accepted by the EPA Board.
- 22) The final DPEMP was publicly exhibited on the EPA's website from 15 January 2022 to 28 February 2022.
- 23) On 13 March 2022, the EPA requested the proponent submit additional information to address matters raised during the public consultation period. On 15 July 2022, the EPA received a Supplementary DPEMP from the proponent. The EPA received a total of 383 comments in the assessment process. A summary of the matters raised by the public during consultation was provided to me.
- 24) On 8 December 2022, the Director of the EPA informed the then Minister by letter that:
- the EPA Board had completed its assessment under the EMPC Act
 - in accordance with clause 6.6 of the bilateral agreement, the final Environmental Assessment Report (**EAR**) was provided
 - in making a determination, the EPA Board had taken into consideration comments from the department in relation to matters of national environmental significance (**MNES**), in

particular the Orange-bellied parrot and the Tasmanian devil, as well as the advice of the Tasmanian Department of Natural Resources and Environment (**NRE**).

- 25) On 16 February 2023, the Circular Head Council granted a permit for the development action, DA 2020/00042, subject to conditions including the environmental conditions determined by the EPA and contained in the EAR.
- 26) Following the grant of the permit, six appellants lodged appeals to the Tasmanian Civil and Administrative Tribunal (**TASCAT**). The proponent challenged conditions of the permit, specifically EPA Condition FF6 which conditioned a 5-month shutdown of all turbines during the Orange-bellied Parrot migratory period. The remaining five appeals challenged the grant of the permit.
- 27) On 27 November 2023, TASCAT made a preliminary decision upholding the proponent's appeal against condition FF6. The remaining five appeals were dismissed. TASCAT directed the parties to file agreed conditions of a planning permit by 7 December 2023 or submissions in respect to disputed conditions by 13 December 2023.
- 28) On 2 January 2024, TASCAT ordered that the original decision by the Circular Head Council to grant a permit for development application DA 2020/00042 be varied by substituting conditions filed by the Council. TASCAT directed the Council to issue an amended permit for the development application within 21 days.
- 29) On 24 January 2024, the Council published an amended planning permit DA 2020/00042 (**the amended planning permit**). The amended planning permit contains the final State Conditions.
- 30) On 9 January 2024, the Circular Head Coastal Awareness Network lodged an appeal against the TASCAT decision in the Tasmanian Supreme Court. In March 2024 the EPA joined the appeal on the basis that the EPA Board failed to consider the State Coastal Policy during its assessment of Robbins Island Wind Farm. The EPA withdrew its appeal after Tasmanian Parliament passed the *Validation (State Coastal Policy) Act 2024* (Tas). The Court dismissed the balance of the appeal on 27 February 2025.
- 31) The amended planning permit approved the construction of up to 100 WTGs, with a maximum height of 212m, and associated infrastructure including a 1290 m bridge connecting Robbins Island to the Tasmanian mainland and a 509m wharf on the north shore of Robbins Island for the delivery of WTG components.
- 32) I noted that the proposed action assessed by the EPA consisted of the construction and operation of up to 122 WTGs, with a maximum tip height of 270m. For the purposes of my decision, I considered the revised WTG configuration of up to 100 WTGs, with a maximum height of 212m, as approved by the amended planning permit.

Request for further information

- 33) On 18 April 2023, a delegate of the then Minister determined that there was not enough information available to make an informed decision whether or not to approve the action and issued a request for further information (**RFI**) to the proponent under section 132 of the EPBC Act.

- 34) The RFI sought an Offset Strategy and Offset Management Plan to compensate for the loss of up to 366.2 ha of Tasmanian Devil (*Sarcophilus harrisii*) habitat. The RFI stated that the offset proposal must be consistent with the department's *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy 2012 (EPBC Act Environmental Offsets Policy)* and noted that current evidence indicated that the Robbins Island Tasmanian Devil population was free from Devil Facial Tumour Disease. The RFI also set out key requirements of the EPBC Act Environmental Offsets Policy.
- 35) On 12 August 2024, the department received the final Offset Strategy and Offset Area Management Plan for the Tasmanian Devil from the proponent.

Proposed decision

- 36) On 22 August 2025, I made a proposed decision to approve the proposed action, with conditions.
- 37) The department considered, and I agreed, that adequate public consultation for the proposed action had occurred and that inviting public comment on the proposed decision and recommended conditions of approval was unlikely to elicit views or information that had not already been considered in relation to the proposed action. I decided not to release the proposed decision for public comment under section 131A of the EPBC Act.
- 38) On the same day that I made the proposed decision to approve the action, I wrote to the proponent and the following people inviting comments on my proposed decision:
- The Hon Chris Bowen MP, Minister for Climate Change and Energy
 - Senator the Hon Malarndirri McCarthy, Minister for Indigenous Australians
 - Ms Catherine Murdoch, Acting Director of the EPA.
- 39) On 25 August 2025, the proponent made comments in response to the proposed decision and conditions. The proponent requested a number of minor changes to reflect practicalities of implementation of the proposed conditions, including:
- Condition 3 – micrositeing of turbines – the proponent requested a minor amendment to reduce specificity of distances and provide flexibility as project design is finalised. The department recommended, and I agreed, to amend this condition in response. The amendment also clarifies the relationship to State micrositeing conditions;
 - Conditions 16, 31 and 34(1) – the proponent requested changes to provide greater specificity regarding the extent of intended survey area requirements. The department recommended making minor changes to remove unintended consequences of the original wording, noting that the detail of such requirements will be finalised in the required Plans and Methodologies to be submitted to the department for approval within six months of this decision. I agreed with the department's recommendation;
 - Condition 20 – the proponent requested clarification of the drafted requirement to determine funding sufficiency for Orange-bellied Parrot conservation based on 'ensuring' 15 additional birds return to Melaleuca at the annual census date. The proponent noted it is not possible for them to control all possible threats impacting return numbers, so they cannot ensure a specific number of returns. The department recommended clarifying the

condition to indicate an increase of 10-15 per cent of additional returns is the intended outcome of the funding, as a reference point. The department considered this change was acceptable as it does not alter the effectiveness of the condition in meeting the intended condition outcome to achieve additional growth in the wild Orange-bellied Parrot population. The final measures and detail of such requirements will be finalised in the Orange-bellied Parrot Mitigation Plan to be submitted to the department for approval before the action can commence. I agreed with the department's recommendation;

- Condition 25 – the proponent requested that the Bird and Bat Management Plan be required to be submitted prior to commissioning, not prior to construction. I accepted the department's advice that this is common practice and changed the condition accordingly; and
 - Conditions 50 and 51 – the proponent requested an alteration to the dates at which operations cease and decommissioning commences. I did not change the proposed condition, as it is usual practice to allow a period post-decommissioning within the overall approval period, to allow for continued enforceability of conditions. The proponent accepted no change to these conditions, in line with common practice.
- 40) I agreed with the department's view that the changes outlined above do not alter the effectiveness of the conditions in achieving intended outcomes.
- 41) On 25 August 2025, the office of the Minister for Climate Change and Energy advised that the Minister had no comment on the proposed decision.
- 42) On 27 August 2025, the National Indigenous Australians Agency (**NIAA**) provided comments on behalf of the Minister for Indigenous Australians, which:
- noted the proposed conditions, in particular the requirement that the proponent adhere to a number of State conditions, which NIAA noted will require the proponent to include cultural (Aboriginal and non-Aboriginal) heritage considerations in the Construction Environment Management Plan (including an Unanticipated Discovery Plan for Aboriginal heritage) and Quarry Management Plan;
 - commented on First-Nations-related economic and social matters relevant to the proposed action, and advised that the proponent should ensure that they have identified and engaged with Traditional Owners who speak for Country and other First Nations stakeholders, including specific first Tasmanian Aboriginal community organisations and groups in the region;
 - noted that there are currently no Native Title claims or determinations in Tasmania, and advised that the proponent should seek advice from the Tasmanian Government on any obligations they may have under the Future Act regime of the *Native Title Act 1993*. NIAA also encouraged the proponent to consider a formal agreement with relevant Traditional Owner groups;
 - recommended the proponent engages further with the Tasmanian Aboriginal Heritage Council (**TAHC**) and collaborate with relevant Tasmanian Aboriginal groups to develop an agreed Cultural Heritage Management Plan for the project, and continue to seek advice from TAHC;

- encouraged the proponent to engage with First Nations employees and businesses to help realise the economic benefit of the project for the local First Nations community, including through development of a First Nations employment, training and procurement plan incorporating participation targets; and
 - encouraged the proponent to pursue opportunities for long-term energy use benefits for local First Nations communities, including considering opportunities to improve local First Nations community energy access, security and affordability.
- 43) I noted that Robbins Island is not a listed National Heritage Place, and as such National Heritage is not a controlling provision for the purposes of this approval.
- 44) I noted that the department will provide the proponent with the advice provided by the NIAA.
- 45) On 28 August 2025, the EPA provided verbal and written comments in response to the proposed decision and conditions on behalf of the Tasmanian Minister for Environment. I noted that these comments also reflected the views of NRE, the manager of the Tasmanian Orange-bellied parrot conservation program.
- 46) On 28 August 2025, the department discussed the amended conditions with the EPA and NRE, and separately with the proponent. I noted that both subsequently confirmed in writing that the amendments addressed their comments and they were satisfied with the final condition set.

Final approval decision

- 47) On 29 August 2025, I decided to approve the proposed action, with conditions. My approval will have effect until 29 August 2090.

Evidence or other material on which my findings were based

- 48) In making my decision under subsection 130(1) and section 133 of the EPBC Act as to whether to approve the taking of the proposed action, I considered the final approval decision brief dated 28 August 2025 and all of its attachments (**decision brief**). A full list of the attachments to the decision brief is set out at **Annexure B** to this statement.
- 49) I was satisfied that the documents set out in Annexure B provided sufficient information for me to decide whether or not to approve the proposed action.

Findings on material questions of fact

- 50) In deciding whether to approve the proposed action, I considered matters relevant to the matters protected by the controlling provisions for the action, including all impacts that the proposed action would have or was likely to have on each matter protected by the controlling provisions for the proposed action (being sections 18 and 18A, and 20 and 20A of the EPBC Act), as required by section 136(1)(a) of the EPBC Act. My findings on these controlling provisions are set out below.

Controlling provisions – s 136(1)(a)

- 51) The proposed action was assessed by the EPA in accordance with the bilateral agreement.
- 52) The assessment was an environmental impact assessment process under the EMPC Act. The EPA provided the EAR to the department on 8 December 2022.

53) I noted that the EAR made the following conclusions in relation to the matters protected by the controlling provisions:

Controlling Provision	Relevant section of State Environmental Assessment Report	State's conclusion on acceptability of impacts
Listed threatened species and communities (sections 18 and 18A)	Section 6 - Considering the information provided in the DPMP and Supplementary DPMP, the EAR identified the following key threatened species and ecological communities listed under the EPBC Act as potentially impacted by the proposed action: - Tasmanian Wedge-tailed Eagle (<i>Aquila audax fleayi</i>) Endangered; - Orange-bellied Parrot (<i>Neophema chrysogaster</i>) Critically Endangered; - Swift Parrot (<i>Lathamus discolor</i>) Critically Endangered; - Tasmanian Azure Kingfisher (<i>Ceyx azureus subsp. diemenensis</i>) Endangered; - Tasmanian Masked Owl (<i>Tyto novaehollandiae castanops</i>) Vulnerable; - Hooded Plover (Eastern) (<i>Thinornis rubricollis rubricollis</i> [syn <i>T. cucullatus cucullatus</i>]) Vulnerable; - Australian Fairy Tern (<i>Sternula nereis nereis</i>) Vulnerable; - Little Tern (<i>Sternula albifrons</i>) Vulnerable; - Eastern Curlew (<i>Numenius madagascariensis</i>) Critically Endangered, Migratory - Curlew Sandpiper (<i>Calidris ferruginea</i>) Critically Endangered, Migratory - Great Knot (<i>Calidris tenuirostris</i>) Vulnerable, Migratory - Red Knot (<i>Calidris canutus</i>) Vulnerable, Migratory - Lesser Sand Plover (<i>Charadrius mongolus</i>) Endangered, Migratory - Greater Sand Plover (<i>Charadrius leschenaultia</i>) Vulnerable, Migratory - Black-tailed Godwit/Nunivak Bar-tailed Godwit (<i>Limosa lapponica baueri</i>) Vulnerable, (uplisted to Endangered in 2024 after Controlled Action decision) - Tasmanian Devil (<i>Sarcophilus harrisii</i>) Endangered; - Spotted-tailed quoll (<i>Dasyurus maculatus maculatus</i>) Vulnerable; - Eastern quoll (<i>Dasyurus viverrinus</i>) Endangered; - Eastern barred bandicoot (<i>Perameles gunnii</i>) Vulnerable; - Marrawah Skipper (<i>Oreisplanus munionga subsp. larana</i>) Vulnerable; - Green and Gold Frog (<i>Litoria raniformis</i>) Vulnerable; - Eastern Dwarf Galaxias (<i>Galaxiella pusilla</i>) Vulnerable; and - Australian Grayling (<i>Prototroctes maraena</i>) Vulnerable. - The EAR concluded that, without mitigation, the proposal could lead to two key impacts on the Orange-bellied Parrot: collision-related mortality and habitat loss or migration barriers due to behavioural avoidance or reduced habitat quality during construction. - The EPA concluded the impacts of the proposed action on listed threatened species and ecological communities would be acceptable, subject to implementation of conditions imposed to avoid, mitigate and compensate for impacts.	All acceptable, subject to implementation of conditions imposed to avoid, mitigate and compensate for impacts

Listed migratory species (sections 20 and 20A)	Section 6 - The EAR identified the following migratory shorebird species and subspecies, listed as migratory under the EPBC Act, that were either recorded or had the potential to be present near the project area. Several of these species are also classified as threatened under the EPBC Act (see above). - Eastern Curlew (<i>Numenius madagascariensis</i>) Critically Endangered, Migratory - Curlew Sandpiper (<i>Calidris ferruginea</i>) Critically Endangered, Migratory - Great Knot (<i>Calidris tenuirostris</i>) Critically Endangered, Migratory - Red Knot (<i>Calidris canutus</i>) Vulnerable, Migratory - Lesser Sand Plover (<i>Charadrius mongolus</i>) Endangered, Migratory - Greater Sand Plover (<i>Charadrius leschenaultia</i>) Vulnerable, Migratory - Bar-tailed Godwit/Nunavik or Alaskan Godwit (<i>Limosa lapponica baueri</i>) Vulnerable, (uplisted to Endangered in 2024 after Controlled Action decision) - White-throated Needletail (<i>Hirundapus caudacutus</i>) Migratory (listed Vulnerable in 2019 after Controlled Action decision) - Latham's Snipe (<i>Gallinago hardwickii</i>) Migratory (listed Vulnerable in 2024, after Controlled Action decision) - Red-necked stint (<i>Callidris ruficollis</i>) Migratory - Bar-tailed Godwit (<i>Limosa lapponica</i>) Migratory - Ruddy turnstone (<i>Arenaria interpres</i>) Migratory - Sanderling (<i>Calidris alba</i>) Migratory - Double-banded plover (<i>Charadrius bicinctus</i>) Migratory - Common greenshank (<i>Tringa nebularia</i>) Migratory - Pacific Golden Plover (<i>Pluvialis fulva</i>) Migratory - Grey Plover (<i>Pluvialis squatarola</i>) Migratory - Sharp-tailed sandpiper (<i>Calidris acuminata</i>) Migratory - Whimbrel (<i>Numenius pheopus</i>) Migratory - Grey-tailed tattler (<i>Tringa brevipes</i>) Migratory - Ruff (<i>Philomachus pugnax</i>) Migratory - Little curlew (<i>Numenius minutus</i>) Migratory - Common sandpiper (<i>Actitis hypoleucos</i>) Migratory - Terek sandpiper (<i>Tringa cinereus</i>) Migratory - Pectoral sandpiper (<i>Calidris melanotos</i>) Migratory The EAR concluded that with implementation of the proposed avoidance and mitigation measures, particularly adaptive management measures such as WTG curtailment, and the available data and evidence, that collision risk can be managed so that significant impacts to migratory species will not occur.	All Acceptable, with implementation of the proposed avoidance and mitigation measures
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- 54) I noted that the department agreed with the EPA's assessment regarding impact acceptability for most species listed above, provided that the final state conditions set out in the amended planning permit are implemented. I agreed with the department's assessment.
- 55) The department recommended, and I agreed, that additional conditions to avoid, mitigate and manage impacts of the proposed action are required in relation to the following protected matters:

- Listed threatened species and ecological communities (sections 18 and 18A)
 - Tasmanian Devil
 - Swift Parrot
 - Orange-bellied Parrot
 - Tasmanian Wedge-tailed Eagle
 - Threatened migratory species
- Listed migratory species (sections 20 and 20A).

Listed threatened species and ecological communities – sections 18 and 18A

Tasmanian Azure Kingfisher, Tasmanian Masked Owl, Hooded Plover (Eastern), Australian Fairy Tern, Little Tern, Spotted-tailed quoll, Eastern quoll, Eastern barred bandicoot, Marrawah Skipper, Green and Gold Frog, Eastern Dwarf Galaxias and Australian Grayling

56) I noted that the relevant final state conditions set out in the amended planning permit and relevant to these protected matters are:

- Tasmanian Azure Kingfisher (CN2, FF11A, FF11B)
- The Tasmanian Masked Owl (CN1, CN2, FF10C, FF10D, FF11A, FF11B)
- Hooded Plover (Eastern) (CN1, CN2, CN3, CN5, FF7, FF8, FF9, FF11A, FF11B)
- Australian Fairy Tern (CN2, CN3, CN5, FF7, FF8, FF11A, FF11B)
- Little Tern (CN2, CN3, CN5, FF7, FF8, FF11A, FF11B)
- Spotted-tailed Quoll (CN2, FF12)
- Eastern Quoll (CN2, FF12)
- Eastern Barred Bandicoot (CN2, FF12)
- Marrawah Skipper (CN1, CN2, FF17)
- Green and Gold Frog (CN1, CN2, CN4, CN5, CN10, FF16, FF20, GW2, SW1, SW2, SW3)
- All native fauna (FF20)

Tasmanian Azure Kingfisher (Ceyx azureus diemenensis) – Endangered

57) The EAR determined that the Tasmanian Azure Kingfisher was highly unlikely to occur within the project area. While there are records of the species on the adjacent mainland within 5 km, there are no previous records on Robbins Island itself.

58) The DPMP considered there to be no suitable breeding habitat on the island and there are no major river systems. Some minor tributaries could provide limited foraging habitat for resident birds on mainland Tasmania, however it concluded that overall lack of suitable habitat and the low number of records made it very unlikely. The Bird Impact Assessment in the DPMP also noted that the Tasmanian Azure Kingfisher does not fly at turbine height and is therefore unlikely to be impacted through collision with turbines if present. Accordingly, no specific mitigation measures were proposed for the species.

- 59) I agreed with the EAR's assessment that the action would not have an unacceptable impact on the Tasmanian Azure Kingfisher because the species is highly unlikely to occur within the proposed action area, and is not known to fly at heights that make it likely to be impacted by WTG collision.
- 60) I was satisfied that, with the State approval conditions, the impact on the Tasmania Azure Kingfisher would be acceptable.

Tasmanian Masked Owl (Tyto novaehollandiae castanops) – Vulnerable

- 61) According to the DPMP, Tasmanian Masked Owls were not detected onsite during surveys in 2018 (habitat tree assessments, bioacoustics monitoring) and there are no historical records of them occurring on Robbins Island. The DPMP therefore considered it unlikely that the species would occur within the project area.
- 62) The DPMP identified 10.65 ha of potential nesting habitat (*Eucalyptus nitida* dry forest and woodland) within the project area on Robbins Island, but lacked hollows suitable for the species, and there was no evidence of occupation. A further 11 ha of potential nesting habitat on the mainland side of Robbins Passage near the proposed bridge, but outside the project site, was identified with several tree hollows viable for masked owl habitation, but the surveys did not find any evidence of occupation.
- 63) The EAR noted that the primary potential impact identified would be clearance of old large trees with hollows of suitable size for nesting, or disturbance to nesting from construction in close proximity to nest sites. However, all potential masked owl habitat is within the area excluded from the WTG development zone, apart from an existing road that will be upgraded but not widened. Accordingly, the EAR considered the risk of impact on the species during construction to be negligible. Given the low likelihood of the Tasmanian Masked Owl being present in the project area, the EAR also considered the potential for collision of this species with wind turbines or other infrastructure to be low.
- 64) The EAR initially proposed no specific management or mitigation measures for the Tasmanian Masked Owl other than mortality reporting requirements. However, the amended planning permit conditioned a Tasmanian Masked Owl pre-construction survey (FF10C) and a Tasmanian Masked Owl Management Plan (FF10D) to protect habitat, minimise and manage the use of rodenticides, and investigate the use of adapting the WTG Curtailment System for use with Tasmanian Masked Owl.
- 65) I was satisfied that, with the State approval conditions (including the specific requirements for a Tasmanian Masked Owl pre-construction survey and Tasmanian Masked Owl Management Plan), the impact on the Tasmanian Masked Owl would be acceptable.

Hooded Plover (eastern) (Thinornis rubricollis) – Vulnerable, Australian Fairy Tern (Sternula nereis nereis) – Vulnerable and Little Tern (Sternula albifrons sinensis)- Vulnerable

- 66) The DPMP considered resident shorebirds and terns together, as it viewed them to have similar ecological requirements and potential impacts from the proposed action. There are three EPBC listed species – Hooded Plover (eastern) (*Thinornis rubricollis*), Australian Fairy Tern (*Sternula nereis nereis*) and Little Tern (*Sternula albifrons sinensis*).
- 67) The DPMP indicated that:

- Hooded Plovers were recorded in 2018 surveys by BirdLife Tasmania on Robbins Island, primarily on its east-facing beaches including Backs Bank Beach and East Beach, with 12 breeding territories identified, with the higher density of breeding populations at East Beach which is 4 kms from the proposed project area. The EAR stated that unpublished BirdLife Tasmania data also recorded one bird at Bird Point in 2019 and another at Knot Point in 2014 on the northwest coast of the island
 - Australian Fairy Terns were regularly recorded at different points around the coastline of Robbins Island between 2016 and 2020. No breeding pairs were observed during utilisation surveys for this project, however BirdLife Tasmania observed the species during summer counts at a number of locations nearby
 - Little Terns were recorded either on Robbins Island, Robbins Passage or the adjacent Boullanger Bay wetlands in most years between 2012 and 2018. There were no known records of Little Terns breeding in the area, but there are areas of potential breeding habitat.
- 68) The EAR noted that key impacts during the construction phase of the project would be impacts on habitat from the construction of the wharf and associated road infrastructure on Back Banks Beach:
- construction of the wharf and associated road infrastructure on Back Banks Beach is expected to directly impact up to 0.25 ha, or less than 1% of the beach's length of approximately 9 km. Hooded Plovers breed on Back Banks Beach, and surveys in 2018 identified the territory of one breeding pair in the vicinity of the wharf, with the possibility of impacting other breeding pairs in the area during construction. Indirect impacts to Hooded Plover habitat may occur through changes to sand movement due to the construction of the wharf and resulting changes to the morphology of the beach
 - approximately 21 ha of intertidal mudflats (<1% of the ~100 km² available) would form part of the construction footprint for the bridge from the mainland to Robbins Island. Construction of the bridge may also cause changes to hydrodynamics and coastal processes, due to changes in tidal flows through Robbins Passage
 - other construction impacts which may affect shorebirds include the potential for wharf operations to impact shorebirds through noise, light pollution and vehicle movements; disturbance from blasting operations at the proposed quarries (expected to occur once every 7-10 days); potential for introduction of marine pests from incoming vessels; potential risk of fuel spills and leaks from construction machinery; and a low potential for the spread of invasive rice grass (*Spartina anglica*) from Robbins Passage to the west coast of Robbins Island, which could accrete silt and debris, potentially excluding native flora and fauna.
- 69) The EAR concluded the main potential impact on resident shorebirds and terns during operation was collision with WTG or other above-ground infrastructure such as guy wires from the meteorological masts. It also noted that these species may also be impacted by light pollution from the wharf during operation (and less likely the bridge), which may impact nocturnal foraging and roosting sites. Introduction of new predator species via the bridge could lead to increased predation on shorebird species.

70) The final State Conditions in the amended planning permit include:

- a Shorebird Monitoring and Management Plan (**SMMP**) (FF7) that includes population and habitat monitoring, management measures to minimise light pollution and noise from bridge and wharf, measures to address collisions with wind turbines, and timing restrictions on quarry blasting operations. I noted that the amended planning permit added additional requirements to the SMMP to avoid activities with a high probability of scaring birds (e.g. blasting) around high tide, and habitat monitoring of inter-tidal habitat.
- a 500 m exclusion zone from the coastline of Robbins Island (FF8). The EAR commented that the DPEMP provided no basis for the size of the 500 m buffer. However, the DPEMP does state that over a range of studies, these species typically disperse from their high-tide roosts to open water and freshly tide-exposed shorelines. Bird utilisation surveys conducted in 2017/18 for the project did not observe resident shorebirds or terns crossing over the shoreline and into the inland portion of Robbins Island, and earlier studies provided similar results. Additionally, in the bird utilisation studies, no threatened shorebirds or terns were observed to fly above 30 metres, which would keep them below the ‘rotor swept area’.
- a pre-construction survey for the Hooded Plover (eastern) (FF9), combined with construction timing restrictions (FF21.2) that would prohibit construction activities associated with the wharf from being undertaken during Hooded Plover breeding season (October to March) to avoid disruption to incubation and hatching activities, if the pre-construction survey showed breeding areas within 500 m of the wharf location
- a Weed and Disease Management Plan (CN5) that includes measures to prevent the spread of Rice Grass (*Spartina anglica*).
- an Avian Mortality Monitoring Plan (FF11A) and avian mortality reporting requirements (FF11B) would also apply to these species.

71) I was satisfied that, with the State approval conditions, the impact on the Hooded Plover, the Australian Fairy Tern and the Little Tern would be acceptable.

Spotted-tailed Quoll (Dasyurus maculatus) – Vulnerable and Eastern Quoll (Dasyurus viverrinus) – endangered

72) The EAR determined that the Spotted-tailed Quoll and Eastern Quoll were highly unlikely to be present at the project area, so impacts from habitat loss would be highly unlikely, or not significant. Both species could however be impacted by a potential increase in roadkill risk during construction. The EAR took note of mitigation measures proposed in the DPEMP and also in the Supplementary DPEMP in respect of roadkill risk to the Tasmanian Devil. It concluded that conditioning the Construction Environmental Management Plan (EAR CN2) and including a requirement for a Roadkill Monitoring and Adaptive Management Plan (EAR FF12), would mitigate any impacts.

73) I noted that among the grounds of appeal to TASCAT were issues regarding the impact of the project on the Spotted-tailed Quoll. An expert for the proponent, Dr Grant Daniels, stated that there was no evidence that the Spotted-tailed Quoll occurs on Robbins Island. He considered the risk of roadkill to the quoll in respect to Robbins Island Road and reached the same conclusions and recommendations as for the Tasmanian Devil, that is, that the risk of roadkill could be

mitigated by measures including vehicle speed limits on project roads, limiting night-time movement of vehicles, removal of carrion from roadsides and installation of virtual fencing along the length of Robbins Island Road. At that time, each of these matters except for virtual fencing were already required by EPA Condition FF12. I noted that the virtual fencing requirement was added to the conditions in the amended planning permit as a new final State Condition FF12 3.10.

- 74) I noted that the amended planning permit included CN1 4.6.3.1: to mitigate and avoid impacts to both the Tasmanian Devil and the Spotted-tailed quoll, provision of constraints at both ends of the bridge to ensure natural rates of immigration and emigration to and from the Island were not altered. In the condition for a Roadkill Monitoring and Management Plan (FF12) the amended planning permit also extended the financial contribution which the EAR previously only required for Tasmanian Devil mortalities to the Spotted-tailed Quoll.
- 75) I was satisfied that, with the State approval conditions, the impact on the Spotted-tailed Quoll and Eastern Quoll would be acceptable.

Eastern Barred Bandicoot (Perameles gunnii gunnii) – Vulnerable

- 76) Based on non-occurrence in survey evidence, the DPEMP considered that the Eastern-barred Bandicoot was highly unlikely to occur on Robbins Island. The EAR considered that the key potential impact would be risk of roadkill. The EAR indicated that the mitigation measures proposed for the Tasmanian Devil, and specified above for Spotted-tailed Quoll and Eastern Quoll, would also be effective mitigations for this risk for this species. I noted that the alterations made in the amended planning permit to the EPA conditions proposed in the EAR, set out above in relation to the Spotted Tailed Quoll and below in relation to the Tasmanian Devil, were also relevant to this species.
- 77) I was satisfied that, with the State approval conditions, the impact of the proposed action on the Eastern Barred Bandicoot would be acceptable.

Green and Gold Frog (Southern Bell Frog, Growling Grass Frog) (Litoria raniformis) – Vulnerable

- 78) The DPEMP indicated that the Green and Gold Frog (GGF) had been identified in ecological surveys in 2017 and 2019 and referred to the investigations and conclusions set out in the Natural Values Assessment in the DPEMP. The DPEMP considered potential impacts may include direct habitat loss, habitat fragmentation, flow alterations, impacts to water quality, groundwater draw down and spread of amphibian chytrid fungus. It considered these impacts against the significant impact criteria in the *Significant Impact Guidelines 1.1*. Several measures were proposed to avoid and mitigate these impacts. The EAR considered that direct habitat loss was unlikely to significantly impact the species, and set out several conditions (EAR CN1, CN4, CN5, CN10, FF16, FF20, GW2, SW1, SW2, SW3) which it considered would effectively mitigate or avoid significant impacts to the species.
- 79) I noted that among the grounds of appeal to TASCAT were issues about the impact of the project on the GGF. An expert for the proponent, Mr Organ, indicated that permit conditions to implement avoidance and minimisation measures would ensure viability of species populations and habitat. No other evidence was provided by other appellants. The amended planning permit consequently contained more sub-conditions elaborating additional detail regarding GGF in final State Condition FF16 3.1-3.5.

- 80) I was satisfied that, with the State approval conditions, including the additional detail in the amended planning permit, the impact on the GGF would be acceptable.

Marawah Skipper (Oreisplanus munionga subsp. laranas) – Vulnerable

- 81) The EAR noted that the DPEMP indicated that surveys demonstrated no evidence of occupation by the Marawah skipper in the project area, but noted the presence of suitable habitat – the tussock-sedge *Carex appressa* which is a larval host and food plant. While up to 2.9 ha of viable *Carex appressa* habitat would be impacted, 99% of habitat remained excluded from the WTG Development Zone and would be undisturbed. The proponent proposed to undertake targeted surveys within potential habitat at time of micro-siting, which the EAR permit conditions required to be detailed in the Design Report required by condition CN1 and the Pre-construction survey - Marawah Skipper condition FF17.
- 82) Accordingly, the EAR concluded the project would not have a significant impact on this species. The final State Conditions set by the amended planning permit did not alter these conditions in respect of the Marawah Skipper.
- 83) I was satisfied that, with the State approval conditions, the impact on the Marawah Skipper would be acceptable.

Eastern Dwarf Galaxias (Galaxiella pusilla) – Vulnerable and Australian Grayling (Proctotretes maraena) – Vulnerable

- 84) The DPEMP noted that ecological surveys found no Eastern Dwarf Galaxias or Australian Grayling on the project area and they were unlikely to be present or impacted.
- 85) I considered the action would not have an unacceptable impact on Eastern Dwarf Galaxias or Australian Grayling because the species are highly unlikely to occur within the proposed action area.

Orange-bellied Parrot (Neophema chrysogaster) – Critically Endangered

Description

- 86) The *National Recovery Plan for the Orange-bellied Parrot, Neophema chrysogaster, 2016 (Recovery Plan)* sets out key species information.
- 87) The Orange-bellied Parrot (OBP) breeds in south-west Tasmania from November to March and spends the winter months from April to October along the south-east coast of mainland Australia. Breeding is restricted to an area around Melaleuca, south-west Tasmania. A mosaic of Eucalypt Forest and rainforest and recently burnt (< 8 years) moorland and sedgeland plains in south-west Tasmania are considered essential for species survival.
- 88) The EAR noted that the OBP northern migration from Melaleuca to Marawah (north-west Tasmania) is most likely confined to the coast, with sightings of OBP north of Marawah showing that the species spreads across a broad area from Woolnorth to Stanley.
- 89) The EAR noted that the majority of sightings are to the west of Robbins Island, but there have been observations to the east also, near Smithton and Stanley.
- 90) The information available suggests that the northern migration is undertaken over a broad period of time, with periods of stopover where the OBP forages before continuing its journey. In contrast, the EAR noted that the southern migration is far more rapid. The EAR also noted that

observations suggest that the species does not feed during the southern migration with a transit time from Victoria to Melaleuca of less than 2 days in some cases. The flight corridor is not known but assumed to be the most direct route (i.e. across King Island direct to the west coast).

- 91) While wintering in mainland Australia the birds exhibit semi-nomadic behaviour, shifting between various food sources and locations, likely in response to changing food availability. They tend to avoid areas with significant human developments and high levels of disturbance.
- 92) Throughout the non-breeding range, and during migration, the Recovery Plan states that the OBP requires a diversity of foraging opportunities, in saltmarshes, dunes and adjacent shrubby areas and weedy pastures, within 10 km of the coast and 200 m of coastal wetlands and waterbodies, but more than 2 km from developed areas (such as towns). Non-breeding habitat is required at several locations along the migration route and mainland range to support migration and local movements to fluctuating food sources throughout the winter period.
- 93) The Recovery Plan states that because the wild population is small and often difficult to detect, and survival and reproductive success must be maximised to support recovery of the species, at a minimum all non-breeding locations occupied since the year 2000 and any occupied locations discovered during the implementation of the Recovery Plan, are considered to be essential for the survival of the species.
- 94) The wild population comprises of adult birds that return to the breeding grounds at Melaleuca following migration. This includes wild born fledglings, as well as captive bred juveniles that successfully make the northern and southern migration before returning to Melaleuca. The wild population reached a low of 17 birds in 2016, however active management of the species through the Orange Bellied Parrot Tasmanian Program has contributed to the wild population growing to 91 birds in December 2024.
- 95) I noted that in June 2025 the NRE estimated approximately 172 OBP would migrate north from Melaleuca, with a predicted number of between 35 and 130 returning in Spring.
- 96) The Recovery Plan identifies several known and potential threats to the recovery of the species including degradation and loss of habitat, loss of genetic diversity and inbreeding, disease, stochastic environmental events, climate change, predators and competitors, barriers to migration and movement, poisoning and hybridisation with blue-winged parrots. Conservation efforts focus on habitat protection, captive breeding, and ongoing monitoring to ensure their survival.

EAR

Habitat assessment and species presence

- 97) The EAR stated that Robbins Island is within the migratory pathway for the species, and that it contains foraging habitat including succulent saline herbland (**ASS**) covering 0.8 ha near the south-west coast and saline sedgeland/rushland (**ARS**) spanning 231 ha along numerous sections of the coastline, as well as swamp paperbark roosting habitat (**NME**) that is immediately adjacent to succulent saline herbland and saline sedgeland/rushland.
- 98) The Bird Impact Assessment in the DPEMP listed the following targeted OBP surveys that were undertaken:

- four separate surveys between March and June 2003, one in October 2003
 - one survey in April 2004
 - five separate surveys between March and May 2009.
- 99) The areas surveyed in 2003, 2004 and 2009 reflected areas of suitable OBP foraging habitat and were undertaken with a survey methodology that was appropriate at the time. Surveys undertaken in 2009 focused on surrounding islands as well as Robbins Island. One OBP was observed on the west coast of Robbins Island (Little Creek area) within or in close proximity to ARS vegetation in 2003 and three observations were recorded on Wallaby Island (located off the southwest coast of Robbins Island) in 2004, in ASS habitat. No OBP were located during the 2009 survey.
- 100) Further bird utilisation surveys were undertaken in November and December of 2017 and targeted shorebird surveys were undertaken July and December of 2017. However, these did not include targeted OBP surveys. No OBP were located during these non-targeted surveys.
- 101) The EAR stated that an increase in the occurrence of the species on Robbins Island is expected as the population increases, and that it is anticipated that the increasing number of captive bred birds would see an increase in migrating birds.

Impacts

- 102) I noted that, after accepting expert advice from NRE and the conclusions of the EAR, the EPA Board concluded that the proposed action, without mitigation, has the potential for two primary types of impacts to the OBP:
- habitat loss or barriers to migration arising through either behavioural avoidance or through direct or indirect reduction in habitat quality during construction
 - mortality associated with collision risk.

Habitat loss or barriers to migration

- 103) The EAR stated that, according to the DPEMP, construction could directly or indirectly affect habitat areas located on Robbins Island (ARS and ASS) by reducing habitat quality. There is also a small area of potential roosting habitat (NME) adjacent to the Robbins Island Road on mainland Tasmania, which will be cleared due to road widening.
- 104) The EAR noted that there is potential for reduction in foraging habitat on weed species in pasture areas located within the WTG development zone. The EAR also noted that the construction phase of the project has the potential to spread weeds within and external to the project site. The Supplementary DPEMP noted that invasive weeds can alter the structure and productivity of non-breeding habitat and have the potential to cause loss of habitat through significant changes in vegetation communities.
- 105) The EAR observed that not all OBP which migrate to the north-west of Tasmania are considered to utilise Robbins Island. The EAR noted that, if present, the OBP may pass through the wind farm, increase altitude and pass above the wind farm, or change direction and pass around the wind farm. Therefore, habitat may be modified by the presence of the wind farm, leading to avoidance of some habitat.

Mortality associated with collision risk

- 106) The EAR stated that the potential impact to OBP from operation of the wind farm is from collision risk with WTG or other project infrastructure.
- 107) The EAR stated that, according to the Supplementary DPEMP, the mortality of one individual due to potential collision risk, or indirect mortality due to changes in behaviour, may cause species decline, given the relatively small size of the OBP population (which was 51 birds at that time).
- 108) The EAR concluded that there is a potential for a significant impact to the population that may result from a collision, and accordingly mitigations were necessary.
- 109) I noted that the risk of collision was considered closely by the TASCAT during their merits review of the initial planning permit conditions.

Avoidance, mitigation and management measures*Habitat loss*

- 110) The EAR noted the proponent's commitment in a preliminary OBP Monitoring and Management Plan (**OBP MMP**) (included in the DPEMP) to undertake baseline habitat condition monitoring in the year prior to construction and then habitat monitoring annually during construction.
- 111) The EAR noted commitments in the proposed preliminary OBP MMP to include both foraging habitats within the exclusion zone and a 300 m buffer placed around ASS and ARR communities including NME. However, the EAR also stated that due to the known noise sensitivity of the species, indirect disturbance from human activities in proximity to habitat may interfere with the behaviour of the birds, effectively degrading the habitat. The EAR considered that the proposed 300m buffer was insufficient and referred to the recommended 500m buffer stipulated in the Recovery Plan between feeding habitats and land uses that would not provide habitat to OBP.
- 112) Accordingly, to minimise the potential for disturbance of wild OBP and maintain the viability of habitat considered essential for the survival of the species, the EAR concluded a buffer of 500 m between ASS, ARS and NME communities and proposed infrastructure was required.

Collision risk

- 113) The EAR set out the following avoidance and mitigation measures proposed in the DPEMP and Supplementary DPEMP to mitigate the risk of WTG collision with OBP:
- a WTG Exclusion zone and buffer, with no turbines placed within these zones
 - a targeted OBP radio tracking program to track migration movements and habitat utilisation on Robbins Island
 - targeted OBP visual surveys on Robbins Island spanning February - May. Surveys to be undertaken every day for five days once advised by the OBP Tasmanian Program that birds are leaving Melaleuca
 - monitoring and treating pasture areas within the wind farm for preferred weed food plants, to reduce the attractiveness of the WTG development zone to OBP

- delaying construction of wind turbines 2, 3, 4, 5 and 6 (as per the layout proposed in the DPMP) if visual and tracking surveys provide clear evidence that OBP are utilising the southwest ARS and ASS habitat and pasture area where these turbines are proposed
- notifying the EPA and the department if any OBP are observed on Robbins Island by staff or contractors, with the shutdown of turbines within 500 metres of any OBP observed in the WTG development zone, until the birds have completely moved out of the WTG development zone, with final curtailment methodology to be determined after consultation with the EPA and the department
- an OBP Mitigation Response Report to be provided to EPA and the department if any OBP carcass feathers or recognisable parts be found within the WTG development zone.

114) In considering mitigations, the EAR also referenced the proposed avian mortality monitoring plan.

Other measures

115) The preliminary OBP MMP listed a number of other mitigation measures, including site design features to minimise light spill, access restrictions on coastal areas, minimising night works during construction, preventative measures on the bridge to prevent feral cats and other feral animals accessing the island from the mainland, and feral cat eradication measures.

Residual impacts, State conditions and State offsets

State offsets

116) The EAR outlined that the Supplementary DPMP described a proposed offset program for the OBP which included installing radio tracking receivers along the Tasmanian west coast migratory route, excluding Robbins Island. This program was designed to complement the mitigation measures detailed above.

117) The EPA viewed this offset as critical to improving the understanding of OBP migration ecology. The EPA also noted that the proposed tracking program is consistent with Objective 4 of the Recovery Plan, and ties in directly with Actions 7 and 8.

118) The EAR also considered and recommended establishing a tracking program along the migratory route near Robbins Island to enhance data collection efforts.

EPA conditions

119) After consideration of the proponent's proposed avoidance, mitigation and management measures the EAR concluded that the measures would be insufficient to mitigate the potential for OBP mortality as a result of turbine collision.

120) Accordingly, the EAR concluded that it was necessary to recommend the following approval conditions on the proposed action to ensure that, wherever possible, impacts to Orange-bellied Parrot are avoided and mitigated:

- FF2 – although within the condition requiring an Eagle Monitoring and Management Plan, the requirement for an avian mortality monitoring survey program would be designed to detect mortalities of all bird and bat species

- FF5 – an OBP MMP to be submitted to the EPA for approval at least three months prior to construction. Construction cannot take place until the OBP MMP is approved
- FF6 – unless otherwise approved in writing by the EPA Board, all WTG must be shutdown during the OBP migration periods (1 March to 31 May inclusive and 15 September to 15 May inclusive).
- FF8 – exclusion zones – unless otherwise approved in writing by the EPA, WTG and related infrastructure must not be constructed within 500 m of the coastline of Robbins Island or 500 m of OBP habitat (ARS, Ass and NME)
- FF11 – the EPA must be notified of any evidence of dead or injured native birds or bats found within 24 hours of their discovery for threatened species or 3 days for non-threatened species, and a mortality report with details of the affected bird or bat to be prepared by a suitably qualified person and submitted within seven days.

Additional information

121) I noted that since the EPA Board accepted the EAR and conditions, and the Circular Head Council approved the project subject to those original EPA conditions, a range of further information has become available that was relevant to my decision. The final form of the state approval conditions have also changed following the TASCAT appeal. I set out how I have taken account of this information below.

Public comments

122) The Minister and the department received a number of comments in relation to impacts of the proposed action on OBP and their habitat, including but not limited to:

- injury and mortality associated with turbine strike
- habitat disturbance
- light pollution
- migration barriers
- behavioural avoidance of habitat particularly when turbines are operating.

123) I noted that the department reviewed and considered these comments in preparing its recommendations to me.

TASCAT

124) I noted that the department considered the information provided in the TASCAT preliminary and final decisions as well as expert witness statements presented as evidence during the appeal, where relevant, when providing its recommendations to me.

NRE OBP migration reports

125) In 2023, NRE in partnership with Zoos Victoria, trialled a VHF (Very High Frequency) radio-tracking study of juvenile OBP on the northward migration. The trial concluded that fixed receiver tracking stations on potential migratory pathways were capable of detecting the transmitters.

- 126) The OBP Migration Tracking Project was established by NRE to conduct two years of VHF radio-tracking surveys targeting OBPs on their northbound migration from breeding grounds in Melaleuca to over-wintering areas.
- 127) In December 2024 NRE published an Interim Report on OBP Migration Tracking (the 2024 Interim Report) containing the results of the first year of a VHF radio-tracking study being undertaken to gain insights into OBP migratory behaviours. It also published a companion report on its VHF Data Processing Protocols 2024 setting out the protocols used to filter raw data.
- 128) The 2024 Interim Report revealed that OBPs were recorded at both Robbins West and Robbins South antennae between April to June 2024.
- 129) The 2024 Interim Report noted that the study faced limitations, including restricted detection ranges because of the small percentage of surveyable area covered by receivers, limited transmitter battery life, and a small sample size of almost entirely juveniles.
- 130) The 2024 Interim Report noted that caution should be taken when generalising the outcomes of the project in relation to migration timing, site preferences, behaviour and habitat use. The report noted the risk of generalising the findings of this tracking data to the entire OBP population due to the small sample size (46) of which nearly all birds (45) were juvenile.
- 131) I noted that individual analysis of this data was undertaken and presented for consideration by Dr Eric Woehler and Dr Keith Reid. The NRE also provided a response to Dr Woehler's report. I noted that the department considered these submissions as part of its assessment and recommendations to me.

Final State conditions

- 132) I considered the final State conditions set out in the amended planning permit when making my decision. The amended planning permit:
- added a requirement for an OBP mortality offset program, including the provision of a financial contribution of \$100,000 per OBP mortality to the Environment Protection Fund established under s 97 of the EPMC Act
 - added a requirement for a funding contribution to the OBP Tracking Program. Prior to the commencement of construction, the person responsible must make a payment of \$250,000 to the Environment Protection Fund established under s 97 of the EMPC Act as a contribution towards the costs of OBP radio-tracking programs
 - added a requirement for OBP Funding Support. During the first 10 years, \$1000 per wind turbine (\$100,000 annually as per proposed turbine layout) must be paid annually to support OBP conservation; after that, future contributions will be reassessed based on new priorities
 - removed EPA Condition FF6 requiring a five-month WTG shutdown.
- 133) I noted that the final State conditions relevant to the OBP are:
- CN1: inclusion of a requirement at 4.4.1.2 for the OBP buffer zone to be described in the Stage 1 and Stage 2 Design Reports and 4.10 the OBP radio-tracking towers

- CN2: relevant Construction Environmental Management Plan inclusions include inter alia construction requirements related to management plans, flora and fauna management including saltmarsh communities, exclusion zones
- FF5: prior to the commencement of construction, an OBP MMP must be submitted to and approved by the EPA Director
- FF5A: A payment of \$250,000 must be made to the Environment Protection Fund (established under s 97 of EMPC Act) to support radio-tracking programs for the OBP
- FF5B: Unless otherwise approved in writing by the Director, the operator must contribute \$1000 per installed WTG annually to the Environment Protection Fund for the first ten (10) years of commercial operation
- FF8: Wind turbines and associated infrastructure (excluding the bridge and wharf) must not be constructed within:
 - 500 metres of the coastline of Robbins Island; and
 - 500 metres of identified OBP habitat, unless the EPA Director provides written approval
- FF11A: An Avian Mortality Monitoring Plan must be submitted to and approved by the EPA Director prior to the commencement of construction
- FF11B: The operator must comply with ongoing reporting requirements relating to avian fauna mortalities as set out under condition FF11A.

Conclusion on OBP

134) I considered the EAR and other relevant State assessment documents, public comments, relevant evidence submitted to TASCAT, the amended planning permit and final State conditions, the Significant Impact Guidelines 1.1 (2013) and all relevant statutory documents and guidelines, in reaching my conclusions for the OBP.

135) I also considered 2023 and 2024 NRE migration tracking reports, and commentary on those reports:

- Orange-Bellied Parrot Migration Tracking – VHF tracking of migrating juvenile Orange-Bellied Parrots in Tasmania, 2023
- NRE (2024) Orange-Bellied Parrot Migration Tracking Interim Report 2024
- NRE (2024) Orange-Bellied Parrot Migration Tracking
- submissions on those reports by Dr Eric Woehler and Dr Keith Reid and NRE's response to Dr Woehler's report.

136) I had regard to the evidence provided in the TASCAT appeal, and noted that the department took into account this material in making recommendations to me.

Impacts

Habitat loss

137) I agreed with the assessment and conclusions in the EAR regarding the presence of foraging and roosting habitat on Robbins Island, and the effectiveness of proposed avoidance, mitigation and

management measures including buffers and exclusion zones proposed to avoid or limit habitat loss.

- 138) I noted the evidence provided at TASCAT confirmed the presence of foraging and roosting habitat, and did not substantively contest the EAR assessment of likely habitat loss and its impacts on the OBP.
- 139) I noted that the EAR considered that OBP behaviour could be modified by the presence of the wind farm, leading to avoidance of habitat. The EAR noted the DPEMP acknowledged that indirect mortality due to changes of behaviour could in part represent a long-term decrease in the size of the overall population, along with mortality from WTG collision.
- 140) I considered whether the proposed action would be consistent with Objective 3 of the Recovery Plan – to protect and enhance habitat to maintain, and support, growth of the wild population. I considered that provided the avoidance, mitigation and management measures set out in relevant State and Commonwealth approval conditions are implemented, the risk of OBP habitat loss will be addressed and the taking of the proposed action would not be inconsistent with the Recovery Plan.
- 141) Accordingly, I endorsed the final State Conditions FF5 (OBP MMP), FF8 (Exclusion Zones), as well as relevant requirements in CN1 (Design Report) and CN2 (Construction Environment Management Plan).

Collision from WTG

Likelihood of impact

- 142) I considered the EPA assessment in the EAR and noted that following that decision the additional information noted above has become available, which I took into account in my assessment of collision risk.
- 143) I noted TASCAT's conclusion that the likelihood of OBP colliding with wind turbines was 'extremely low'. I noted that it was open to me to come to a different conclusion on the evidence, and weigh that evidence in a different manner, having regard to the requirements of the EPBC Act.
- 144) Having considered all available information, I considered there is evidence that Robbins Island is within the migration zone of the OBP, and that Robbins Island includes foraging and roosting habitat of the type preferred by the species as well as alternative foraging habitats that may be used. I noted that there are historical records of the OBP using Robbins Island, as well as contemporary evidence of use as captured in the NRE 2024 Interim Report on OBP Migration Tracking.
- 145) I acknowledged that there remains uncertainty about the likely extent of time spent and activity on the island, and how the OBP may use or overfly the island on migration. There is also uncertainty about the extent to which individual birds may overwinter in the north-west.
- 146) I also acknowledged that there is uncertainty as to whether, even if foraging on the island, the OBP would do so within range of WTG, because of uncertainty about flight heights and behaviours when foraging and moving between roosting and foraging habitat.

- 147) Notwithstanding these uncertainties, I accepted the Department's advice that there was sufficient information available to determine that the OBP is likely to overfly, forage, roost or otherwise use Robbins Island during the northern and southern migration periods, including potentially within or over the project site. I also noted that historical OBP mortality events have occurred through collision with stationary objects and a small wind turbine generator. Although these records are limited in quantum, I considered these in my assessment.
- 148) Taking into account the above, I was satisfied that there is a real chance or possibility that migrating OBP will collide with WTG during the operation of the proposed action. Therefore, I considered the significance of this potential impact for the population.

Significance of the impact

- 149) I took into account that the conclusion of the EPA assessment in the EAR, relying on information set out by the proponent in the DPEMP and Supplementary DPEMP, was that the mortality of one individual due to potential collision risk, or indirect mortality due to changes in behaviour, could represent a long-term decrease in the size of the overall population, given the relatively small size of the OBP population.
- 150) In respect of the consequences of collision, I noted the evidence before TASCAT from a number of well-qualified experts diverged regarding impact significance. Some experts noted that in their view, based on their knowledge and experience, the impact of one OBP mortality would be significant whereas others noted that a small number of impacts (between 1 and 3 per year) could have a minor impact.
- 151) Given the Critically Endangered listing of the OBP, the threshold for determining that there is a threat of serious or irreversible damage is low. On the basis of the information available, I considered that the proposed action involves a threat of serious or irreversible harm to the species, given the low numbers of the wild population and likelihood of collision mortality.

Avoidance, mitigation and management measures

- 152) I considered the avoidance, mitigation and management measures set out in the final State conditions. I broadly agreed with those measures. However, while I did not disagree with the State applying a \$100,000 mortality payment, I did not consider that it is an appropriate compensatory mechanism under the EPBC Act.
- 153) This is because there remains significant scientific uncertainty regarding the probability of detecting an injured or deceased OBP during mortality monitoring, primarily due to the species' small size and the high likelihood of rapid carcass removal by scavengers—particularly the Tasmanian devil, which is abundant on the island. It is therefore uncertain how effective any such OBP mortality payment would be in achieving any objective of funding the work of the Tasmania OBP Program.
- 154) The proponent has also not demonstrated within their DPEMP or Supplementary DPEMP, with adequate supporting evidence, that an indirect monetary offset could feasibly or effectively mitigate the significant impact caused by loss of an OBP caused by the proposed action.
- 155) I agreed that the conditions set by the state which require monetary contributions towards OBP radio tracking and recovery actions have the potential to provide meaningful avoidance, mitigation and management outcomes for the OBP. However, I considered there was

insufficient information available to determine if the funding requirements set by the TASCAT were sufficient to mitigate the risks to the species as identified by my assessment.

- 156) I agreed with the State conditions set to limit turbine numbers to 100 and to restrict their placement are appropriate avoidance measures.
- 157) Having considered all available information, I considered that the final State conditions are insufficient to mitigate the residual impact of the proposed action on the OBP.
- 158) I considered that there is a threat of serious or irreversible damage to the OBP due to the risk of mortality from collision with the proposed WTGs. I considered that there is a lack of full scientific certainty about this threat to the OBP, as discussed above. Taking into account the precautionary principle, I did not use the lack of scientific certainty about the scale of the threat from the proposed action, without further conditions, for mortality of the OBP by collisions with WTGs, as a reason to postpone a measure to prevent environmental degradation. I decided to impose conditions to prevent, mitigate or offset the harm to the OBP.

Conditions of approval

- 159) I endorsed the requirements set out in State conditions FF5, FF5A, FF5B, FF8 FF11A and FF11B, as relevant to the OBP. I included a requirement to comply with these conditions as Condition 5 of my approval.
- 160) I considered the following additional conditions of approval are necessary and convenient to protect the OBP from the proposed action:
- Conditions 16-17 – to avoid and mitigate harm to the OBP the approval holder must submit an Orange-bellied Parrot Site Specific Survey Methodology to the department for my approval, and implement this methodology for at least 3 years prior to construction to establish a detailed baseline understanding of contemporary site usage by Orange-bellied Parrot
 - Conditions 18-24 – to mitigate likely collision mortality on the OBP the approval holder must submit an Orange-bellied Parrot Mitigation Plan to the department for my approval and commit to providing sufficient funding to the NRE Tasmanian Orange-bellied Parrot conservation program to mitigate the risk of the proposed action impacting wild population growth
 - Conditions 25-40 – to avoid and mitigate operational mortality the approval holder must submit a Bird and Bat Management Plan to the department for my approval to protect the OBP from turbine collision and barotrauma
 - Conditions 41-43 – to offset residual risks to the OBP from direct and indirect impacts the approval holder must submit an Orange-bellied Parrot Offset Strategy (OBP OS) to the department for my approval prior to construction commencing.
- 161) I considered that these conditions represent a thorough adaptive management approach that is centred on ensuring the wild population does not decline through the construction or operation of the proposed action.

- 162) The conditions are underpinned by monitoring and data collection requirements that will inform the function of the Orange-bellied Parrot Mitigation plan, the Bird and Bat Management Plan and which will contribute to filling existing gaps in understanding OBP migration ecology.
- 163) I set these conditions taking account of the precautionary principle, in recognition of the limited evidence currently available to accurately predict future impacts. The conditions will enable adaptive management over time to ensure that impacts to the species are appropriately avoided, mitigated and managed.
- 164) In setting these conditions, I considered the option of setting a broad shutdown requirement in alignment with original state permit condition FF6. I considered that the information available suggested that condition FF6 would not reduce the risk of collision mortality during operation entirely, and additionally would not treat the risk of impact collision with stationary turbines. I noted that, whilst limited, mortality through impact with stationary objects has occurred, and that irrespective of the shutdown duration this risk would remain if a broad shutdown condition was applied.
- 165) I further noted that the Bird and Bat Management Plan conditions set through the approval conditions are current best practice and contain comprehensive mechanisms to treat impact collision risks, including through targeted shutdowns where required.
- 166) For these reasons, I determined that the conditions discussed above would better avoid, mitigate and manage impacts to the Orange-bellied Parrot than a broad shutdown requirement and would ensure that any impacts to the OBP would not be unacceptable.
- 167) I considered the Recovery Plan in undertaking this assessment and setting the Commonwealth conditions. I noted that the objectives of the Recovery Plan are as follows:
- Objective 1. To achieve a stable or increasing population in the wild within five years.
 - Objective 2. To increase the capacity of the captive population, both to support future releases of captive-bred birds to the wild and to provide a secure long-term insurance population.
 - Objective 3. To protect and enhance habitat to maintain, and support growth of, the wild population.
- 168) I considered that this approval is not inconsistent with the objectives of the recovery plan, or the recovery actions underpinning those objectives.
- 169) I was satisfied that, subject to implementation of appropriate mitigation and management measures and compliance with the Conditions of Approval, the impact of the action on the OBP will be acceptable.

Swift Parrot (*Lathamus discolor*) – critically endangered

Description

- 170) I noted that the 2024 *National Recovery Plan for the Swift Parrot (Lathamus discolor)* (**Recovery Plan**) estimates a population of 300-1,000 mature individuals exist in the wild as of the year 2020. Blue Gum (*Eucalyptus globulus*) and Black Gum (*Eucalyptus ovata*) are important forage sources and from one season to the next may comprise the primary foraging resource.

- 171) The Recovery Plan states that Swift Parrots typically start their northward migration from Tasmania to mainland Australia in Autumn. For the southward migration, birds arrive in Tasmania in early August and breeding occurs between September and January.
- 172) Their nesting sites each year depend on the availability of flowering Blue Gum and Black Gum trees and are located in suitable hollows of live or dead eucalypts near flowering trees. Nest trees are typically characterised by having a breast height diameter of around 80 cm or greater, several visible hollows and showing signs of senescence.
- 173) The Recovery Plan states that Swift Parrots occasionally breed in the Tasmanian north-west, although numbers are low, which is probably because the remaining breeding habitat is scarce and highly fragmented. The Recovery Plan notes that Swift Parrots have been found breeding on the west coast near Zeehan, and on King and Flinders Islands.
- 174) Swift Parrots reuse nesting sites and individual nest hollows over different years, and this highlights the importance of nesting areas for the species' long-term viability. The presence of foraging resources influences whether an area is suitable on a year-to-year basis. Birds arrive in Tasmania in early August and breeding occurs between September and January.
- 175) The Recovery Plan considers the main threats to the species include predation of nestlings and incubating females by the introduced Sugar Glider, and ongoing loss or degradation of breeding and foraging habitat through a range of processes including forestry operations, land clearing and wildfire. Other identified threats include competition for foraging and nesting resources, mortality from collision with human-made objects and impacts from climate change.

EAR

Habitat assessment and species presence

- 176) The EAR referenced the DPEMP which noted that a relatively small area of foraging habitat for the Swift Parrot occurs within the project area, approximately 46.9 ha of *Eucalyptus viminalis* – *Eucalyptus globulus* coastal forest and woodland. This is located on the north-east coast on Back Banks Beach, near the proposed wharf access.
- 177) As set out in the Bird Impact Assessment in the DPEMP, bird utilisation surveys were undertaken in the summer of 2002, autumn, winter and spring of 2003, summer of 2009, and summer of 2017-2018. The report stated that extensive fieldwork on the project area in 2002-2003 and 2009-10 failed to record the species on the island. I noted that only one survey – autumn 2003 – coincided with the understood Swift Parrot migration period.
- 178) According to the EAR, two records of Swift Parrots exist 4 km south of the project area on mainland Tasmania at Stony Point and another along Robbins Island Road. The EAR stated that the project area potentially forms part of the migratory route of the species, so it is possible it could occur on Robbins Island during migration.

Impacts

- 179) The EAR noted a loss of a small area of potential *Eucalyptus viminalis* – *Eucalyptus globulus* potential foraging habitat (1.4 ha or 3.2% of the community on Robbins Island), which will be cleared for construction of the wharf. The EAR did not consider this loss significant. The EAR further referenced the DPEMP, which stated that during operation, the potential exists for collision with WTGs and other project infrastructure, if swift parrots overfly the project area.

180) The EAR concluded that given the swift parrot has not been recorded in the project area, it is considered unlikely there will be a significant impact to this species (through clearing of potential foraging habitat).

181) The EAR found there is the potential for collision with wind turbines if the swift parrot does visit the project area, although the risk was considered low.

Avoidance, mitigation and management measures

182) The EAR noted that the proponent did not propose any specific management and mitigation measures for the swift parrot, as the proponent considered it unlikely that the species occurs within the project area.

Residual impacts, State conditions and State offsets

183) The EAR noted that avian mortality monitoring through EPA Condition FF2 would report any mortalities of the species, if present.

Additional information

184) I noted that since the EPA Board accepted the EAR and conditions, and the Circular Head Council approved the project subject to those original EPA conditions, a range of further information has become available that is relevant to this decision. I took this information into account as set out below.

Public comments

185) I noted that the Minister and the department received a number of comments including in relation to impacts of the proposed action on the Swift Parrot and their habitat, including but not limited to:

- injury and mortality associated with turbine strike
- habitat disturbance
- light pollution
- migration barriers
- behavioural avoidance of habitat particularly when turbines are operating.

186) I noted that the department reviewed and considered these comments in preparing its recommendations to me.

Amending planning permit and final State conditions

187) I noted that the avian mortality monitoring under EPA Condition FF2 was amended in the amended planning permit. Final State conditions FF11A and FF11B set out requirements for an Avian Mortality Monitoring Plan and reporting requirements for avian fauna mortalities respectively.

Conclusion

188) I considered the EAR and other relevant State assessment documents, public comments, the amending planning permit and final State Conditions, the Significant Impact Guidelines 1.1 (2013) and all relevant statutory documents and guidelines in reaching my conclusions for the Swift Parrot.

Habitat loss

- 189) I agreed with the EPA's conclusion that the removal of 3.2% of the *Eucalyptus viminalis* – *Eucalyptus globulus* community on Robbins Island is not likely to constitute a significant impact to the species.

Collision risk

- 190) I did not agree with the EAR's conclusion that it is unlikely there will be a significant impact to this species from collision risk.
- 191) I noted that no targeted surveys were carried out for the Swift Parrot and only one bird utilisation survey – in 2003 – was conducted during the autumn migration period.
- 192) I noted that the proponent acknowledged in the DPEMP that the project area potentially forms part of the migratory route to the mainland, 'so it is possible it could occur on Robbins Island during migration'.
- 193) I noted that in examining current threatening processes, the Recovery Plan states that the construction of wind energy turbines and associated energy infrastructure in south-eastern Australia may have implications for the conservation of the Swift Parrot where infrastructure is poorly situated. Parrots may be killed through collision, or their behaviour may be modified by the presence of these structures leading to avoidance of suitable habitat.
- 194) The Recovery Plan states that the potential impacts of these structures may be greatest where they are situated along migration routes where a large proportion of the population may be exposed to the threat, and this ongoing development increases the likelihood of the birds being exposed to collision mortality or loss of habitat.
- 195) The Recovery Plan concludes that each of the threats it identifies to the Swift Parrot (including collision mortality) has the potential to compromise the long-term survival of the species.
- 196) I considered that the evidence indicates the Swift Parrot has the potential to be impacted by collision with WTGs as the island contains potential foraging habitat and is within the species known migratory pathway.
- 197) I considered the precautionary principle. I considered that given the information set out above regarding the presence of foraging habitat and the island's location within the known migration pathway, the threat of collision mortality is real and foreseeable. I considered the damage from this threat would be serious and irreversible given the critically endangered status of the species. I was satisfied that there is a threat of serious or irreversible harm from the proposed action to the species.
- 198) Taking into account the precautionary principle, I did not use the lack of scientific certainty about the scale of the threat from the proposed action, without further conditions, for collision mortality to Swift Parrots, as a reason to postpone a measure to prevent environmental degradation. I decided to impose conditions to require the development and implementation of a Bird and Bat Management Plan to include the Swift Parrot, to avoid and mitigate harm to the Swift Parrot from the proposed action.

Conditions of approval

- 199) I endorsed State Conditions FF11A and FF11B. Condition 5 of my approval requires the approval holder to comply with those conditions.
- 200) I also attached additional conditions of approval to protect the Swift Parrot from the proposed Action. Conditions 25-40 require the approval holder to submit a Bird and Bat Management Plan to the department for my approval to avoid and mitigate harm to EPBC Act listed bird and bat species from turbine collision and barotrauma.
- 201) I considered that if the conditions are implemented, the impact of the action on the Swift Parrot will be acceptable.

Tasmanian Devil (*Sarcophilus harrisii*) - Endangered

- 202) The Conservation Advice for *Sarcophilus harrisii* (Tasmanian Devil) (2009) (**conservation advice**) notes that the Tasmanian Devil, endemic to mainland Tasmania, occupies a wide range of habitats across Tasmania but preferences open forests and woodlands. The conservation advice notes that by 2008 population estimates suggested that the community had declined by approximately 64% since the mid-1990s.
- 203) Key identified threats to the species include Devil Facial Tumour Disease (DFTD) and human-related impacts from motor vehicles and culling. DFTD has been documented across a significant proportion of Tasmania and continues to spread geographically. The disease currently affects a large part of the high-density population areas, potentially impacting the majority of the species' total population.
- 204) Road fatalities also contribute to the ongoing challenges faced by the species. The conservation advice also notes that the species scavenging on roadsides expose them increasingly to being killed by motor vehicles – up to 5.7% of the total population per year.
- 205) Additional potential threats include foxes and habitat modification impacting breeding success if species' densities become very low.

EAR**Habitat assessment and species presence**

- 206) The EAR noted that multiple surveys of the project area were undertaken between 2003 and 2019. On the basis of these site investigations the EAR concluded that Tasmanian Devils are widespread and relatively abundant on Robbins Island. The EAR stated that Robbins Island averages a Tasmanian Devil population density of 12.2 individuals per 10 km², comparable to Tasmanian mainland sites, which range between 6.8 and 17.0 individuals per 10 km². The Robbins Island population is of mixed age (1-6 years) and consistent with other DFTD-free populations on mainland Tasmania.
- 207) The EAR stated that, according to the DPMP, 449.24 ha of 'optimal' and 5,322.8 ha of 'sub-optimal' denning habitat for the Tasmanian Devil occurs within the project area, and no potential den sites were located within the project area during surveys undertaken between 2017 and 2022.

208) Genetic testing of Tasmanian Devils in 2018 appended to the DPEMP and noted in the EAR shows limited gene flow between Robbins Island and mainland Tasmanian Devils, therefore the Robbins Island Tasmanian Devils are not considered a separate population.

209) DFTD was not recorded on Robbins Island during surveys undertaken between 2017 and 2022.

Impacts

210) The EAR concluded that the potential impacts to the Tasmanian devil of the project are direct habitat loss, roadkill risk, and potential introduction of DFTD.

211) Impacts inside the WTG development zone set out in the DPEMP and referenced in the EAR, include:

- loss of 3.8 ha (0.8%) of ‘optimal’ denning habitat and 255.6 ha (5%) of ‘sub-optimal’ denning habitat
- loss of 366.2 ha of potential foraging habitat, including potential denning habitat, which is stated as being lost as a result of the project
- risk of DFTD spreading to Robbins Island through the potential for devils to travel to and from the island via the bridge
- increased risk of death and injury due to increased traffic on roads.

212) The EAR also noted that the DPEMP indicated that all terrestrial fauna, including the Tasmanian Devil, were at risk of impacts from noise disturbance. The potential for disturbance to the species from noise and vibration relating to quarry operations was referenced in the management measures set out in the EAR for the Tasmanian Devil.

Avoidance, mitigation and management measures

213) Several proposed avoidance, mitigation, and management actions were described in the DPEMP and Supplementary DPEMP to protect the Tasmanian Devil and its habitat on Robbins Island.

Key measures included:

- excluding 445.4 ha (99.2%) of the 449.2 ha of potential ‘optimal’ denning habitat and 4790.5 ha (95%) of potential ‘sub-optimal’ denning habitat on the Island from the WTG development zone
- conducting pre-clearance den surveys one month before construction in areas that cannot be excluded from development. If a den is found to be used by threatened fauna, a Den Decommissioning Plan will be implemented
- a 46.9 ha conservation covenant proposed to protect the *Eucalyptus viminalis* – *Eucalyptus globulus* community, which offers optimal denning habitat for the Tasmanian Devil, alongside measures such as fencing, weed control, and cattle exclusion
- the design and construction of the bridge to minimise its use by Tasmanian Devils and other fauna, reducing the risk of spreading DFTD to the Robbins Island population
- the development and approval of several management plans including:
 - Den Decommissioning Plan
 - Roadkill Monitoring and Adaptive Management Plan

- Tasmanian Devil Conservation Management Plan
- a suite of measures designed to mitigate impacts to all fauna from construction
- habitat management actions designed to protect existing dens where possible, implementation of den destruction protocols on expert advice where destruction cannot be avoided and creation of artificial dens.

Residual impacts, State conditions and State offsets

- 214) The EAR considered that there is potential for increased roadkill from an increase in vehicle movements during construction.
- 215) In the Supplementary DPEMP the proponent stated that there was likely to be a 'residual risk of loss through roadkill incidents'. Accordingly, the proponent proposed that for any Tasmanian devil fatalities above the baseline, a contribution of \$8,000 per additional fatality to the Save the Tasmanian Devil Program.
- 216) The EAR stated that clearing for project infrastructure has the potential to impact denning and foraging habitat. However, it concluded that clearance of native vegetation for development of project infrastructure is not significant due to the extensive areas of suitable habitat remaining on Robbins Island. Additionally, the EPA considered Tasmanian Devils are able to shift their home range, and home ranges can be overlapping.
- 217) In respect of risk of the spread of DFTD to the Island from the project, the EAR noted conclusions in the DPEMP that the Robbins Island population is not genetically distinct from the mainland north-west Tasmania population, that Tasmanian Devils are able to cross mudflats during spring low tides and that 2018 genetic testing found some limited gene flow between Robbins Island and the mainland Tasmanian Devil populations. Accordingly, the EAR concluded that the potential for the spread of DFTD will be appropriately managed through bridge design to minimise access to the island.
- 218) The EAR concluded that given the proposed management measures 'it is considered any potential impacts to the Tasmanian Devil from the project will not be significant'.
- 219) The EAR set out the following conditions to require the proposed mitigation measures:
- CN1 (4.6.3): design specifications of the bridge to minimise access by fauna
 - CN1 (4.4.3.8): undertake pre-construction surveys to determine the location of Tasmanian Devil dens
 - FF12: submit a Roadkill Monitoring and Adaptive Management Plan at least three months prior to construction
 - FF13: Undertake pre-clearance surveys and management of Tasmanian devil dens.

Additional information

- 220) I noted that since the EPA Board accepted the EAR and conditions, and the Circular Head Council approved the project subject to those original EPA conditions, a range of further information became available that is relevant to this decision. I took account of this information as set out below.

Public comments

221) The Minister and the department received a number of comments including in relation to impacts of the proposed action on the Tasmanian Devil and its habitat, including but not limited to:

- introduction of DFTD to Robbins Island
- injury and mortality associated with vehicle strike
- habitat loss
- habitat disturbance
- noise pollution.

222) I noted that the department reviewed and considered those comments in preparing its recommendations to me.

TASCAT

223) I noted that the appeal to TASCAT raised the impact of the proposed action on Tasmanian Devils, specifically that there were three risks:

- destruction of lair (den) habitats
- roadkill
- earlier access of DFTD to the currently unaffected Robbins Island devil population.

224) I noted that the conditions in the amended planning permit removed EPA Condition FF13, and replaced it with the more detailed pre-construction survey requirements of FF13A and pre-clearance survey requirements of FF13BA, which also elaborate further on pre-construction survey requirements for dens originally set out in EPA Condition CN1.

225) I had regard to the evidence provided in the TASCAT appeal, and I noted that the department considered the information provided in the TASCAT preliminary and final decisions as well as expert witness statements presented as evidence during this appeal, where relevant, when providing its recommendations to me.

226) I noted that the amended planning permit added sub-conditions to EPA permit condition CN1.4.6.3 concerning the specifications for the bridge. These require Tasmanian Devil and Spotted-tailed Quoll proof constraints at both ends to ensure that natural rates of immigration and emigration from Robbins Island are not altered (CN1.4.6.3.1) and a Tasmanian Devil one-way gate flap at the mainland end of the Bridge to allow Tasmanian Devils to escape from the bridge to the mainland (CN1.4.6.3.2).

Conclusion

227) I reviewed the EAR and other relevant State assessment documents, public comments, relevant evidence submitted to TASCAT, the amended planning permit and final State Conditions, the Significant Impact Guidelines 1.1 (2013) and all relevant statutory documents and guidelines in reaching my conclusion for the Tasmanian Devil.

Direct habitat loss

- 228) I did not agree with the EAR's conclusion that the potential loss of up to 366.2 ha of foraging and denning habitat for the Tasmanian Devil would not have a significant impact to the species.
- 229) I noted that on 18 April 2023, a delegate of the Minister issued an RFI directing the proponent to provide an Offset Strategy and Offset Management Plan to compensate for the loss of up to 366.2 ha of Tasmanian Devil habitat.
- 230) An Offset Strategy and Offset Area Management Plan were submitted on 12 August 2024. I accepted the department's advice that these were acceptable. The Offset Strategy incorporated a revised impact assessment under the Significant Impact Guidelines 1.1, identifying a significant residual impact of 182.9 ha of devil habitat. I considered that the proposed action was likely to have a significant impact on the Tasmanian Devil from direct habitat loss.

Roadkill risk

- 231) I considered that the proposed avoidance and mitigation measures detailed above, specifically EPA Condition FF12, as amended by the amended planning permit and set out in the final State Conditions, will reduce the risk of impacts to the Tasmanian Devil from collision with vehicles to an acceptable level.

Increased risk of introduction of DFTD

- 232) I noted while there are indications that there is or has been some connectivity between Island and mainland populations, there is not agreement on the available evidence, and consequentially uncertainty, about the incidence of current natural movement between the island and the mainland or about the timing of any future introduction of DFTD.
- 233) I considered the precautionary principle. I considered that there is a real and foreseeable threat of serious environmental damage to the Tasmanian Devil due to the risk that the proposed action will increase connectivity between the mainland population and the Robbins Island population, leading to a risk of introducing DFTD to the currently disease free Robbins Island population. The damage from such an introduction would be serious and irreversible. I noted that there is a lack of scientific certainty with regard to the incidence of current natural movement of Tasmanian Devils between the island and the mainland and the likely timing of any future natural introduction, as evidenced by expert testimony at TASCAT.
- 234) I considered the additions in the final State Conditions to CN1.4.6.3 set out in the amended planning permit. I noted that the final design specifications of the bridge and wharf structures to minimise environmental impacts, including the new Tasmanian devil constraints and one-way gate flap, are to be included in the Stage 1 Design Report provided to the EPA for approval 3 months prior to construction (CN1.1 and 2). I considered that such measures have the potential to reduce the risk of impacts to the Tasmanian Devil from introduction of DFTD to an acceptable level, if combined with additional prevention, monitoring and reporting requirements.
- 235) Taking into account the precautionary principle, I did not use the lack of scientific certainty about whether the proposed action, without further conditions, would lead to the introduction of DFTD, as a reason to postpone a measure to prevent environmental degradation. I decided to impose further conditions to mitigate this risk by requiring the proponent to implement a DFTD

Prevention and Monitoring Program (**DFTDPMP**), to be approved by me prior to commencing the action.

236) The DFTDPMP will include monitoring requirements based on scientifically validated techniques and risk to allow detection of DFTD, notification obligations and remediation actions.

237) I was satisfied that, with the State approval conditions, the agreed Offset Strategy and Offset Area Management Plan, and the implementation of a DFTD Prevention and Monitoring Plan, the impact on the Tasmanian Devil would be acceptable.

Conditions of approval

238) I endorsed the final State conditions CN1, CN2, CN3, FF12, FF13A and FF13B. Condition 5 of my approval requires the approval holder to comply with those conditions.

239) I considered it was necessary and convenient to apply additional conditions of approval to mitigate potential impacts to the Tasmanian Devil from the proposed action:

- Conditions 12-13 – to prevent the spread of DFTD to the Robbins Island population as a result of the Action and to ensure the health of the population through early intervention and remediation the approval holder must submit a DFTD Monitoring and Early Detection Plan for approval by me and must not commence the action unless it has been approved.
- Condition 44 – to compensate for the residual significant impacts of habitat loss from the Action on the Tasmanian Devil, the approval holder must commence implementation of the Offset Strategy from the commencement of construction and continue to implement the Offset Strategy at least until the expiry date of this approval
- Conditions 45-46 – to compensate for the residual significant impacts of the Action on the Tasmanian Devil, the approval holder must commence implementation of the Offset Area Management Plan (**OAMP**) prior to the commencement of the Action and continue to implement the OAMP at least until the expiry date of this approval
- Condition 47 – to compensate for the residual significant impacts of the Action on the Tasmanian Devil the approval holder must not commence the Action unless the offset site has been secured. The approval holder must ensure that the offset site remains secured at least until the expiry date of this approval.

240) I considered that, subject to implementation of appropriate mitigation and management measures and the implementation of a direct offset and compliance with the conditions of approval, the impact of the action on the Tasmanian Devil will be acceptable.

Tasmanian Wedge-tailed Eagle (*Aquila audax fleayi*) - Endangered

241) The Threatened Tasmanian Eagles Recovery Plan 2006-2010 (**Recovery Plan**) states that the Tasmanian Wedge-tailed Eagle (**WTE**) occurs only in Tasmania and as a single population. The Recovery Plan states that the total population for Tasmania is estimated at between 1000 and 1500 birds.

242) The Recovery Plan states that habitat critical to the survival of WTE is defined by nesting habitat, as forests of predominantly old-growth trees greater than 10 ha in area and located in sites protected from strong prevailing winds. Nesting trees are typically taller than 27 meters, with few exceptions. Most nests are positioned on the eastern, south-eastern, or southern side,

usually below the ridge on the windward side. In north-west Tasmania, the aspect of nests is less significant due to the region's low relief, instead nests are generally sheltered within the forest canopy.

243) The Recovery Plan identifies threats to the WTE as loss of habitat, specifically nesting habitat, and nest disturbance, as well as unnatural mortality from persecution, electrocution and collision, including with wind turbines.

244) The Recovery Plan notes that there is a high primary incidence of, and potential for, eagle fatalities and injuries from collisions with wind farm turbines. It also notes that secondary impacts from wind farms relate to nest disturbance and the displacement of breeding pairs. It lists the reduction of eagle mortality on electrical infrastructure as a Recovery Action under the Plan.

245) Objectives to protect the TWE set out in the Recovery Plan include:

- to reduce the proportion of nests subject to disturbance
- to develop and apply protocols for effective eagle management during all land development
- to reduce the occurrence of eagle mortalities and injuries (in number and proportion), particularly those attributable to human activities
- to engage the electricity industry in reducing the proportion of eagle collisions and electrocutions.

EAR

Habitat assessment and species presence

246) I noted that the DPEMP included several appendices providing information and analysis on the WTE which informed the proponent's analysis in the DPEMP, and the EAR. These included the Bird Impact Assessment, the Eagle Nest Survey, the Eagle Flight Analysis, the Eagle Nest Camera Field Deployment Report, and the Preliminary Eagle Monitoring and Management Plan.

247) The EAR stated that eight eagle utilisation surveys were undertaken at the project area, over five-day periods in summer (February), autumn (May), winter (July/August) and spring (October/November) in 2018 and 2019. The Bird Assessment Report noted previous field work (targeted eagle surveys and bird utilisation surveys) were also carried out in 2008 and 2009 and 2002, 2003. During these surveys, a total of 136 separate TWE observations were recorded. The EAR noted that according to the DPEMP there generally appeared to be no distinct seasonal variation in WTE observations. The DPEMP also noted that a targeted WTE nest survey was undertaken by helicopter in 2018, in accordance with Forest Practices Authority guidelines for nest searches.

248) The EAR noted that the DPEMP observations indicated that at any one time two eagle family groups (two breeding pairs) utilise the project area, with occasional visits by immature and unattached adult eagles. A third breeding pair was identified to the east utilising nest R110, outside of the project area.

249) The EAR stated that as of March 2021, there were three known TWE nests on Robbins Island: RI9 on the western side, RI3 to the east (both within the project area), and RI10, 2.6 km east of the site. During the 2020 breeding season, all recorded nests were active, however, eggs and

one hatchling were predated. During 2021 eagle pairs were observed at R13 and R19 but no eggs were laid. Although the EAR noted that the proponent had reported nest cameras at those nests were functioning in 2022, the EAR did not indicate any breeding results for that year.

250) The EAR further referenced the DPEMP in noting flight activity within the project area was more concentrated in the southern part of White Rock Ridge, near nest RI9, and around Little Bluff on the island's east coast, near nest RI3. Flight density mapping, based on eagle utilization data, indicates higher densities in areas surrounding nests RI3, RI9, and RI10.

Impacts

251) The DPEMP stated that the main threat posed to TWE during the construction phase is loss of nesting habitat due to land clearing, and/or disturbance of nesting. It also cited potential for collision with vehicles when scavenging roadkill. The main threat during the operational phase, and for the project overall, was stated to be potential for collision with WTGs.

252) The DPEMP also noted the primary cumulative and interactive impacts of the project are expected to be those values impacted by other wind farms, predominantly relating to avifauna. It observed that given the number of wind farms in Tasmania is increasing, the corresponding risk from WTG collision is also increasing. The EAR did not consider cumulative impacts, which the EPA said was due to the unavailability of population statistics for TWE in Tasmania.

253) The EAR considered the information and assessments set out in the DPEMP. In respect of the construction phase, it focused on the following impacts:

- loss of existing nesting habitat during construction through land clearing and disturbance to nesting birds from construction activities
- breeding disturbance from earthworks for construction of roads and WTG, as well as quarrying.

254) The EAR noted that TWE nests with the greatest risk of disturbance from construction activity include:

- nest RI9, this nest will have roads and WTG constructed just over 1 km from its northern, western and southern sides, as well as the operation of the siltstone quarry (SS1) 1069 m to the south-west
- nest RI3 also has the potential to be disturbed during construction activities, located on the eastern edge of the project area, 1 km to the closest turbines.

255) The EAR also noted the potential for eagle collisions with vehicles and/or infrastructure during construction.

256) During the operational phase, the EAR considered potential impacts related to collision with WTG and meteorological masts and vehicles, and disturbance to breeding. The EAR stated that the DPEMP concluded that the project could result in a significant impact on WTE because of:

- a long-term decrease in the size of the overall population due to the risk of collision with WTG
- reduction in the breeding success of the two breeding pairs occupying the site, which would have a small but potentially significant effect on the Tasmanian population.

257) I noted that the DPEMP also stated that, while it considered it unlikely to amount to an interruption of the breeding cycle of the regional population, it acknowledged the project has the potential to disrupt the breeding cycle of the three known breeding pairs. It also stated that reducing the breeding success of the two existing pairs of TWE would have a 'small but potentially significant' effect on the Tasmanian population.

Avoidance, mitigation and management measures

258) The EAR considered various avoidance, mitigation, and management measures. These were outlined in the DPEMP, primarily in the Preliminary Eagle Monitoring and Management Plan (**PEMMP**). The proposed measures include:

- all known eagle nests on Robbins Island will have a 1 km exclusion zone for all Project infrastructure
- a pre-construction eagle nest search of Robbins Island, and potential nesting habitat in the vicinity of the bridge and road access on the Tasmanian mainland
- eagle nest activity and productivity surveys conducted annually during construction and for the first three years of operation, with an Eagle Nest Activity and Productivity Report to be provided to the EPA and DCCEEW at the completion of the pre-construction survey
- if nests are found to be in use, the primary management measure would be programming of bridge construction in areas within 1 km of nests on the mainland Tasmanian side, to be undertaken outside of the breeding season, when sensitivity of disturbance is less
- to reduce the risk of eagle deaths due to scavenging on roadkill on new roads on Robbins Island, the following measures will be implemented during construction:
- construction vehicles would be limited to 40 km/h on roads on Robbins Island
- weekly inspections for roadkill would remove all roadkill from project area roads
- the mitigation measures under the Roadkill Monitoring and Adaptive Management Plan would be implemented during construction, including minimising increases in construction traffic, daily collection of roadkill and installation of virtual fencing on high-density roadkill locations
- installation of an automated detection and curtailment system, with the proponent evaluating the detection and curtailment systems available prior to construction and selecting a technology appropriate for the project area. This evaluation and selection information will be required by EPA Condition FF4 (Automated Detection and Curtailment System Plan)
- reviewing the option of increasing turbine visibility to reduce avian collision.

259) A final EMMP will be based on the PEEMP and will be finalised and submitted to the EPA and DCCEEW for prior to the commencement of construction and will include plans and strategies in relation to eagle management during operations, including:

- eagle nest monitoring
- avian mortality monitoring

- avian detection and collision avoidance measures
- an eagle mortality offset.

Residual impact, State offsets and State conditions

260) The EAR concluded that the (residual) risk of WTG collision is moderate, based on available data on TWE utilisation and numbers at the project area, taking into account the mitigation commitments set out by the proponent in the DPMP. However, it considered that the installation of an automated detection and curtailment system would reduce this risk to low. The EAR also considered that given proposed mitigations, the potential risk of disturbance to eagle breeding would also be low.

261) The EAR stated that there are currently no direct offsets available to compensate for the death of an individual TWE from collision with a WTG. However, it considered the offset strategy proposed by the proponent in the DPMP an adequate indirect offset. That is, a contribution to NRM South Threatened Tasmanian Eagles Conservation Fund, with a financial contribution of \$100,000 per eagle death (PEMMP Commitment 20).

262) Accordingly, the EAR required the following conditions to ensure wherever possible, impacts to TWE are avoided and mitigated:

- CN1: nest survey results required under Condition FF1, will form part of the Renewable Energy Park Design Report, which must be submitted to the EPA and DCCEEW for approval before construction begins
- CN2: details of mitigation measures to address potential construction noise impacts on TWE must be included in the Construction Environmental Management Plan
- FF1: unless otherwise approved in writing by the Director, a pre-construction survey by a suitably qualified person must be undertaken for eagle nests within 1 km of the boundary of the Land and on the Land itself
- FF2: at least three months prior to the commencement of construction, or by a date specified in writing by the EPA Director, an Eagle Monitoring and Management Plan must be submitted to the Director for approval
- FF3: unless otherwise approved in writing by the Director, WTG and related infrastructure must not be constructed within 1 km of any known wedge-tailed eagle nest and/or known white-bellied sea eagle nest
- FF12: the implementation of roadkill mitigation measures—such as carcass removal, speed limits, staff education, and incident protocols—that also benefit wedge-tailed eagles will be detailed in a Roadkill Monitoring and Adaptive Management Plan at least three months prior to the commencement of construction, or by a date specified in writing by the EPA Director.

Additional information

263) I noted that since the EPA Board accepted the EAR and conditions, and the Circular Head Council approved the project subject to those original EPA conditions, further information became available to the department that is relevant to this decision. I took this information into account as set out below.

Public comments

264) The Minister and the department received a number of comments, including in relation to impacts of the proposed action on WTE and their habitat, including but not limited to:

- injury and mortality associated with turbine strike
- habitat disturbance.

265) I noted that the department reviewed and considered these comments in preparing its recommendations to me.

TASCAT

266) I had regard to the evidence provided in the TASCAT appeal, and I noted that the department considered the information provided in the TASCAT preliminary and final decisions, where relevant, when providing its recommendations to me.

Amended planning permit and final State conditions

267) The amended planning permit removed conditions regarding avian mortality monitoring in 3.1 of EPA Condition FF2 and created two new more detailed conditions:

- FF11A: At least three months prior to the commencement of construction, or by a date specified in writing by the EPA Director, an Avian Mortality Monitoring Plan must be submitted to the EPA Director for approval (with construction not to proceed without approval) including details around an avian mortality survey program, including
 - provision for scavenger trials and carcass detectability trials
 - search methodology including frequency, technique and search area management
 - reporting requirements
 - provision for investigation and reporting of any pieces of carcass detected, use of scent detection dogs where possible, and autopsies
- FF11B: The proponent is required to report avian fauna mortalities to the EPA Director when evidence of dead or injured native birds or bats are found, within 24 hours of discovery for any threatened species, and within seven days of notification a mortality report must be submitted to the EPA Director.

Conclusion

268) I considered the EAR and other relevant State assessment documents, public comments, relevant evidence submitted to TASCAT, the amended planning permit and final State Conditions, the Significant Impact Guidelines 1.1 (2013) and all relevant statutory documents and guidelines in reaching my conclusions for the WTE.

269) I decided to impose conditions to require the development and implementation of monitoring and mitigation measures for the Tasmanian Wedge-tailed Eagle and include the WTE within a Bird and Bat Management Plan to avoid and mitigate harm to WTE from the proposed action.

Conditions of approval

270) I endorsed the final State conditions CN1, CN2, FF1, FF2, FF3, FF11A, FF11B and FF12, as relevant to WTE. Condition 5 of my approval requires the approval holder to comply with those conditions.

271) I attached additional conditions of approval to protect the WTE from the proposed action:

- Conditions 8-11 – the approval holders must ensure a pre-construction survey for WTE nests is completed prior to the commencement of construction, as required by State Condition FF1 and submit an Eagle Monitoring and Management Plan prepared by a suitably qualified independent ecologist to me for approval and must not commence the action without that approval
- Conditions 25-40 – the approval holder must submit a Bird and Bat Management Plan to the department for my approval to avoid and mitigate harm to EPBC Act listed bird and bat species from turbine collision and barotrauma.

272) I considered that, subject to implementation of appropriate mitigation and management measures and compliance with the conditions of approval, the impact of the action on the TWE will be acceptable.

Listed threatened migratory species - Eastern Curlew (*Numenius madagascariensis*) – Critically Endangered; Curlew Sandpiper (*Calidris ferruginea*) – Critically Endangered; Great Knot (*Calidris tenuirostris*) – Vulnerable; Red Knot (*Calidris canutus*) – Vulnerable; Lesser Sand Plover (*Charadrius mongolus*) – Endangered; Greater Sand Plover (*Charadrius leschenaultia*) – Vulnerable; Bar-tailed Godwit (Nunivak/Alaskan Bar-tailed Godwit) (*Limosa lapponica baueri*) – Vulnerable (at time of referral)

273) The EAR noted that seven listed migratory shorebirds which are also listed as threatened under the EPBC Act and which meet the definitions of nationally or internationally important populations were recorded in BirdLife Tasmania surveys between 2004 and 2018:

- Eastern curlew (Critically Endangered) – 44 records over six years on Kangaroo Island to the west of Robbins Island and 15 records over 2 years at Wallaby Island of the southwestern corner of Robbins Island
- Curlew sandpiper (Critically Endangered) – 58 records over nine years at Shipwreck Point on nearby Perkins Island, an average of 105 records over 6 years at Bird Point and Knot Point on the northwest of Robbins Island, 59 records over three years at Five Islets off the northwest coast of Robbins Island and 14 records over five years at Kangaroo Island
- Great knot (Critically Endangered) – an average of 13 records over four years at Knot Point and Bird Point, an average of four records over four years at Shipwreck Point, two records over two years at Kangaroo Island and five observations in one year at Five Islets
- Red knot (Endangered) – an average of 232 records over seven years at Knot Point and Bird Point, 185 records over five years at Kangaroo Island and eight records over five years at Shipwreck Point. The department notes the Red Knot was downlisted from Endangered to Vulnerable in January 2024, and is considered to be listed as Vulnerable for the purposes of this decision

- Lesser sand plover (Endangered) – infrequently recorded (three sightings over three years) at Bird Point and Knot Point and one sighting in one year on Wallaby Island
- Greater sand plover (Vulnerable) – was recorded in earlier surveys in 2002, 2003 and 2009 but not in the most recent summer surveys
- Bar-tailed godwit ssp *baueri* (Vulnerable – at time of referral) – 179 sightings over three years at Knot Point and Bird Point, 54 records over five years at Kangaroo Island, 84 records over two years at Five Islets and three records over three years at Shipwreck Point.

Description

Eastern Curlew

- 274) The Eastern Curlew is the largest migratory shorebird in the world. The *2023 Conservation Advice for Numenius madagascariensis (far eastern curlew)* states that the bird is endemic to the East-Asian Australasian Flyway and most spend the non-breeding season in Australia, and are found on islands in Bass Strait and along the northwest coast of Tasmania.
- 275) The Conservation Advice notes that the species is extremely wary and will take flight long before other shorebirds are aware of danger. The birds are nocturnal and diurnal with feeding and roosting cycles determined by the tides. They usually feed singly or in loose flocks but are occasionally seen in large feeding flocks of hundreds.
- 276) The Conservation Advice lists threats in Australia to include ongoing human disturbance that may cause shorebirds to interrupt their feeding or roosting, habitat loss and degradation from pollution, changes to the water regime and invasive plants. Avoiding disturbance can adversely affect capacity to migrate by using energy reserves. Global warming and changes in sea level are also considered to have a long-term impact on the breeding, tagging and non-breeding grounds of migratory shorebirds.
- 277) I noted that the primary conservation objectives for the species in Australia are to achieve a stable and increasing population, to maintain and enhance important habitat, to reduce disturbance at key roosting and feeding sites and to raise awareness of eastern curlew in the community.

Curlew Sandpiper

- 278) The *2023 Conservation Advice for Callidris ferruginea (curlew sandpiper)* states that Curlew Sandpipers are found in many coastal sites and may also be seen on suitable inland wetland habitats. They often feed in mixed shorebird flocks, and generally forage within mudflats and nearby shallow water. In intertidal areas they forage at the edge of shallow pools and drains, along sandy shores and follow the receding tide. At high tide they tend to forage among low sparse emergent vegetation such as saltmarsh. They are gregarious, often occurring in large flocks and mix freely with other shorebirds. Roosting mainly occurs around intertidal mudflats in sheltered coastal areas.
- 279) Individuals start arriving in southeast Australia in late August but the majority do not arrive until September. Individuals may return to the same non-breeding sites each year. The northern migration begins in March.

- 280) The Conservation Advice notes that the species has recorded ongoing declines, with causes not fully understood, but thought to be due to the increasing frequency and length of droughts, particularly in Southeastern Australia, changes to coastal staging locations, invasion by cordgrass, pollution, hunting and incidental drowning. Habitat loss and disturbance also contribute to population decline in Australia.
- 281) The Conservation Advice states that habitat critical to the survival of the species includes a mosaic of feeding and roosting habitat. Habitat critical to the survival of the species should not be destroyed or modified. Actions that remove habitat critical to survival would interfere with the recovery of the species and reduce its area of occupancy. Actions that have indirect impacts on habitat critical to the survival of the species should also be minimised (e.g. light pollution). Actions such as introduction of pests, weeds and diseases that compromise survival should also be avoided.
- 282) I noted that the primary conservation objectives are to minimise further loss of habitat critical to the survival of Curlew Sandpiper, including habitat predicted to become future critical habitat due to climate change, and to prevent further declines in populations.

Great Knot

- 283) The *2024 Conservation Advice for Calidris tenuirostris (great knot)* states the species has been recorded around the entirety of the Australian coast, with some scattered records inland. The species is much less common in southwest Australia, South Australia, Victoria and Tasmania than northern Australia.
- 284) Great Knots feed at the water's edge of intertidal mudflats. They typically roost along sheltered coastal habitats, with selected areas tending to be associated with nearby large intertidal mud and sandflats used for feeding.
- 285) The Conservation Advice states that large numbers arrive in the northwest in late August/early September through to October/November. Of those birds that move to southern Australia, they usually arrive in South Australia, Victoria and Tasmania from October-November. For the northward migration, it is thought that birds leave southern Australia from February.
- 286) The Conservation Advice states that habitat critical to the survival of the species includes a mosaic of feeding and roosting habitat. Habitat critical to the survival of the species should not be destroyed or modified. Actions that remove habitat critical to survival would interfere with the recovery of the species and reduce its area of occupancy. Actions that have indirect impacts on habitat critical to the survival of the species should also be minimised (e.g. light pollution). Actions such as introduction of pests, weeds and diseases that compromise survival should also be avoided.
- 287) Major threats to the species in Australia are habitat loss, disturbance and pollution. Global warming and changes in sea level are also considered to have a long-term impact on the breeding, tagging and non-breeding grounds of migratory shorebirds.

Red Knot

- 288) The *2024 Conservation Advice for Callidris canutus (red knot)* notes that only two of the six subspecies of Red Knot winter in Australia. They are widespread around the Australian coast. Small numbers visit Tasmania and its offshore islands.

- 289) Whilst in Australia the species mainly feeds and roosts around intertidal mudflats, sandflats and sandy beaches of sheltered coasts, estuaries, bays, inlets and harbours. The species is diurnal and nocturnal with individuals following the receding edge of the tide to feed. It is gregarious and known to feed in mixed flocks with other shorebird species.
- 290) Most red knots arrive in Australia from late August, and generally arrive in Tasmania from August-September. Red knots leave Tasmania from February to May.
- 291) The Conservation Advice states that habitat critical to the survival of the species includes a mosaic of feeding and roosting habitat. Habitat critical to the survival of the species should not be destroyed or modified. Actions that remove habitat critical to survival would interfere with the recovery of the species and reduce its area of occupancy. Actions that have indirect impacts on habitat critical to the survival of the species should also be minimised (e.g. light pollution). Actions such as introduction of pests, weeds and diseases that compromise survival should also be avoided.
- 292) In Australia habitat loss and disturbance at feeding and roosting sites is the primary threat to the species. Global warming and changes in sea level are also considered to have a long term impact on the breeding, tagging and non-breeding grounds of migratory shorebirds.

Lesser Sand Plover

- 293) The 2016 *Conservation Advice for Charadrius mongolus (Lesser sand plover)* states that two subspecies of the Lesser Sand Plover (*C. m. mongolus* and *C. m. stegmanni*) occur in Australia during the non-breeding period. The species is widespread in coastal regions, mainly occurring in northern and eastern Australia but has been recorded in all states. It usually inhabits large intertidal sandflats and mudflats in sheltered bays, harbours and estuaries, on which it forages. They roost near foraging areas on beaches, spits and banks of sand and shells or occasionally rocky spits, islets or reefs.
- 294) The species is present in Australia mostly between September and April or May. Birds generally arrive between August and October and start moving along the northern and eastern coasts until October or November. Maximum numbers occur at most sites by December and remain fairly constant until late February. Evidence suggests that some one year old individuals may stay at southern non-breeding sites over winter.
- 295) The Lesser Sand Plover is often gregarious occurring in small parties or flocks of up to several hundred birds, though it sometimes feeds singly. They often join other waders such as the Greater Sand Plover when feeding and roosting.
- 296) The Conservation Advice lists the primary threats to the Lesser Sand Plover as common to most migratory shorebirds – sensitivity to certain development activities due to high site fidelity, tendency to aggregate, very high energy demands required for migration and need for networks containing both foraging and roosting sites. Direct and indirect habitat loss and modification reduces the availability of foraging and roosting sites affecting the ability of the birds to build up sufficient energy stores required for migration and breeding. Global warming and changes in sea level are also considered to have a long-term impact on the breeding, tagging and non-breeding grounds of migratory shorebirds.

Greater Sand Plover

- 297) The 2023 *Conservation Advice for Charadrius leschenaultia (greater sand plover)* states that one subspecies *C. l. leschenaultia* occurs in Australia. Approximately 60% of the EEAF population spends its non-breeding period in Australia occurring in the coastal areas of all states, but most commonly the northwest. Small numbers of individuals are recorded in most years in Tasmania.
- 298) The Greater Sand Plover is a gregarious species, feeding and roosting in mixed flocks with other small shorebirds. The species usually forages within sheltered sandy, shelly, or muddy coastal areas, as well as around large intertidal mudflats, sandbanks, saltmarshes, estuaries, coral reefs, rocky islands tidal lagoons and dunes near the coast. They feed on wet ground away from the edge of the water and may sometimes feed around coastal grasslands. Greater sand plovers usually roost on sand-spits and banks on beaches or in tidal lagoons, or occasionally on rocky points or in adjacent areas of saltmarsh or claypans. There is evidence that they tend to roost further up the beach than other shorebirds, sometimes well above the high-tide mark.
- 299) Habitat critical to the survival of the species includes a mosaic of feeding and roosting habitat.
- 300) The Conservation Advice considers the main threats in Australia to be habitat loss and disturbance at feeding and roosting sites.

Nunivak/Alaskan Bar-tailed Godwit (*Limosa lapponica baueri*)

- 301) I noted that this species was uplisted to Endangered in 2024 due to significant population decline. In accordance with s 158A, I have disregarded the uplisting for the purposes of this decision and have proceeded on the basis that the species is listed as Vulnerable.
- 302) The 2024 *Conservation Advice for Limosa lapponica baueri (Alaskan bar-tailed godwit)* states that in Australia it occurs along the northern and eastern coasts with smaller populations occurring in Tasmania, most frequently recorded along major coastal river estuaries or sheltered bays. Birds arrive in Australia between August and October and leave between February and April, with a small number recorded overwintering. Alaskan Bar-tailed Godwits leave on northward migration beginning in mid-March.
- 303) Alaskan Bar-tailed godwits usually forage near the edge of water or in shallow water within tidal estuaries and harbours, on exposed sandflats or mudflats. The species spends disproportionately large amounts of time foraging on upper tidal flats. Feeding parties may number up to 30 or more individuals and include non-breeding migrants or juveniles that remain in Australia year-round. Bar-tailed godwits feed mostly during the day but have been observed feeding at night. Roosting takes place on large intertidal sandflats, spits and banks, sometimes within mudflats, estuaries, coastal lagoons and bays. They tend to forage at lower tides and roost in supratidal areas at higher tides, sometimes in very large aggregations.
- 304) As with other migratory shorebirds, habitat critical to the survival of the species includes a mosaic of feeding and roosting habitat. Within Australia, the Alaskan Bar-tailed Godwit is threatened by habitat loss (including indirect loss) and disturbance within roosting and feeding sites.

Habitat Assessment and Species Presence, Impacts, Avoidance, Mitigation and Management Measures, Additional Information and Residual Impact, State Conditions and Offsets

- 305) The EAR identified the above migratory shorebird species and subspecies, listed as both threatened and migratory under the EPBC Act, as either recorded or having the potential to be present near the project area. The DPEMP stated that due to the similarity in behaviour and in the habitats used by a range of threatened migratory shorebirds occurring around the project site, the impact assessment focuses collectively on this grouping rather than individual species. The EAR consequently also collectively assessed the habitat, species presence, impacts, avoidance, mitigation and management measures and recommended conditions of approval for all migratory species, including listed threatened migratory species.
- 306) I have outlined below my consideration of the State assessment of the above listed threatened species which are also listed migratory species, with specific consideration of impacts to listed threatened species as necessary.

Conclusion

- 307) I reviewed the EAR and other relevant State assessment documents, public comments, relevant evidence submitted to TASCAT, the amended planning permit and final State Conditions, the Significant Impact Guidelines 1.1 (2013) and all relevant statutory documents and guidelines in reaching its conclusions for these listed threatened migratory species.
- 308) I decided to impose conditions to require the development and implementation of a Bird and Bat Management Plan to avoid and mitigate harm to listed threatened migratory species from the proposed action.

Conditions of approval

- 309) I endorsed State conditions CN1, CN2, CN3, CN5, CN8, FF7, FF8, FF11A and FF11B as relevant to listed migratory species. I included a requirement to comply with these conditions as Condition 5 of my approval.
- 310) I attached additional conditions of approval to protect the listed threatened migratory species set out above from the proposed action:
- Conditions 25-40 – the approval holder must submit a Bird and Bat Management Plan to the department for my approval to avoid and mitigate harm to EPBC Act listed bird and bat species from turbine collision and barotrauma.
- 311) I considered that, subject to implementation of appropriate mitigation and management measures and compliance with the conditions of approval, the impact of the action on listed threatened migratory species will be acceptable.

Listed migratory species (sections 20 and 20A)

- 312) Migratory shorebirds are mostly present in Australia during the non-breeding period, from as early as August to as late as April/May.
- 313) While in Australia migratory shorebirds need to maintain energy intake greater than their energy expenditure to recover from the southward migration, to allow moulting and replacement of worn feathers and the build fat reserves in preparation for the northward

migration. Relative amounts of time spend feeding and resting, and distances between feeding and roosting areas are important.

- 314) Migratory shorebirds tend to aggregate in large multi-species flocks during high tide periods, but a few species disperse in small numbers across wide areas of habitat. They require safe roosting areas to rest. Resting is critical when not breeding due to the high energy demands of their migratory lifecycle.

EAR

Habitat assessment and species presence

- 315) As noted above for listed threatened migratory species, the DPEMP stated that given that the migratory shorebird species around the project site inhabit similar habitat, and the potential impacts from the proposed action are common across species, its assessment of significant impact for migratory species was undertaken for these birds as a group. The EAR followed this approach.
- 316) The Robbins Passage and Boullanger Bay area is located directly south and south-west of the coastline of Robbins Island. The Robbins Passage and Boullanger Bay area covers an extensive area (approximately 100 km²) of tidal channels and intertidal mud and sand flats and is recognised as a significant shorebird foraging habitat, both nationally and internationally, notably as an internationally important site for the East Asian-Australasian Flyway.
- 317) The Bird Impact Assessment in the DPEMP stated that the Robbins Passage and Boullanger Bay area supports internationally significant numbers of Red-necked Stint, Curlew Sandpiper, Red Knot and Ruddy Turnstone, as well as nationally significant numbers of Pacific Golden Plover, Bar-tailed Godwit, Sharp-tailed Sandpiper, Eastern Curlew, Sanderling, Common Greenshank and Grey Plover.
- 318) The EAR stated that migratory shorebirds forage and roost in high concentrations at Bird Point, and Knot Point on the northwest coast of Robbins Island. Other nearby foraging and roosting sites include Five Islets and Wallaby Island or off the northwest and southwest coast of the island. Roosting sites also include nearby Shipwreck Point (approx. 3.5 km south of Robbins Island) and Kangaroo Island (approx. 2.5 km west of Robbins Island).
- 319) The EAR stated that, based on the DPEMP's findings, migratory shorebirds forage and roost in locations based on prey availability and proximity to feeding sites, and can switch roosting sites in order to roost closer to feeding sites. It also observed local movement patterns could also change and different roosting sites may be used in different years. Bird flight was typically low over the sea or tidal flats, although birds could fly up to 30m when flushed.
- 320) The EAR observed that in addition to bird utilisation surveys conducted in 2002-2003, 2009 and 2017, migratory shorebirds were investigated through specific surveys as detailed below:
- shorebird observations in 2002-2003 on the north-western coast of Robbins Island, including high tide roost sites at Bird Point and Knot Point, where high numbers of shorebirds congregate
 - shorebird observations in 2009, focussing on mostly night-time activity at roost sites on Robbins Island and Perkins Island

- a radio-telemetry survey of bird flight behaviour in 2010 detailing local movements of red-necked stints and ruddy turnstones in the Robbins Passage area (the Bird Impact Assessment in the DPEMP noted that the weather was particularly poor that year, limiting and affecting telemetry tracking, and the numbers of birds were particularly low that year)
 - shorebird observations on Robbins and Perkins Island in July and December 2017
 - ground-based surveys conducted in 2018 by Dr Eric J Woehler, BirdLife Tasmania, along the foreshores of the east, north and west coasts of Robbins Island
 - a 2018 survey report which also included historical survey data from migratory shorebird counts by BirdLife Tasmania volunteers (unpublished), conducted biannually since 1996.
- 321) Survey findings recorded within the vicinity of the project area within the Robbins Passage and Boullanger Bay area found a total of 24 migratory shorebird species had been recorded, or had the potential to occur, in the vicinity of the project area.
- 322) Listed migratory shorebird species were also regularly recorded during annual summer and/or winter bird counts conducted by BirdLife Tasmania from 2004-2018
- 323) As discussed earlier in these reasons, the EAR noted that seven listed migratory shorebirds also listed as threatened under the EPBC Act and which meet the definitions of nationally or internationally important populations were recorded in the BirdLife Tasmania surveys – the Eastern Curlew, the Curlew Sandpiper, the Great Knot, the Red Knot, the Lesser Sand Plover, the Bar-tailed Godwit and the Greater Sand Plover.
- 324) The BirdLife Tasmania surveys also recorded several listed migratory species: Red-necked stint, Ruddy turnstone, Sanderling, Double-banded plover, Common greenshank, Grey plover, Pacific golden plover, Sharp-tailed sandpiper, Whimbrel, Grey-tailed tattler, Ruff, Little curlew, Common sandpiper, Black-tailed godwit, Terek sandpiper, Pectoral sandpiper and Latham's snipe.
- 325) Separate to its assessment of migratory shorebirds, the EAR noted that the White-throated Needletail (**WTN**) was identified on Robbins Island. The WTN is a large migratory swift, spending the non-breeding season (September/October to April) in eastern Australia. The WTN was listed as Vulnerable in 2019, after the proposed action was determined to be a controlled action, so has been considered as a listed migratory species. The Bird Impact Assessment in the DPEMP stated that while no WTN were observed during formal bird utilisation surveys, the bird was 'recorded several times' and 'a few individuals or flocks' were observed incidentally and flying over the island during Eagle surveys in 2019. The DPEMP stated that the species was likely to forage over the project site, including at high risk elevations.
- 326) The EAR stated that none of the above listed threatened species were recorded inland in any of the proponent's bird utilisation surveys. The EAR also stated that no migratory shorebirds were observed flying over White Rock Ridge or further inland during the proponent's avifauna surveys.
- 327) I noted that the Bird Impact Assessment in the DPEMP concluded that the WTN was 'likely to fly over the wind farm site occasionally'.

328) I also noted that Latham's Snipe was recorded within the project area on White Rock Ridge. Two individuals were recorded at ephemeral wetlands towards the northern side of the ridge in summer 2002, although based on low numbers recorded at the site the DPEMP concluded that the ephemeral wetlands within the project site did not constitute an important habitat for this species.

329) Further, while the 2010 radio-tracking survey of Red-necked stints and Ruddy turnstones indicated that tagged red-necked stints moved almost exclusively via the coast and rarely over land, remaining on the west coast moving from low-tide foraging areas in the tidal flats to high tide roosts on the west coast of the island and Kangaroo Island, there was some overland movement between Knot Point and Bird Point and Mosquito Inlet, which occurred overnight. The flight path could not be conclusively established but two possible routes were identified through Walker's Crossing or directly over the northern section of White Rock Ridge. I noted that this could take the birds through the northern part of WTG Development Zone.

Avoidance, mitigation and management measures

330) The EAR noted the following proposed mitigation measures to minimise impacts to migratory species during construction and operation:

- the development and implementation of a Shorebird Monitoring and Management Plan (**SMMP**) to be submitted to the EPA and the department for approval prior to construction commencing construction (FF7). The SMMP will require the proponent to undertake monitoring four times a year for migratory shorebirds, as well as habitat monitoring at key roost sites, will set trigger values and corrective actions for shorebird mortalities from collision with WTG and incorporate an adaptive management framework for managing such impacts
- exclusion of WTGs within 500 m of the coastline of Robbins Island to protect feeding and roosting sites, and from the northernmost 2.5 km of White Rock Ridge (FF8) to exclude a possible migratory shorebird flight path
- mortality monitoring measures as proposed in the DPEMP to inform the development of an avian mortality monitoring program for the Project
- lighting design of the wharf and bridge to be undertaken in accordance with the National Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds and Migratory Shorebirds (Commonwealth of Australia 2020). This will be required to be detailed in the Design Report (CN1). Navigational and operational lighting on the wharf and bridge will only be used when required for operational or safety requirements and will be designed to minimise light spill. The SMMP will be required to detail management measures to reduce light pollution.
- possible noise and dust emissions will be managed by measures detailed in a Quarry Management Plan and the SMMP, and required in the Construction Environmental Management Plan
- monitoring for rice grass (*Spartina anglica*) in the vicinity of the bridge as part of the weed and hygiene monitoring.

Residual impacts, State offsets and EPA conditions

331) The EAR considered it necessary to require EPA Conditions CN1, CN2, CN3, CN5, CN8, FF7, FF8, FF11 and FF20 to ensure that, wherever possible, impacts to migratory species are avoided and mitigated:

- CN1: the Design Report must implement infrastructure exclusion zones, required by condition FF8, under this condition
- CN2: the Construction Environmental Management Plan requires parts 4 and 5 of this condition to be implemented in the mitigation of construction impacts to migratory species
- CN3: the Quarry Management Plan to mitigate impacts of quarry construction and operation on migratory species including noise and dust emissions
- CN5: a Weed and Disease Management Plan requires parts 2 to 4 of the condition to be implemented, to survey and mitigate against the potential impacts of rice grass (*Spartina anglica*) on migratory species habitat
- CN8: the construction zone of the bridge and wharf must be delineated with a fence or on a map marked with co-ordinates delineating the zone where construction of a fence is not practicable to mitigate impacts to migratory species habitat under this condition
- FF7: a Shorebird Monitoring and Management Plan must be submitted to the EPA Director at least 3 months prior to the commencement of construction
- FF8: WTG and related infrastructure (excluding the bridge and wharf) must not be constructed within 500m of the coastline of Robbins Island, under this condition
- FF11: the EPA director must be notified of any evidence of dead or injured native birds or bats within 24 hours of discovery for threatened species and within 3 days of discovery for non-threatened species, with a detailed mortality report to be submitted within 7 days.
- FF20: a feral cat eradication to minimise risks to native fauna on Robbins Island.

Additional information

332) I noted that since the EPA Board accepted the EAR and conditions, and the Circular Head Council approved the project subject to those conditions, a range of further information became available to the department that is relevant to my decision. I took account of this information as set out below.

Public comments

333) The Minister and the department received a number of comments, including in relation to impacts of the proposed action on listed migratory species and their habitat, including but not limited to:

- habitat disturbance
- alterations to the hydrodynamics and associated changes in patterns of sedimentation and nutrient flows
- injury and mortality associated with turbine strike
- disturbance and potential release of acid sulfate soils into surface and ground water

- water quality degradation
- light pollution
- migration barriers
- behavioural avoidance of habitat particularly when turbines are operating.

334) I noted that the department reviewed and considered these comments in preparing its recommendations to me.

TASCAT

335) I noted that among the grounds of appeal to TASCAT were issues regarding the impact of the project on migratory shorebirds, in particular the risk of shorebirds colliding with turbines, either when moving between foraging and roosting sites or when ascending in migration. I took that evidence into account.

Amended planning permit and final State conditions

336) Most EPA conditions relating to migratory shorebirds set out above were maintained and retain the same numbers in the final State Conditions, but the amended planning permit included some alterations:

- additional clauses were added to condition FF7(3):
 - FF7 3.8 measures that are required to avoid activities that have a high probability of scaring birds (such as blasting or pile driving) around high tide
 - FF7 3.9 habitat monitoring of the inter-tidal habitat, in particular, sampling of seagrass and macroinvertebrate distribution and abundance should be repeated at regular intervals
- the insertion of condition FF11A: An Avian Mortality Monitoring Plan must be submitted to the EPA Director at least 3 months prior to the commencement of construction.
- Condition FF11 (Reporting requirements – avian fauna mortalities) was renamed FF11B.

Conclusion

337) I reviewed the EAR and other relevant State assessment documents, public comments, relevant evidence submitted to TASCAT, the amended planning permit and final State Conditions, the Significant Impact Guidelines 1.1 (2013) and all relevant statutory documents and guidelines in reaching its conclusions for listed migratory species.

338) I decided to impose conditions to require the development and implementation of a Bird and Bat Management Plan to avoid and mitigate harm to listed migratory species from the proposed action.

Conditions of approval

339) I endorsed the final State conditions CN1, CN2, CN3, CN5, FF7, FF8, FF11A and FF11B as relevant to listed migratory species. I included a requirement to comply with these conditions as Condition 5 of my approval.

340) I decided to attach additional conditions of approval to protect listed migratory species from the proposed action:

- Conditions 25-40 – the approval holder must submit a Bird and Bat Management Plan to the department for my approval to avoid and mitigate harm to EPBC Act listed bird and bat species from turbine collision and barotrauma.

341) I considered that, subject to implementation of appropriate mitigation and management measures and compliance with the Conditions of Approval, the impact of the action on listed migratory species will be acceptable.

Social and economic matters

342) Section 136(1)(b) of the EPBC Act required me, in deciding whether or not to approve the proposed action, and what conditions to attach to the approval, to consider economic and social matters.

343) The social and economic impacts of the proposed action are discussed in section 7 of the EAR and section 4.3 of the DPEMP.

344) The EAR considered that the project will have the opportunity to provide positive social and economic benefits to the local and regional area through the construction and operational phases. It would also provide broader scale benefits to Tasmania and the National Electricity Network through generation of renewable energy.

345) The EAR stated the project will require up to 350 construction workers during the peak of construction, which will be preferentially sourced from the region, apart from specialist disciplines (e.g., WTG construction, electrical connection, and transport). Once operational, the project will directly employ approximately 50 people in operational roles for the operational life of the project – currently 25 years but it may extend beyond this timeframe.

346) The EAR also stated that the project will provide economic benefit in terms of population growth via additional jobs during construction and operation, as well as diversification of income stream for the existing farming operations which will co-exist with the project

347) The EAR also considered that the project will have positive impacts on upstream/downstream industries based on community support and employment salaries. For example, the project will require materials to be sourced locally or within the region, where possible, including cement, civil plant equipment, and some local freight services. The project will also require electrical equipment from within Tasmania and interstate. Indirectly, the construction will require food, accommodation, waste removal, engineering and various other support services. Additionally, the EAR noted the project may result in additional demand for housing on a semi-permanent and short-term basis.

348) The EAR stated that based on the economic impact assessment, the total direct impacts of the construction phase of the project are estimated to generate:

- \$153.3 million in value add (value of output after deducting the cost of goods and services inputs in the production process)

- \$85.3 million in local incomes (level of wages and salaries paid to employees in each industry) 1,038 full time equivalent (FTE) employee years.
- 349) The EAR stated that based on the economic impact assessment, the total flow-on impacts (increased level of purchases by suppliers in response to increased sales) from the project's construction phase is estimated to generate:
- \$230.9 million in value add
 - \$116.5 million in local incomes
 - 1,728 full time equivalent employee years.
- 350) The EAR stated that based on the economic impact assessment, the annual direct impacts of the operational phase are estimated at:
- \$10.2 million in value add
 - \$5.9 million in local incomes
 - 85 full time equivalent employees.
- 351) The EAR stated that based on the economic impact assessment, the annual flow-on impacts from the operational phase of the project are estimated at:
- \$17.4 million in value add
 - \$8.5 million in local incomes
 - 130 full time equivalent employees.
- 352) The DPEMP stated that the proponent has committed to developing a Community Benefits Program prior to construction to provide assistance to local organisations and individuals to develop skills and capacity within the community and improve the economic, social and environmental status of the community, including through employing and buying locally wherever possible. Contributions will depend on installed capacity – based on \$1000/MW.
- 353) Section 5 of the DPEMP discussed the community and stakeholder engagement undertaken for the project. The DPEMP stated multiple engagement tools and activities were used including a stakeholder engagement plan, door-knocking, stakeholder database and a publicly accessible email and phone contact, regular project updates to key stakeholders, website and social media, registry of local skills, media management and monitoring, community letter, advertisements, a 'Did You Know' campaign, Community Fund and community drop-in and information sessions, briefings and meetings, various press releases and newspaper articles in local newspapers and a stakeholder survey.
- 354) Section 5 of the DPEMP set out the approach and results of community and stakeholder consultation. It stated the project has an active, ongoing program of engagement with numerous local stakeholders including the Circular Head Aboriginal Corporation and that it has periodically met with staff from Aboriginal Heritage Tasmania and has provided project briefing to the Aboriginal Heritage Council.
- 355) The DPEMP stated that key issues and opportunities raised in consultation were:
- employment opportunities and growth for the region

- visual and noise impact
- timeframes for construction and operation of the project
- bridge infrastructure and impact on recreational activities around Robbins Passage.

356) The EAR stated that of 383 submissions received 340 were generally against the project, with 43 generally supportive, due to perceived economic benefits and employment opportunities. 23 public comments were received concerned specially about negative social-economic consequences of the proposal, including financial risks to Circular Head residents, a lack of economic benefits and a lack of opportunity for local business. Five questioned the accuracy of employment numbers, suggesting they were overstated and multiple submissions were concerned that construction jobs would not be local. 11 submissions were concerned about potential impacts to tourism, and seven submissions considered that the social and economic benefits would be better if the site were RAMSAR listed. Four submissions considered that the consultation process was not fair or a representative method to gauge community support.

357) The department received 245 items of correspondence addressed to me or the department regarding the proposed action since the proposed action was referred. Of those, 230 of the items were against the proposed action, nine were in support of the proposed action and six did not state a position. To the extent this correspondence related to the impacts of the proposed action on protected matters, these are discussed earlier in these reasons.

358) The department received correspondence addressed to me or the department regarding negative impacts on Aboriginal cultural heritage from representatives of the Tasmanian Aboriginal Centre, the Aboriginal Land Council of Tasmania, and the Circular Head Aboriginal Corporation and Northwest Aboriginal Community.

359) The following matters were raised in favour of the proposed action:

- the TASCAT decision to overturn condition FF6
- that risks to Tasmanian Devil, OBP and Tasmanian Wedge-tailed Eagle were low
- that the captive population of OBP was c.500 individuals and references to the wild population was to inflate the hype of extinction risk to the species
- the social and economic benefits of the proposed action outweigh its risks and impacts
- meeting renewable energy goals.

Factors to be taken into account

Principles of ecologically sustainable development – section 136(2)(a)

360) In deciding whether or not to approve the taking of the proposed action, section 136(2)(a) of the EPBC Act required me to take into account the principles of ecologically sustainable development (ESD). The principles of ESD, as defined in section 3A of the EPBC Act, are:

- a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;

- b) if there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as reason for postponing measures to prevent environmental degradation;
- c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- e) improved valuation, pricing and incentive mechanisms should be promoted.

361) In addition, section 391 of the EPBC Act provides that I must take account of precautionary principle in deciding whether or not to approve the taking of an action, to the extent I can do so consistently with the other provisions of the Act. The precautionary principle requires that, if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

362) I took account of the precautionary principle by considering whether there are threats of serious or irreversible environmental damage with respect to the relevant matters protected by the EPBC Act and considering whether there is a lack of scientific certainty.

363) I considered that threats of serious or irreversible environmental damage to threatened species and ecological communities may occur, and there is a lack of full scientific certainty about the likely nature and extent of the threats in relation to the OBP, the Swift Parrot and the Tasmanian Devil.

364) I considered the nature of the threats are well understood in relation to the remainder of the protected matters discussed above.

365) I took account of the precautionary principle in making my decision, as discussed earlier in these reasons.

366) I took into account the principles of ecologically sustainable development. In particular:

- the EAR and its supporting appendices, and additional information that has become available since the EAR was finalised provided information on the long-term and short-term economic, environmental, social and equitable considerations
- any lack of certainty related to the potential impacts of the proposed action is addressed by numerous environmental management plans imposed by the EPA and the conditions I have attached to the approval
- the conditions imposed by both the EPA and me will ensure protection of EPBC listed threatened species and migratory species. They allow for the proposed action to be delivered and operated in a sustainable way to protect the environment for future generations and preserve EPBC listed threatened species and migratory species in perpetuity
- I considered the importance of conserving biological diversity and ecological integrity in relation to all the controlling provisions for this proposed action

- I considered the range of information available to me on the economic costs, benefits and impacts of the proposed action.

367) I was satisfied that the principles of ESD were taken into account in the assessment by the EPA and that approving the proposed action with conditions is not inconsistent with the principles of ESD.

Environmental assessment report – section 136(2)(b)

368) I took the EAR into account in making my decision, as discussed throughout these reasons.

Other information – section 136(2)(e)

369) I considered other information where relevant and as noted above, including:

- information received from the proponent in response to the RFI issued on 18 April 2023
- evidence provided by a number of experts in relation to impacts on MNES considered by TASCAT in its decision

Relevant comments – section 136(2)(f)

370) Public comments were invited on the referral and also by the EPA on the draft assessment documentation.

371) I considered that adequate public consultation for the proposed action had occurred and did not invite public comment under section 131A on the proposed decision and recommended conditions of approval. I considered it was unlikely to elicit views or information that have not already been considered in relation to the proposed action.

372) I have identified and summarised the relevant comments received at paragraphs 38)- 46) above, and had regard to these when making my decision.

Information in a notice – section 136(2)(g)

373) I did not request or receive a notice under subsection 132A(3).

Other matters for decision making

Person's environmental history – section 136(4)

374) In deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, I may consider whether the person is a suitable person to be granted an approval, having regard to:

- the person's history in relation to environmental matters; and
- if the person is a body corporate – the history of its executive officers in relation to environmental matters; and
- if the person is a body corporate that is a subsidiary of another body or company (the parent body) – the history in relation to environmental matters of the parent body and its executive officers.

375) On 19 March 2025, the Compliance and Enforcement Branch (CEB) in the department conducted an Environmental History Check (EHC) for the proponent.

376) I noted that the CEB cannot advise whether the proponent has contravened state law, and they were unable to check the historical compliance databases, which hold records up until 2021.

377) I was not aware of any contraventions of the EPBC Act or other reasons why the proponent would not be suitable to be granted an approval in consideration of the factors set out in section 136(4) of the EPBC Act.

Minister not to consider other matters – section 136(5)

378) I was aware that I must not consider any matters that I was not required or permitted to consider. I did not consider any matter beyond what was provided in the decision brief and its attachments.

Threatened species and endangered communities – section 139

379) Section 139(1) of the EPBC Act provides that, in deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, I must not act inconsistently with:

- Australia’s obligations under:
 - the Biodiversity Convention; or
 - the Apia Convention; or
 - CITES; or
- a recovery plan or threat abatement plan.

380) Further, section 139(2) provides that, if the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community, in deciding whether or not approve the taking of an action, I must have regard to any approved conservation advice for the species or community.

Biodiversity Convention

381) I noted that the objectives of the Biodiversity Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

382) I considered that my approval of the proposed action with conditions would not be inconsistent with the Biodiversity Convention, which promotes environmental impact assessment (such as this process) to avoid and minimise adverse impacts on biological diversity. In making my decision, I also gave particular consideration to an appropriate combination of avoidance and mitigation measures for the management of species potentially impacted by the proposed action.

383) I therefore considered that my approval of the proposed action, with conditions requiring avoidance, mitigation and management measures for listed threatened species and communities, would not be inconsistent with the Biodiversity Convention. My approval requires information related to the proposed action to be publicly available to ensure equitable sharing of information and improved knowledge relating to biodiversity.

Apia Convention

384) The Convention on the Conservation of Nature in the South Pacific (Apia Convention) encourages the creation of protected areas which together with existing protected areas will safeguard representative samples of the natural ecosystems occurring therein (particular attention being given to endangered species), as well as superlative scenery, striking geological formations, and regions and objects of aesthetic interest or historical, cultural or scientific value.

385) The Apia Convention was suspended with effect from 13 September 2006. While this Convention has been suspended, I considered whether the proposed action would be inconsistent with the Convention. I considered that approving the proposed action, subject to conditions, is not inconsistent with the Convention, which has the general aims of conservation of biodiversity.

International trade in endangered species

386) The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants do not threaten their survival.

387) I considered that approving the proposed action, subject to conditions, is not inconsistent with CITES as the proposed action does not involve international trade.

Recovery plans and threat abatement plans

388) I noted that the recovery plans relevant to the proposed action and assessment are:

- Department of Environment, Land, Water and Planning (2016). *National Recovery Plan for the Orange-bellied Parrot, Neophema chrysogaster*. Australian Government, Canberra. In effect under the EPBC Act from 06-May-2016.
- Department of Climate Change, Energy, the Environment and Water (2024). *National Recovery Plan for the Swift Parrot (Lathamus discolor)*. Department of Climate Change, Energy, the Environment and Water, Canberra. In effect under the EPBC Act from 30-Apr-2024.
- Department of the Environment and Water Resources (2006). *Threatened Tasmanian Eagles Recovery Plan 2006–2010 (Aquila audax fleayi)*. Department of the Environment and Water Resources, Canberra. In effect under the EPBC Act from 16-Aug-2006.
- Department of Environment and Heritage (2004). *National Recovery Plan for the Spotted-tailed Quoll (Dasyurus maculatus)*. Department of Environment and Heritage, Canberra. In effect under the EPBC Act from 01-Oct-2004.
- Clemann, N. & G.R. Gillespie (2012). *National Recovery Plan for the Southern Bell Frog Litoria raniformis*. Department of Sustainability and Environment, Melbourne. In effect under the EPBC Act from 10-Feb-2012.

- Department of Agriculture, Water and the Environment (2020). *National Recovery Plan for the Australian Fairy Tern (Sternula nereis nereis)*. Commonwealth of Australia 2020.. In effect under the EPBC Act from 5-May-2022.
- Saddlier, S., J. Jackson & M. Hammer (2010). *National Recovery Plan for the Dwarf Galaxias Galaxiella pusilla*. Victorian Government Department of Sustainability and Environment (DSE) Melbourne, February 2010. In effect under the EPBC Act from 12-Mar-2010
- Department of the Environment, Water, Heritage and the Arts (2010). *National Recovery Plan for the Australian Grayling (Prototroctes maraena)*. Department of the Environment, Water, Heritage and the Arts, Canberra. In effect under the EPBC Act from 01-Jul-2010.

389) My consideration of the relevant recovery plans is discussed above in respect of relevant protected matters under each controlling provision.

390) I considered that approval of the proposed action with conditions would not be inconsistent with the above recovery plans.

391) The threat abatement plans relevant to this action are:

- Department of Climate Change, Energy, the Environment and Water (2024). *Threat abatement plan for predation by feral cats*. Canberra, ACT: Commonwealth of Australia. In effect under the EPBC Act from 24-Dec 2024.
- Department of the Environment and Energy (2016). *Threat abatement plan for competition and land degradation by rabbits*. Canberra, ACT: Commonwealth of Australia. In effect under the EPBC Act from 07-Jan-2017.
- Department of the Environment, Water, Heritage and the Arts (2008). *Threat abatement plan for predation by the European red fox*. DEWHA, Canberra. In effect under the EPBC Act from 01-Oct-2008.
- Department of the Environment and Energy (2016). *Threat abatement plan for infection of amphibians with chytrid fungus resulting in chytridiomycosis (2016)*. Canberra, ACT: Commonwealth of Australia. In effect under the EPBC Act from 07-Sep-2016.

392) I considered that approval of the proposed action with conditions would not be inconsistent with the above threat abatement plans.

Conservation advice

393) The approved conservation advices relevant to the proposed action are:

- Department of the Environment, Water, Heritage and the Arts (2009). *Approved Conservation Advice for Sarcophilus harrisii (Tasmanian Devil)*. Canberra: Department of the Environment, Water, Heritage and the Arts. In effect under the EPBC Act from 29-May-2009.
- Threatened Species Scientific Committee (2016). *Conservation Advice Lathamus discolor Swift parrot*. Canberra: Department of the Environment. In effect under the EPBC Act from 05-May-2016.
- Department of the Environment (2015). *Approved Conservation Advice for Tyto novaehollandiae castanops (Tasmanian Masked Owl)*. Canberra: Department of the Environment. In effect under the EPBC Act from 04-Jun-2015.

- Department of the Environment (2015). *Approved Conservation Advice for Dasyurus viverrinus (Eastern Quoll)*. Canberra: Department of the Environment. In effect under the EPBC Act from 04-Jun-2015.
- Department of the Environment (2015). *Approved Conservation Advice for Perameles gunnii (Eastern Barred Bandicoot)*. Canberra: Department of the Environment. In effect under the EPBC Act from 04-Jun-2015.
- Department of the Environment (2015). *Approved Conservation Advice for Thinornis rubricollis subsp. rubricollis (Hooded Plover – eastern)*. Canberra: Department of the Environment. In effect under the EPBC Act from 04-Jun-2015.
- Department of the Environment, Water, Heritage and the Arts (2010). *Approved Conservation Advice for Ceyx azureus diemenensis (Tasmanian Azure Kingfisher)*. Canberra, ACT: Department of the Environment, Water, Heritage and the Arts. In effect under the EPBC Act from 19-Aug-2010.
- Department of Sustainability, Environment, Water, Population and Communities (2011). *Approved Conservation Advice for Sternula nereis nereis (Fairy Tern)*. Canberra, ACT: Department of Sustainability, Environment, Water, Population and Communities. In effect under the EPBC Act from 03-Mar-2011.
- Department of Climate Change, Energy, the Environment and Water (2025). *Conservation Advice for Sternula albifrons (little tern)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 05-Mar-2025.
- Department of Sustainability, Environment, Water, Population and Communities (2011). *Approved Conservation Advice for Oreisplanus munionga larana (Marrawah Skipper)*. Canberra, ACT: Department of Sustainability, Environment, Water, Population and Communities. In effect under the EPBC Act from 04-Mar-2011.
- Department of Climate Change, Energy, the Environment and Water (2024). *Conservation Advice for Litoria raniformis (southern bell frog)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 20-Aug-2024.
- Department of Climate Change, Energy, the Environment and Water (2023). *Conservation Advice for Galaxiella pusilla (dwarf galaxias)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 15-Nov-2023.
- Department of the Environment (2015). *Approved Conservation Advice for Prototroctes maraena (Australian Grayling)*. Canberra: Department of the Environment. In effect under the EPBC Act from 04-Jun-2015.
- Department of Climate Change, Energy, the Environment and Water (2023). *Conservation Advice for Numenius madagascariensis (far eastern curlew)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 18-Dec-2023.
- Department of Climate Change, Energy, the Environment and Water (2023). *Conservation Advice for Calidris ferruginea (curlew sandpiper)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 18-Dec-2023.

- Department of Climate Change, Energy, the Environment and Water (2024). *Conservation Advice for Calidris tenuirostris (great knot)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 05-Jan-2024.
- Department of Climate Change, Energy, the Environment and Water (2024). *Conservation Advice for Calidris canutus (red knot)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 05-Jan-2024.
- Threatened Species Scientific Committee (2016). *Conservation Advice Charadrius mongolus Lesser sand plover*. Canberra: Department of the Environment. In effect under the EPBC Act from 05-May-2016.
- Department of Climate Change, Energy, the Environment and Water (2024). *Conservation Advice for Limosa lapponica baueri (Alaskan bar-tailed godwit)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 05-Jan-2024.
- Department of Climate Change, Energy, the Environment and Water (2023). *Conservation Advice for Charadrius leschenaultii (greater sand plover)*. Canberra: Department of Climate Change, Energy, the Environment and Water. In effect under the EPBC Act from 18-Dec-2023.

394) In making my decision to approve the proposed action with conditions, I had regard to all approved conservation advices relevant to the proposed action and gave consideration to the likely impacts of the proposed action on listed threatened species. My consideration of the relevant approved Conservation Advices are discussed above in respect of relevant protected matters under each controlling provision.

395) I was satisfied that approving the proposed action with conditions would not be inconsistent with the above Conservation Advices.

Migratory species – section 140

396) Section 140(1) of the EPBC Act provides that, in deciding whether or not to approve for the purposes of section 20 or section 20A the taking of an action, and what conditions to attach to such an approval, I must not act inconsistently with Australia's obligations under:

- the Bonn Convention;
- CAMBA;
- JAMBA;
- an international agreement approved under subsection 209(4).

The Bonn Convention

397) The Convention on the Conservation of Migratory Species of Wild Animals (**Bonn Convention**) aims to conserve terrestrial, aquatic, and avian migratory species throughout their range.

398) I considered the Bonn Convention when making my decision. I was satisfied that my approval of the proposed action with conditions was not inconsistent with the Bonn Convention. I also noted that my approval requires information relating to the proposed action to be publicly

available to ensure equitable sharing of information and improved knowledge relating to biodiversity.

China-Australia Migratory Bird Agreement

399) The China-Australia Migratory Bird Agreement (**CAMBA**) lists terrestrial, water and shorebird species which migrate between Australia and the respective countries. In both cases the majority of listed species are shorebirds.

400) The CAMBA requires the parties to protect migratory birds by:

- limiting the circumstances under which migratory birds are taken or traded;
- protecting and conserving important habitats;
- exchanging information; and
- building cooperative relationships.

401) I considered CAMBA when making my decision. I was satisfied that my approval of the proposed action with conditions was not inconsistent with CAMBA. I also noted that my approval of the proposed action requires information related to the proposed action to be publicly available to ensure equitable sharing of information and improved knowledge relating to biodiversity.

Japan-Australia Migratory Bird Agreement

402) The Japan-Australia Migratory Bird Agreement (**JAMBA**) lists terrestrial, water and shorebird species which migrate between Australia and the respective countries. In both cases the majority of listed species are shorebirds.

403) The JAMBA requires the parties to protect migratory birds by:

- limiting the circumstances under which migratory birds are taken or traded;
- protecting and conserving important habitats;
- exchanging information; and
- building cooperative relationships.

404) I considered JAMBA when making my decision. I was satisfied that my approval of the proposed action with conditions was not inconsistent with JAMBA. My approval requires information related to the proposed action to be publicly available to ensure equitable sharing of information and improved knowledge relating to biodiversity. The avoidance, mitigation and management measures to be implemented by the proponent will reduce any impacts to the migratory species to an acceptable level which would not be inconsistent with the JAMBA.

Other international agreements

Republic of Korea-Australia Migratory Bird Agreement

405) The Republic of Korea-Australia Migratory Bird Agreement (**ROKAMBA**) lists terrestrial, water and shorebird species which migrate between Australia and the respective countries. In both cases the majority of listed species are shorebirds.

406) The ROKAMBA requires the parties to protect migratory birds by:

- limiting the circumstances under which migratory birds are taken or traded;

- protecting and conserving important habitats;
- exchanging information; and
- building cooperative relationships.

407) I considered ROKAMBA when making my decision. I was satisfied that my approval of the proposed action with conditions was not inconsistent with ROKAMBA. My approval requires information relating to the proposed action to be publicly available to ensure equitable sharing of information and improved knowledge relating to biodiversity.

Bioregional plans – section 176(5)

408) I was required to have regard to a bioregional plan in making any decision under the EPBC Act to which the plan is relevant. The proposed action is not located within or near an area designated by a bioregional plan and, therefore, there were no bioregional plans for me to consider.

Conditions of approval – section 134

409) Section 134(1) of the EPBC Act provides that I may attach conditions to the approval of the action if I am satisfied that the condition is necessary or convenient for:

- protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
- repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).

State conditions

410) I considered the likely scope and severity of the impacts to MNES, and the proposed avoidance and mitigation measures, and determined that it is likely the proposed action will result in a significant residual adverse impact on the Orange-bellied Parrot, the Swift Parrot, the Tasmanian Devil and the Tasmanian Wedge-tailed eagle and a number of listed threatened migratory species (listed threatened species and ecological communities (sections 18 and 18A)) as well as listed migratory species (sections 20 and 20A).

411) I also considered the conditions imposed by the amended planning permit.

412) I considered that the following State conditions are necessary or convenient to protect, or repair, or mitigate damage to the relevant listed threatened species and communities and listed migratory species:

- G2 outlining incident response
- CN1 outlining requirements for the Design Report.
- CN2 outlining requirements for Construction Environmental Management Plan.
- CN3 outlining requirements for the Quarry Management Plan
- CN5 covering Weed and Disease Management
- DC1 outlining requirements for Decommissioning and Rehabilitation Plan

- DC4 temporary suspension of activity
- FF1 – FF21 (inclusive) setting out mitigation requirements and Plans for impacted flora and fauna species.

413) I considered that, instead of duplicating the State conditions which I considered particularly important, it was appropriate to impose conditions that will require the proponent to comply with the State conditions, where they relate to protected matters. This will also allow the department to retain an ongoing compliance role for the proposed action.

Commonwealth conditions

414) I considered it was necessary or convenient to apply additional conditions to the proposed action, as detailed in the Conditions of Approval set out in the Approval Notice. I set out above the key conditions relating to protected matters under each controlling provision.

Additional considerations for conditions – section 134(4)

415) In accordance with section 134(4), in deciding whether to attach a condition to an approval, I must consider all of the following:

s 134(4)(a) Any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a state or self-governing territory or another law of the Commonwealth on the taking of the action

416) As discussed above, I considered the State conditions are sufficient to manage some potential impacts, but that additional conditions are required to manage impacts to protected matters.

417) I considered that applying the additional conditions is not inconsistent with the State approval. I considered that they are required to address the requirements of the EPBC Act and they are complementary to the state approval conditions.

s 134(4)(aa) Information provided by the person proposing to take the action or by the designated proponent of the action

418) I took account of documentation provided by the proponent in the DPEMP and the Supplementary DPEMP, as well as the Offset Strategy and Offset Area management Plan. I also considered the proponent's comments on the conditions, which I noted the department took into account when making updates to the final version of conditions recommended to me.

s 134(4)(b) The desirability of ensuring as far as practicable that the condition is a cost-effective means for the Commonwealth and the person taking the action to achieve the object of the condition.

419) I considered that the conditions are a practicable and cost-effective means of achieving their purpose.

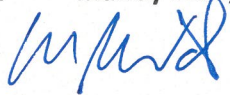
Reasons for decision

420) Having considered all relevant matters under the EPBC Act, I considered that the impacts of the proposed action on the matters protected by the relevant controlling provisions will not be unacceptable, provided that the proposed action is undertaken in accordance with the conditions of approval.

421) For the reasons given above, I decided to approve, subject to conditions, the proposed action.

name and position **Murray Watt, Minister for the Environment and Water**

Signature



date of decision

15 / 10 / 2025

ANNEXURE A

Section 130 of the EPBC Act relevantly provides:

Basic rule

- (1) The Minister must decide whether or not to approve, for the purposes of each controlling provision for a controlled action, the taking of the action.
- (2) The Minister must make the decision within the relevant period specified in subsection (1B) that relates to the controlled action, or such longer period as the Minister specifies in writing.

Notice of extension of time

- (4) If the Minister specifies a longer period for the purposes of subsection (1A), he or she must:
 - (a) give a copy of the specification to the person proposing to take the action; and
 - (b) publish the specification in accordance with the regulations.

Section 131 of the EPBC Act relevantly provides:

- (1) Before the Minister (the Environment Minister) decides whether or not to approve, for the purposes of a controlling provision, the taking of an action, and what conditions (if any) to attach to an approval, he or she must:
 - (a) inform any other Minister whom the Environment Minister believes has administrative responsibilities relating to the action of the decision the Environment Minister proposes to make; and
 - (b) invite the other Minister to give the Environment Minister comments on the proposed decision within 10 business days.
- (2) A Minister invited to comment may make comments that:
 - (a) relate to economic and social matters relating to the action; and
 - (b) may be considered by the Environment Minister consistently with the principles of ecologically sustainable development.

This does not limit the comments such a Minister may give.

Section 131AA of the EPBC Act relevantly provides:

- (1) Before the Minister decides whether or not to approve, for the purposes of a controlling provision, the taking of an action, and what conditions (if any) to attach to an approval, he or she must:
 - (a) inform the person proposing to take the action, and the designated proponent of the action (if the designated proponent is not the person proposing to take the action), of:
 - (i) the decision the Minister proposes to make; and
 - (ii) if the Minister proposes to approve the taking of the action – any conditions the Minister proposes to attach to the approval; and

(b) invite each person informed under paragraph (a) to give the Minister, within 10 business days (measured in Canberra), comments in writing on the proposed decision and any conditions.

(2) If the Minister proposes not to approve, for the purposes of a controlling provision, the taking of the action, the Minister must provide to each person informed under paragraph (1)(a), with the invitation given under paragraph (1)(b):

- (a) a copy of whichever of the following documents applies to the action:
 - (i) an assessment report;
 - (ii) a finalised recommendation report given to the Minister under subsection 93(5);
 - (iii) a recommendation report given to the Minister under section 95C, 100 or 105; and
- (b) any information relating to economic and social matters that the Minister has considered; and
- (c) any information relating to the history of a person in relation to environmental matters that the Minister has considered under subsection 136(4); and
- (d) a copy of any document, or part of a document, containing information of a kind referred to in paragraph 136(2)(e) that the Minister has considered.

(3) The Minister is not required to provide under subsection (2):

- (a) information that is in the public domain; or
- (b) a copy of so much of a document as is in the public domain; or
- (c) in the case of information referred to in paragraph (2)(b) or (c) – any conclusions or recommendations relating to that information included in documents or other material prepared by the Secretary for the Minister.

(6) In deciding whether or not to approve, for the purposes of a controlling provision, the taking of the action, the Minister must take into account any relevant comments given to the Minister in response to an invitation given under paragraph (1)(b).

Section 131A of the EPBC Act relevantly provides:

Before the Minister decides whether or not to approve, for the purposes of a controlling provision, the taking of an action, and what conditions (if any) to attach to an approval, he or she may publish on the Internet:

- (a) the proposed decision and, if the proposed decision is to approve the taking of the action, any conditions that the Minister proposes to attach to the approval; and
- (b) an invitation for anyone to give the Minister, within 10 business days (measured in Canberra), comments in writing on the proposed decision and any conditions.

Section 133 of the EPBC Act relevantly provides:

Approval

(1) After receiving the assessment documentation relating to a controlled action, or the report of a commission that has conducted an inquiry relating to a controlled action, the Minister may approve for the purposes of a controlling provision the taking of the action by a person.

(1A) If the referral of the proposal to take the action included alternative proposals relating to any of the matters referred to in subsection 72(3), the Minister may approve, for the purposes of subsection (1), one or more of the alternative proposals in relation to the taking of the action.

Content of approval

(2) An approval must:

- (a) be in writing; and
- (b) specify the action (including any alternative proposals approved under subsection (1A)) that may be taken; and
- (c) name the person to whom the approval is granted; and
- (d) specify each provision of Part 3 for which the approval has effect; and
- (e) specify the period for which the approval has effect; and
- (f) set out the conditions attached to the approval.

Persons who may take action covered by approval

(2A) An approval granted under this section is an approval of the taking of the action specified in the approval by any of the following persons:

- (a) the holder of the approval;
- (b) a person who is authorised, permitted, or requested by the holder of the approval, or by another person with the consent or agreement of the holder of the approval, to take the action.

Notice of approval

(4) The Minister must:

- (a) give a copy of the approval to the person named in the approval under paragraph 133(2)(c); and
- (b) provide a copy of the approval to a person who asks for it (either free or for a reasonable charge determined by the Minister).

Notice of refusal of approval

7) If the Minister refuses to approve for the purposes of a controlling provision the taking of an action by the person who proposed to take the action, the Minister must give the person notice of the refusal.

Section 134 of the EPBC Act relevantly provides:

Condition to inform persons taking action of conditions attached to approval

(1A) An approval of the taking of an action by a person (the first person) is subject to the condition that, if the first person authorises, permits, or requests another person to undertake any part of the action, the first person must take all reasonable steps to ensure:

- (a) that the other person is informed of any condition attached to the approval that restricts or regulates the way in which that part of the action may be taken; and
- (b) that the other person complies with any such condition.

For the purposes of this Chapter, the condition imposed by this subsection is attached to the approval.

Generally

(1) The Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

- (a) protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
- (b) repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).

Conditions to protect matters from the approved action

(2) The Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

- (a) protecting from the action any matter protected by a provision of Part 3 for which the approval has effect; or
- (b) repairing or mitigating damage that may or will be, or has been, caused by the action to any matter protected by a provision of Part 3 for which the approval has effect.

This subsection does not limit subsection (1).

Examples of kinds of conditions that may be attached

(3) The conditions that may be attached to an approval include:

- (aa) conditions requiring specified activities to be undertaken for:
 - (i) protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or
 - (ii) repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage may or will be, or has been, caused by the action); and
- (ab) conditions requiring a specified financial contribution to be made to a person for the purpose of supporting activities of a kind mentioned in paragraph (aa); and
- (a) conditions relating to any security to be given by the holder of the approval by bond, guarantee or cash deposit:
 - (i) to comply with this Act and the regulations; and

- (ii) not to contravene a condition attached to the approval; and
- (iii) to meet any liability of a person whose taking of the action is approved to the Commonwealth for measures taken by the Commonwealth under section 499 (which lets the Commonwealth repair and mitigate damage caused by a contravention of this Act) in relation to the action; and
- (b) conditions requiring the holder of the approval to insure against any specified liability of the holder to the Commonwealth for measures taken by the Commonwealth under section 499 in relation to the approved action; and
- (c) conditions requiring a person taking the action to comply with conditions specified in an instrument (including any kind of authorisation) made or granted under a law of a State or self-governing Territory or another law of the Commonwealth; and
- (d) conditions requiring an environmental audit of the action to be carried out periodically by a person who can be regarded as being independent from any person whose taking of the action is approved; and
- (e) if an election has been made, or is taken to have been made, under section 132B in respect of the approval – conditions requiring:
 - (i) an action management plan to be submitted to the Minister for approval, accompanied by the fee (if any) prescribed by the regulations; and
 - (ii) implementation of the plan so approved; and
- (f) conditions requiring specified environmental monitoring or testing to be carried out; and
- (g) conditions requiring compliance with a specified industry standard or code of practice; and
- (h) conditions relating to any alternative proposals in relation to the taking of the action covered by the approval (as permitted by subsection 133(1A)).

This subsection does not limit the kinds of conditions that may be attached to an approval.

Certain conditions require consent of holder of approval

(3A) The following kinds of condition cannot be attached to the approval of an action unless the holder of the approval has consented to the attachment of the condition:

- (a) a condition referred to in paragraph (3)(aa), if the activities specified in the condition are not reasonably related to the action;
- (b) a condition referred to in paragraph (3)(ab).

(3B) If the holder of the approval has given consent, for the purposes of subsection (3A), to the attachment of a condition:

- (a) the holder cannot withdraw that consent after the condition has been attached to the approval; and
- (b) any person to whom the approval is later transferred under section 145B is taken to have consented to the attachment of the condition and cannot withdraw that consent.

Conditions attached under paragraph (3)(c)

(3C) A condition attached to an approval under paragraph (3)(c) may require a person taking the action to comply with conditions specified in an instrument of a kind referred to in that paragraph:

- (a) as in force at a particular time; or
- (b) as is in force or existing from time to time;

even if the instrument does not yet exist at the time the approval takes effect.

Considerations in deciding on condition

(4) In deciding whether to attach a condition to an approval, the Minister must consider:

- (a) any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a State or self-governing Territory or another law of the Commonwealth on the taking of the action; and
- (aa) information provided by the person proposing to take the action or by the designated proponent of the action; and
- (b) the desirability of ensuring as far as practicable that the condition is a cost effective means for the Commonwealth and a person taking the action to achieve the object of the condition.

Effect of conditions requiring compliance with conditions specified in another instrument

(4A) If:

- (a) a condition (the **principal condition**) attached to an approval under paragraph (3)(c) requires a person taking the action to comply with conditions (the **other conditions**) specified in an instrument of a kind referred to in that paragraph; and
- (b) the other conditions are in excess of the power conferred by subsection (1);

the principal condition is taken to require the person to comply with the other conditions only to the extent that they are not in excess of that power.

Validity of decision

(5) A failure to consider information as required by paragraph (4)(aa) does not invalidate a decision about attaching a condition to the approval.

Section 136 of the EPBC Act relevantly provides:

Mandatory considerations

(1) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider the following, so far as they are not inconsistent with any other requirement of this Subdivision:

- (a) matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action;
- (b) economic and social matters.

Factors to be taken into account

(2) In considering those matters, the Minister must take into account:

- (a) the principles of ecologically sustainable development; and
- (b) the assessment report (if any) relating to the action; and
- (ba) if Division 3A of Part 8 (assessment on referral information) applies to the action – the finalised recommendation report relating to the action given to the Minister under subsection 93(5); and
- (bc) if Division 4 of Part 8 (assessment on preliminary documentation) applies to the action:
 - (i) the documents given to the Minister under subsection 95B(1), or the statement given to the Minister under subsection 95B(3), as the case requires, relating to the action; and
 - (ii) the recommendation report relating to the action given to the Minister under section 95C; and
- (c) if Division 5 (public environment reports) of Part 8 applies to the action:
 - (i) the finalised public environment report relating to the action given to the Minister under section 99; and
 - (ii) the recommendation report relating to the action given to the Minister under section 100; and
- (ca) if Division 6 (environmental impact statements) of Part 8 applies to the action:
 - (i) the finalised environmental impact statement relating to the action given to the Minister under section 104; and
 - (ii) the recommendation report relating to the action given to the Minister under section 105; and
- (d) if an inquiry was conducted under Division 7 of Part 8 in relation to the action – the report of the commissioners; and
- (e) any other information the Minister has on the relevant impacts of the action (including information in a report on the impacts of actions taken under a policy, plan, or program under which the action is to be taken that was given to the Minister under an agreement under Part 10 (about strategic assessments)); and
- (f) any relevant comments given to the Minister in accordance with an invitation under section 131 or 131A; and
- (fa) any relevant advice obtained by the Minister from the Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development in accordance with section 131AB;
- (g) if a notice relating to the action was given to the Minister under subsection 132A(3) – the information in the notice.

Person's environmental history

(4) In deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, the Minister may consider whether the person is a suitable person to be granted an approval, having regard to:

- (a) the person's history in relation to environmental matters; and
- (b) if the person is a body corporate – the history of its executive officers in relation to environmental matters; and
- (c) if the person is a body corporate that is a subsidiary of another body or company (the parent body) – the history in relation to environmental matters of the parent body and its executive officers.

Minister not to consider other matters

(5) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must not consider any matters that the Minister is not required or permitted by this Division to consider.

Section 139 of the EPBC Act relevantly provides:

(1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

- (a) Australia's obligations under:
 - (i) the Biodiversity Convention; or
 - (ii) the Apia Convention; or
 - (iii) CITES; or
- (b) a recovery plan or threat abatement plan.

(2) If:

- (a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and
- (b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community;

the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.

Section 140 of the EPBC Act relevantly provides:

In deciding whether or not to approve for the purposes of section 20 or 20A the taking of an action relating to a listed migratory species, and what conditions to attach to such an approval, the Minister must not act inconsistently with Australia's obligations under whichever of the following conventions and agreements because of which the species is listed:

- (a) the Bonn Convention;
- (b) CAMBA;

- (c) JAMBA;
- (d) an international agreement approved under subsection 209(4).

ANNEXURE B

A: Responses to invitation for comment on proposed decision

B: Notice of decision FOR SIGNATURE

C: Letters to relevant parties FOR SIGNATURE

D: Media statement

E: Proposed Approval Decision Briefing package (including the proposed approval decision brief, the EPA Tasmania Assessment Report, the Legal Considerations report, the proposed approval decision notice and conditions, and letters to the proponent and Commonwealth and State Ministers)

Att A EPA Tasmania Assessment Report

Att B Legal considerations report

Attachments

1 2017-8096 Referral Decision Brief

2 2017-8096 Referral Decision Notice

3 2017-8096 Variation Brief (signed)

4 2017-8096 Variation Decision Notice (signed)

5 Development Proposal and Environmental Management Plan (DPMP)

Appendix A – Preliminary Quarry Management Plan

Appendix B – Planning Report

Appendix C – Natural Values Assessment

Appendix D – Tasmanian Devil Survey

Appendix E – Bat Utilisation Survey

Appendix F – Roadkill Survey

Appendix G – Bird Impact Assessment

Appendix H – Eagle Nest Survey

Appendix I – Radio Tracking Survey

Appendix J – Resident Shorebird and Migratory Shorebird Surveys

Appendix K – Eagle Flight Analysis

Appendix L – Eagle Nest Camera Field Deployment Report

Appendix M – Preliminary Eagle Monitoring and Management Plan

Appendix N – Preliminary Shorebird Monitoring and Management Plan

Appendix O – Aquatic Fauna Survey

Appendix P – Baseline Marine Environment Survey

Appendix Q – Desktop Hydrogeological Investigation
Appendix R – Noise Assessment
Appendix S – Preliminary Geoconservation Assessment
Appendix T – Marine Hydrodynamics Assessment (Phase 1)
Appendix U – Marine Hydrodynamics Assessment (Phase 2)
Appendix V – Marine Hydrodynamics Assessment (Phase 3)
Appendix W – CONFIDENTIAL Aboriginal Heritage Assessment (not for publication)
Appendix X – Historic Heritage Assessment
Appendix Y – Agricultural Assessment
Appendix Z – Viewshed Mapping and Photomontage Process Report
Appendix AA – Visual Impact Assessment
Appendix BB – Shadow Flicker Assessment
Appendix CC – Economic Impact Assessment
Appendix DD – Traffic Impact Assessment
Appendix EE – Electromagnetic Interference Assessment
Appendix FF – Aviation Impact Assessment
Appendix GG – Preliminary Orange-bellied Parrot Monitoring and Management Plan

6 Supplement to the DPEMP

7 EPA Letter to Minister for the Environment and Water – conclusion of State assessment

8 DAWE comments on draft EPA Environmental Assessment Report

9 EPA Summary of Matters Raised by the Public During Consultation

10 Circular Head Council – Amended Planning Permit 24 January 2024 (Extract)

11 Table – EPA to Amended Planning Permit Conditions

12 Request for Further Information – Letter to proponent

13 Tasmanian Devil Offset Strategy

14 Tasmanian Devil Offset Area Management Plan

15 TASCAT Preliminary Decision 27 Nov 2023

16 TASCAT – Statements of Evidence – Tasmanian Devil

17 TASCAT - Statements of Evidence – Orange-bellied Parrot

18 TASCAT Decision – 2 January 2024

- 19 National Recovery Plan for the Orange-bellied Parrot 2016
- 20 National Recovery Plan for the Swift Parrot 2024
- 21 Recovery Plan – Threatened Tasmanian Eagles 2006
- 22 National Recovery Plan for the Spotted-tailed Quoll 2016
- 23 National Recovery Plan for the Southern Bell Frog 2012
- 24 National Recovery Plan for the Australian Fairy Tern 2022
- 25 National Recovery Plan for the Dwarf Galaxias 2010
- 26 National Recovery Plan for the Australian Grayling 2008
- 27 Threat Abatement Plan for Predation by Feral Cats 2024
- 28 Threat Abatement Plan for Competition and Land Degradation by Rabbits 2016
- 29 Threat Abatement Plan for Competition and Land Degradation by Rabbits – Background Document 2016
- 30 Threat Abatement Plan for Predation by the European Red Fox 2008
- 31 Threat Abatement Plan for Predation by the European Red Fox – Background Document 2008
- 32 Threat Abatement Plan – Chytrid Fungus 2016
- 33 Conservation Advice – Tasmanian Devil 2009
- 34 Conservation Advice – Swift Parrot 2016
- 35 Conservation Advice – Tasmanian Masked Owl 2010
- 36 Conservation Advice – Eastern Quoll 2015
- 37 Conservation Advice – Eastern Barred Bandicoot 2008
- 38 Conservation Advice – Hooded Plover (Eastern) 2014
- 39 Conservation Advice – Tasmanian Azure Kingfisher 2010
- 40 Conservation Advice – Fairy Tern 2011
- 41 Conservation Advice – Little Tern 2025
- 42 Conservation Advice – Marrawah Skipper 2011
- 43 Conservation Advice – Litoria raniforms (Southern Bell Frog) 2024
- 44 Conservation Advice – Dwarf Galaxias 2023
- 45 Conservation Advice – Australian Grayling 2021
- 46 Conservation Advice – Eastern Curlew 2023
- 47 Conservation Advice – Curlew Sandpiper 2023
- 48 Conservation Advice – Great Knot 2024
- 49 Conservation Advice – Red Knot 2024

- 50 Conservation Advice – Lesser Sand Plover 2016
- 51 Conservation Advice –*Limosa lapponica baueri* (Alaskan Bar-tailed Godwit) 2024
- 52 Conservation Advice –Greater Sand Plover 2023
- 53 Conservation Advice –Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy 2012
- 54 Department of Natural Resources and Environment Tasmania – Orange-bellied Parrot Migration Tracking – July 2023
- 55 Department of Natural Resources and Environment Tasmania – Orange-bellied Parrot Migration Tracking 2024 – Interim Report
- 56 Department of Natural Resources and Environment Tasmania – Orange-bellied Parrot Migration Tracking – VHF Data Processing Protocols 2024
- 57 Dr Eric Woehler – Independent Analysis of the Orange-bellied Parrot Migration Tracking 2024 Data from NRE Tasmania
- 58 Woehler Report – NRE Response
- 59 Letter to DCCEEW from ACEN regarding Woehler Report – Attaching Peer Review by Dr Keith Reid
- 60 Latest OBP Updates 4 June 2025 NRE Tasmania
- 61 Environment History Check
- 62A Robbins Island Renewable Energy Park – Ministerial and Departmental Correspondence
- 62B MC22-005642 002 Referenced Attachment
- 62C MC22-005640 002 Referenced Attachment
- 63 Summary of Ministerial and Departmental Correspondence

Att C: Proposed decision notice

Att D: Letters – FOR SIGNATURE