



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Variation of conditions attached to approval

Meander Dam Project, Meander Valley, Tasmania (EPBC 2002/565)

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


Approved action

approval holder	Tasmanian Irrigation Pty Ltd (formerly Rivers and Water Supply Commission) ABN: 95 722 799 075
approved action	Construction and operation of the Meander Dam in the Meander Valley, Tasmania. See EPBC Act referral 2002/565.
period for which the approval has effect	This approval has effect until 1 September 2103

Variation

variation of conditions attached to approval	<p>The variation is:</p> <p>Delete conditions 1, 2, 4, 5, 6 and 7 attached to the approval and substitute with the conditions specified in the table below.</p> <p>Add new conditions 8, 9 and 10 specified in the table below.</p> <p>Revoke condition 3 specified in the table below.</p> <p>Add new definitions of audit report, business day, compliance report, Department, EPBC Act, independent, independent audit, Minister, Spotted-tail Quoll, suitably qualified ecologist, suitably qualified expert, Swift Parrot and Tasmanian Wedge-tailed Eagle specified in the table below.</p> <p>Delete the definitions of compensatory habitat and corridor habitat and substitute with the conditions specified in the table below.</p> <p>Revoke the definition of approved action specified in the table below.</p>
date of effect	This variation has effect on the date this instrument is signed.

Person authorised to make decision

name and position	Brendan Linton-Smith A/g Branch Head Environment Assessments (Vic and Tas) and Post Approvals
signature	
date of decision	24 January 2025

date of decision	conditions attached to approval
<p><i>As varied on the date this instrument was signed</i></p>	<p>1) To monitor, avoid and mitigate impacts to the Spotted-tail Quoll as a result of the action, the approval holder must submit a Quoll Management Plan to the department for the Minister’s approval. The Plan must be prepared by a suitably qualified ecologist and must:</p> <ol style="list-style-type: none"> a. provide compensatory habitat by either: <ol style="list-style-type: none"> i. Identifying an area of existing Spotted-tail Quoll denning and foraging habitat to manage for conservation, or ii. Identifying an area suitable for rehabilitation to create Spotted-tail Quoll denning and foraging habitat, b. detail measures to manage the Spotted-tail Quoll habitat, with specific regard to Spotted-tail Quoll habitat requirements, identified in the Plan; c. detail measures to manage the corridor habitat for the Spotted-tail Quoll with specific regard to Spotted-tail Quoll habitat requirements, d. include a monitoring schedule designed to detect the impacts of the action on the Spotted-tail Quoll, e. include a schedule to report on the results of the monitoring to the department, and f. include commitments to continue monitoring if a decline in the Spotted-tail Quoll is identified. <p>The monitoring schedule must include targeted Spotted-tail Quoll surveys. These surveys must be undertaken at least once every three years. The first targeted survey must be undertaken prior to 30 November 2024 by a suitably qualified ecologist. Subsequent surveys must be undertaken by either a suitably qualified ecologist or a suitably qualified expert, and the survey results analysed by a suitably qualified ecologist.</p> <p>The approval holder must commence implementing the Quoll Management Plan, submitted to the Minister for approval, in writing at least by 1 January 2025 and must continue to implement the plan until the expiry date of this approval.</p>
<p><i>As varied on the date this instrument was signed</i></p>	<p>2) During the period between 1 August and 1 February in any given financial year, the approval holder must not undertake construction activities related to the action within:</p>

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	<ol style="list-style-type: none">a. 1000 metres of a Tasmanian Wedge-tailed Eagle nest site if the nest site is visible from the site of the activities; orb. 500 metres of a Tasmanian Wedge-tailed Eagle nest site if the nest site is not visible from the site of the construction activities.
<i>As varied on the date this instrument was signed</i>	3) REVOKED
<i>As varied on the date this instrument was signed</i>	4) The approval holder may, at any time, apply to the Minister for a variation to the Quoll Management Plan approved by the Minister by submitting an application in accordance with the requirements of section 143A of the EPBC Act . If the Minister approves a revised Quoll Management Plan then, from the date specified, the approval holder must implement the revised plan in place of the previous plan.
<i>As varied on the date this instrument was signed</i>	5) If the Minister believes that it is necessary or desirable for the better protection of Spotted-tail Quoll , the Minister may request the approval holder make specified revisions to the Quoll Management Plan and to submit the revised plan for the Minister's approval. The approval holder must comply with any such request. If the Minister approves a revised plan pursuant to this condition, the approval holder must implement that plan instead of the plan as originally approved.
<i>As varied on the date this instrument was signed</i>	6) If, at any time after 5 years from the date of this approval, the Minister notifies the approval holder in writing that the Minister is not satisfied that there has been substantial commencement of construction of the Meander Dam, construction of the Dam must not thereafter be commenced.
<i>As varied on the date this instrument was signed</i>	7) To compensate for the loss of habitat for the Swift Parrot , the approval holder must implement, by 30 November 2008, the shrubby Swamp Gum (<i>Eucalyptus ovata</i>) forest offset and complementary planting measures referred to in the Deed of Agreement with the Tasmanian Forest Practices Authority at <u>Annexure A</u> , dated 30 October 2006. The approval holder must provide to the department : <ol style="list-style-type: none">a. details on the location and condition of the area(s) to be offset;

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- b. copies of covenant documents for each offset area; and
 - c. details on the location of and methodology for the complementary planting program.

This information must be provided to the **department** by the end of December 2008.

As varied on the date this instrument was signed

- 8) The approval holder must prepare a **compliance report** for each 12-month period following 30 June 2024, or as otherwise agreed to in writing by the **Minister**. Each **compliance report** must be submitted electronically to the **department** within 60 **business days** following the end of the 12-month period for which that **compliance report** is required, and be consistent with the *Annual Compliance Report Guidelines, Commonwealth of Australia 2014*. Each **compliance report** must include accurate and complete details of:
 - a. compliance and any non-compliance with the conditions and the commitments made in the approved **Quoll Management Plan**, and any event which has the potential to, or does, cause any measurable direct or indirect disturbance or deleterious change as a result of any activity associated with the action to EPBC Act listed threatened species.
 - b. how the Quoll Management Plan is being implemented.

Note: Compliance reports may be published on the **department's** website.

As varied on the date this instrument was signed

- 9) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every three-year period from 30 June 2024 until this approval expires, unless otherwise specified in writing by the **Minister**. Each **audit report** must:
 - a. report for the three-year period preceding that **audit report**, and
 - b. be completed to the satisfaction of the **Minister** and be consistent with the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines, Commonwealth of Australia 2019*.

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As varied on the date this instrument was signed

- 10) For each **independent audit**, the approval holder must:
- a. Provide the name and qualifications of the nominated **independent** auditor, the draft audit criteria, and proposed timeframe for submitting the **audit report** to the **department** prior to commencing the **independent audit**.
 - b. Only commence the **independent audit** once the nominated **independent** auditor, audit criteria and timeframe for submitting the **audit report** have been approved in writing by the **department**.
 - c. Submit the **audit report** to the **department** for approval within the timeframe specified and approved in writing by the **department**.

date of decision	definitions attached to approval
<i>As varied on the date this instrument was signed</i>	Approved action - REVOKED
<i>As varied on the date this instrument was signed</i>	Audit report means a written report of compliance and fulfilment of the conditions attached to this approval, objectively evaluated against the audit criteria approved by the department .
<i>As varied on the date this instrument was signed</i>	Business day means a day that is not a Saturday, a Sunday or a public holiday in Tasmania.
<i>As varied on the date this instrument was signed</i>	Compensatory Habitat means Spotted-tail Quoll habitat that is managed for denning and foraging to compensate for habitat lost or damaged through inundation of natural habitat by construction or operation of the Meander Dam.
<i>As varied on the date this instrument was signed</i>	Compliance report means a written report of compliance with, and fulfilment of, the conditions attached to the approval.
<i>As varied on the date this instrument was signed</i>	Corridor Habitat means Spotted-tail Quoll habitat that links remnant vegetation between eastern Tasmania and the Great Western Tiers with forested habitat to the north and west, for the purpose of allowing gene flow between Spotted-tail Quoll populations.
<i>As varied on the date this instrument was signed</i>	Department means the Australian Government agency responsible for administering the EPBC Act.

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<i>As varied on the date this instrument was signed</i>	EPBC Act means the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).
Variation dated 22/04/2004	Environmental Flow Regime - REVOKED
<i>As varied on the date this instrument was signed</i>	Independent means does not have any individual, or by employment or family affiliation, conflicting or competing interests with the approval holder; the approval holder's staff, representatives or associated persons; or the project, including any personal, financial, business or employment relationship, other than receiving payment for undertaking the role for which the condition requires and independent person.
<i>As varied on the date this instrument was signed</i>	Independent audit means an audit conducted by an independent and suitably qualified person as detailed in the <i>Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines</i> , Commonwealth of Australia 2019.
<i>As varied on the date this instrument was signed</i>	Minister means the Australian Government Minister administering the EPBC Act , including any delegate thereof.
Original dated 18/09/2003	Operation means the extraction of water from the Meander Dam for commercial or public use. The Dam becomes <i>operational</i> upon the commencement of such extraction.
Variation dated 22/04/2004	Relevant Area - REVOKED
<i>As varied on the date this instrument was signed</i>	Spotted-tail Quoll means the EPBC Act listed threatened species <i>Dasyurus maculatus maculatus</i> (Tasmanian population).
<i>As varied on the date this instrument was signed</i>	Suitably qualified ecologist (for the purpose of undertaking environmental surveys) means a person who has relevant professional qualifications and at least 3 years of work experience designing and implementing surveys for Spotted-tail Quoll and can give an authoritative assessment and advice on the presence of Spotted-tail Quoll using relevant protocols, standards, methods and/or literature.
<i>As varied on the date this instrument was signed</i>	Suitably qualified expert (for the purpose of undertaking environmental surveys) means a person who has relevant professional qualifications and at least three years experience working in ecology and who has been trained by a suitably qualified ecologist and has at least one years' experience in designing and implementing surveys for Spotted-tail Quoll and can give an

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	authoritative assessment and advice on the presence of Spotted-tail Quoll using relevant protocols, standards, methods and/or literature.
<i>As varied on the date this instrument was signed</i>	Swift Parrot means the EPBC Act listed threatened species <i>Lathamus discolor</i> .
<i>As varied on the date this instrument was signed</i>	Tasmanian Wedge-tailed Eagle means the EPBC Act listed threatened species <i>Aquila audax fleayi</i> .

date of decision	Annexure
<i>Variation dated 08/11/2006</i>	Annexure 1 -Tasmanian Deed of Agreement Dated 30 th October 2006 between Rivers and Water Supply Commission and Forest Practices Authority

ANNEXURE 1



Deed of Agreement

Dated 30th October 2006

Rivers and Water Supply Commission ("RWSC")

and

Forest Practices Authority ("FPA")

The Crown Solicitor of Tasmania
GPO Box 825
Hobart 7001
Phone: (03) 6233 3409
Fax: (03) 6233 2874
Email: crown.solicitor@justice.tas.gov.au

Deed of Agreement

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Deed of Agreement**Details**

Parties	RWSC, FPA	
RWSC	Name	Rivers and Water Supply Commission, ("RWSC")
	Address	Suite 2, 1 st Floor, 63 Salamanca Place, Hobart in Tasmania
	Telephone	(03) 6233 6891
	Fax	(03) 6233 2751
	Attention	Mr. Peter Williams, Chief Executive Officer
FPA	Name	Forest Practices Authority ("FPA")
	Address	30 Patrick Street, Hobart in Tasmania
	Telephone	(03) 6233 7451
	Fax	(03) 6233 7954
	Attention	Mr. Graham Wilkinson, Chief Forest Practices Officer
Recitals	A	The RWSC is the proponent of the Meander Dam.
	B	The Meander Dam is being designed and constructed under the D & C Contract.
	C	The clearing of the inundation area for the Meander Dam will involve the loss of threatened forest communities that are identified for protection under the Regional Forest Agreement
	D	Under the D & C Contract, McConnell Dowell Constructors (Aust) Pty. Ltd. ("Contractor") are required to clear all vegetation from within the inundation area.
	E	Prior to removing any vegetation from the inundation area, the Contractor must first have a Forest Practices Plan certified by the FPA.
	F	The FPA has agreed to certify the required Forest Practices Plan subject to the terms of this Agreement

Date of agreement See Signing page

General terms

1 Definitions

In this Agreement unless the contrary intention is expressed:

“**Agreement**” means this Agreement including all schedules;

“**Business Day**” means any day on which banks, as defined in the *Banking Act 1959* (Cwlth), are open for business in Hobart;

“**Completion Date**” means the date of expiration of the defects liability period, currently scheduled to be on or about November 2008, as defined in the D & C Contract.

“**D & C Contract**” means the design and construction contract for the Meander Dam, dated 26th July 2005, as novated and varied, and between RWSC and McConnell Dowell Constructors (Aust) Pty. Ltd.

“**Forest Areas**” means the areas of forest described in Item 1 of Schedule 1;

“**Forest Practices Plan**” means a forest practices plan, prepared for certification under the *Forest Practices Act 1985*, properly identifying the clearing of all forest vegetation from the inundation area for the Meander Dam.

“**Meander Dam**” means the dam being constructed on the Meander River under the D & C Contract.

2 RWSC to secure Forest Areas

2.1 Settlement of binding covenants

Prior to the Completion Date, the RWSC must secure the protection of the Forest Areas by entering into binding covenants with the owners of those lands, and the covenants must:

- (a) be registered by the Tasmanian Recorder of Titles;
- (b) run with the freehold of the servient land;
- (c) ensure protection in perpetuity of the conservation values described in Schedule 3; and
- (d) be in a form acceptable to the FPA.

2.2 Settlement of principles and methodology

The RWSC agrees to settle the terms of the covenants described in sub-clause 2.1, in accordance with the principles and methodology described in Schedule 3.

3 FPA to certify Forest Practices Plan

The FPA will, within five (5) Business Days of the date of this Agreement, certify the Forest Practices Plan.

4 Governing law

The law of Tasmania governs this Agreement, and the parties submit to the jurisdiction of the Courts of Tasmania.

5 Resolution of disputes

If a dispute arises between the parties under this Agreement (except in the case of action required to be taken under statute, or where an urgent interim determination is sought) the parties must refer the matter for resolution by a person of appropriate qualifications and experience agreed between them. That person's decision, including any decision as to his or her costs, is to be final and binding on the parties. If the parties can't agree about the person to be appointed, then the matter in dispute must be determined under the provisions of the *Commercial Arbitration Act 1986*.

6 Notices

6.1 How to give a notice

Any notice or other communication to be given or made under this Agreement must be in writing and addressed as the case may be to the parties at their addresses in Schedule 2.

6.2 How to serve a notice

A notice or other communication is taken to have been duly served:

- (a) in the case of hand delivery - when delivered;
- (b) if sent by prepaid post - on the third Business Day after the date of posting;
- (c) if sent by facsimile transmission (if the sending facsimile machine produces a print out of the time, date and uninterrupted transmission record of the sending of the notice) - upon completion of sending if completion is within ordinary business hours in the place where the recipient's facsimile machine is located, but if not, then at 9.00 am. on the next Business Day in that place.

Executed as a Deed

Signing page

Dated: 25 October 2006

The Common Seal of the Rivers and Water Supply Commission was duly affixed in the presence of:

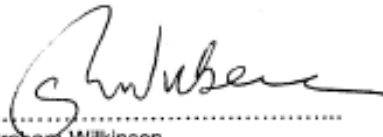


 Chairman of Board Board Member

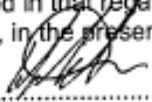


 Board Member

Signed for Forest Practices Authority by Graham Wilkinson, Chief Forest Practices Officer being duly authorised in that regard by the Authority, in the presence of:



 Graham Wilkinson
 30th October 2006



 Signature of witness
 LUKE CURTAIN

 Name of witness (block letters)
 202 NEWTOWN RD NEWTOWN

 Address of witness
 PUBLIC SERVANT

 Occupation

Schedule 1

Item 1

"Forest Areas"

Forest Areas means areas of forest, on privately owned land within the following range:

Forest Type	Area within inundation zone (ha)	Area to be secured for offset (ha)		Complementary plantings (ha)
		Bm 100	Bm 60	
E. viminalis	4.9	18	31	
E. ovata	17.8	57	95	55.5
E. rodwayi	17.3	69	105	

(Note) Bm refers to benchmark ecological condition as per North Barker 2006)

Schedule 2

Addresses for Delivery of Notices

1. RWSC
As described on page 1 of the Agreement.
2. FPA
As described on page 1 of the Agreement.

Schedule 3

Principles and Methodology for Protection of Conservation Values of Forest Areas

- (1) FPA accepts that Governmental approval and financial support for the Meander Dam project essentially presents it with 'exceptional circumstances', within which the case is made for substantial public and private benefit to flow from the construction of the dam.
- (2) FPA accepts that in principle, the loss of forests and values could be offset through improved management and conservation measures within the immediate area. Improving the conservation status of these forests and values elsewhere will require legally-binding management arrangements with private landholders to secure the long term protection of forests that otherwise may be subject to management activities or impacts that would result in the degradation of the forest and loss of conservation values.
- (3) FPA notes the assessment methodology used by the consultant engaged by the RWSC (North Barker report referenced – North Barker Ecosystem Services (2006) "Meander Dam - Forest Clearance Offsets Proposal, August 2006") to determine potential offsets for the loss of the forests within the inundation area. FPA broadly supports the approach that was developed for benchmarking the ecological condition of forests for the purposes of calculating offset requirements. Furthermore, FPA agrees with the principle that any offset proposal must be flexible, to take account of the range of factors that will determine the effectiveness of any offset package, including variability in the condition and array of forest types and the cost, practicality and potential gain associated with improved management strategies.
- (4) In relation to the offset package, FPA believes that:
 - (a) All of the *E. ovata* forest (including regrowth) should be subject to the benchmarking offset methodology (at a ratio of 1:5).
 - (b) Proposed plantings of *E. ovata* trees within a rehabilitation area are commendable and FPA encourages the proposed plantings on a trial basis so that the ecological value of such plantings can be assessed in the longer term. In the interim, FPA has no basis to accept that the plantings will be an adequate offset for the loss of the range of ecological values that are associated with the *E. ovata* forest community. However, FPA notes that the planting and successful establishment of *E. ovata* trees should make a substantial contribution towards offsetting the loss of habitat for the Swift Parrot in the medium to longer term. The forest

practices plan for the rehabilitation plantings will prove a legally secure mechanism for achieving the planting and tending of *E. ovata* trees for the purposes of providing future habitat for the Swift Parrot.

- (5) The *E. rodwayi* community has a very high conservation priority at the bioregional level. The Regional Forest Agreement requires this community to be “protected on public land wherever prudent and feasible, to protect those values at a regional level”. FPA believes that it would only be prudent to allow the loss of this community if the loss can be offset through improved conservation measures within the immediate area. This community is at risk from conversion on private land, so any measures to secure the long term protection of the values through management arrangements with private landholders would provide an appropriate means of offsetting the loss of the forest within the inundation area and enhancing the conservation status of the community at the bioregional level.