



## Notification of referral decision – not controlled action if taken in a particular manner

### Gippsland Skies Offshore Wind Project marine surveys (investigations) (EPBC 2024/09991)

This decision is made under sections 75 and 77A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).


#### Proposed Action

<b>person proposing to take the Action</b>	Gippsland Skies Pty Ltd ABN: 11 666 794 369
<b>proposed Action</b>	To undertake geophysical, geotechnical, benthic habitat, wind and oceanography surveys, to support the proposed future development of the Gippsland Skies Offshore Wind Project, off the coast of western Gippsland (See EPBC Act referral 2024/09991).

#### Referral decision: not a controlled action if taken in a particular manner

<b>status of proposed Action</b>	The proposed Action is not a controlled action provided it is taken in the manner set out in <u>Annexure A</u> .
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#### Person authorised to make decision

<b>name and position</b>	Rachel Short Branch Head Environment Assessments (Vic and Tas) and Post Approvals Branch Nature Positive Regulation Division
<b>signature</b>	
<b>date of decision</b>	28 March 2025

## Annexure A

**Note:** Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them at **Part B - Definitions**.

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### Part A – Particular manners specific to the Action

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The following measures must be taken to avoid significant impacts on:

- Listed threatened species and communities (sections 18 and 18A)
- Listed migratory species (sections 20 and 20A)
- Commonwealth marine areas (sections 23 and 24A)

#### PROJECT AREA BOUNDARY

- 1) The person taking the Action must not take the Action outside the **project area**.

#### CETACEAN INTERACTION MINIMISATION

- 2) The person taking the Action must ensure that no **survey vessel** travels at a speed greater than 6 knots if a **cetacean** has been observed within 500 metres of the **survey vessel**. The **survey vessel** must maintain its speed at 6 knots or below until all sighted **cetaceans** are further than 500 metres of the **survey vessel**.
- 3) The person taking the Action must ensure that no **survey vessel** travels at a speed greater than 10 knots when undertaking **Geophysical surveys** in **Biologically Important Areas (BIAs)** for **cetaceans**.
- 4) The person taking the Action must ensure that no **Geotechnical Survey** or **Geophysical Survey** is undertaken within the **SRW Reproduction Exclusion Area** in any period between 1 May and 31 October of the same year.

#### TRAINING, RECORDING AND PRECAUTIONARY MEASURES

- 5) The person taking the Action must ensure all marine crew onboard the **survey vessels** are **trained crew**.
- 6) If one or more **whale** is observed within the **Precaution Zone** during a **Geotechnical Survey** or a **Geophysical Survey**, the person taking the Action must ensure that, as soon as possible thereafter, a minimum of one **Senior Marine Mammal Observer (Senior MMO)** and one **Marine Mammal Observer (MMO)** continuously monitor the **Precaution Zone** and monitor the movements of **whales** until all **whales** have left the **precaution Zone** or at least 30 minutes have passed since the most recent observation of a **whale**.

#### GEOPHYSICAL SURVEY OBSERVATIONS

- 7) During **good-visibility** conditions, the person taking the Action must ensure at least one **MMO** and one **trained crew** member undertake continuous monitoring of the **Precaution Zone** for the entire duration that any **Sub-bottom Profiler** is operating. The person taking the Action must ensure the **trained crew** and **MMO**:

- a) Commence pre-start up surveying of the **Precaution Zone** for **whales** at least 30 minutes prior to operating any **Sub-bottom Profiler**. If a **whale** is observed within the **Low-power Zone** or the **Shut-down Zone** during this time, the person taking the Action must ensure that no **Sub-bottom Profiler** begins operating unless:
  - i) all **whales** have left the **Low-power Zone** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**; or
  - ii) at least 30 minutes have passed since the most recent observation of a **whale** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**.
- b) Do not undertake any other duties whilst required to undertake surveying for **whales**.
- c) Continuously monitor the movements of **whales** to detect whether any **whale** has entered or appears likely to enter the **Observation Zone**, the **Low-power Zone** or the **Shut-down Zone**.

#### GEOPHYSICAL SURVEY OBSERVATIONS DURING LOW VISIBILITY

- 8) During **low-visibility** conditions, the person taking the Action must ensure at least one **Senior MMO** and one **MMO** monitor the **Precaution Zone** for the entire duration that any **Sub-bottom profiler** is operating. The person taking the Action must ensure the **Senior MMO** and **MMO**:
  - a) Use **technology** to support the detection of any **whale** in the **Precaution Zone**.
  - b) Commence pre-start up surveying of the **Precaution Zone** for **whales** at least 30 minutes prior to operating any **Sub-bottom Profiler**. If a **whale** is observed within the **Low-power Zone** or the **Shut-down Zone** during this time, the person taking the Action must ensure that no **Sub-bottom Profiler** begins operating unless:
    - i. all **whales** have left the **Low-power Zone** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**; or
    - ii. at least 30 minutes have passed since the most recent observation of a **whale** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**.
  - c) Do not undertake any other duties whilst required to undertake surveying for **whales**.
  - d) Continuously monitor the movements of **whales** to detect whether any **whale** has entered or appears likely to enter, the **Observation Zone**, the **Low-power Zone** or the **Shut-down Zone**.

#### MANAGEMENT OF GEOPHYSICAL SURVEY OPERATIONS

- 9) If, while operating any **Sub-bottom Profiler**, one or more **whale** has been observed in, or appears likely to enter the:
  - a) **Shut-down Zone**, the person taking the Action must ensure that the operation of any **Sub-bottom Profiler** ceases. The person taking the Action must not begin the operation of any **Sub-bottom Profiler** unless:
    - i) all **whales** have left the **Low-power Zone** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**; or
    - ii) at least 30 minutes have passed since the most recent observation of a **whale** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**.

- b) **Low-power Zone**, the person taking the Action must ensure that any **Sub-bottom Profiler** is powered down to minimum power. After this, the person taking the Action must not power up any **Sub-bottom Profiler** unless:
  - i) all **whales** have left the **Low-power Zone** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**; or
  - ii) at least 30 minutes have passed since the most recent observation of a **whale** and any **Sub-bottom Profiler** is operated in accordance with the **Soft-start Procedure**.

#### MANAGEMENT OF GEOPHYSICAL SURVEYS OPERATIONS DURING LOW VISIBILITY

- 10) The person undertaking the Action must not undertake any **Geophysical Survey** during **low visibility** conditions if there have been three or more **Shut-down events** in the preceding 24 hours of undertaking **Geophysical Surveys**.
- 11) If the person taking the Action is required to cease undertaking any **Geophysical Survey** in accordance with Particular Manner 10, the person taking the Action must not resume undertaking any **Geophysical Survey** unless at least one **Senior MMO** and one **trained crew** observe and report a continuous period of **good visibility** conditions for at least two consecutive hours and confirm that no **whale** has been observed in the **Precaution Zone** during this two hour period.

#### GEOTECHNICAL SURVEY OBSERVATIONS

- 12) During **good-visibility** conditions, the person taking the Action must ensure at least one **MMO** and one **trained crew** undertake continuous monitoring of the **Precaution Zone** while any **dynamic positioning thruster** is operating. The person taking the Action must ensure the **trained crew** and **MMO**:
  - a) Commence surveying of the **Precaution Zone** for **whales** at least 30 minutes prior to commencing operating any **dynamic positioning thruster**. If a **whale** is observed within the **Precaution Zone** during this time, the person taking the Action must not begin operating any **dynamic positioning thruster** unless all **whales** have left the **Precaution Zone**, or at least 30 minutes have passed since the last observation of a **whale**.
  - b) Do not undertake any other duties when required to undertake surveying for **whales**.
  - c) Continuously monitor the movements of **whales** to detect whether any **whale** has entered or appears likely to enter the **Observation Zone**, the **Low-power Zone** or the **Shut-down Zone**.

#### GEOTECHNICAL SURVEY OBSERVATIONS DURING LOW VISIBILITY

- 13) The person taking the Action must ensure at least one **Senior MMO** and one **MMO** continuously monitor the **Precaution Zone** while any **dynamic positioning thruster** is operating during **low-visibility** conditions. The person taking the Action must ensure the **Senior MMO** and **MMO**:
  - a) Use **technology** to support the detection of **whales** in the **Precaution Zone**.
  - b) Commence surveying of the **Precaution Zone** for **whales** at least 30 minutes prior to commencing operating any **dynamic positioning thruster**. If a **whale** is observed within the **Precaution Zone** during this time, the person taking the Action must not operate any

**dynamic positioning thruster** unless all **whales** have left the **Precaution Zone**, or at least 30 minutes have passed since the last observation of a **whale**.

- c) Do not undertake any other duties whilst required to monitor for **whales**.
- d) Continuously monitor the movements of **whales** to detect whether any have entered or appear likely to enter the **Observation Zone**, the **Low-power Zone** or the **Shut-down Zone**.

#### MANAGEMENT OF GEOTECHNICAL SURVEY OPERATIONS

- 14) If, while any **dynamic positioning thruster** is operating, one or more **whale** has entered or appears likely to enter the **Precaution Zone**, the person taking the Action must ensure that any **dynamic positioning thruster** is powered down to the **lowest safe power setting** until all **whales** have left the **Precaution Zone**, or until at least 30 minutes has elapsed since the most recent sighting of a **whale**.

#### CHEMICAL MANAGEMENT

- 15) The person taking the Action must only use drilling additives listed on the **Definitive Ranked List of Registered Products** as Gold, Silver or Group D/E products.

#### INVASIVE MARINE SPECIES

- 16) The person taking the Action must ensure that it does not, in taking of the Action, introduce or spread **invasive marine species** to areas of the Commonwealth marine environment where they were not previously present.

#### UNDERWATER CULTURAL HERITAGE

- 17) The person taking the Action must have the data collected from all **Geophysical Surveys** analysed by an **Underwater Archaeologist** prior to undertaking any **Geotechnical Survey**. The person taking the Action must ensure that no **Geotechnical Survey** is undertaken within 100 m of where the **Underwater Archaeologist** considers **Underwater Cultural Heritage** to be present.

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#### Part B – Definitions

Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them in the list below:

**Biologically Important Area** means any spatially and temporally defined areas of the marine environment used by protected marine species for carrying out critical life functions. Biologically Important Areas are designated by identifying areas and times known or likely to be regularly or repeatedly used by individuals or aggregations of a single species, stock, or population for either reproduction, feeding, migration or resting as indicated in the Australian Marine Spatial Information System (AMSIS). On the date of this decision, AMSIS can be accessed at <https://amsis-geoscience-au.hub.arcgis.com/>

**Cetacean** means a member of the Order Cetacea.

**Day-time** means the period of time which commences 30 minutes before sunrise and ends 30 minutes after sunset on any given day, where sunrise and sunset occur at the times specified on the Australian Government Bureau of Meteorology's official phone app or the Geoscience Australia

website (available at the following link at the time of this approval decision: <https://geodesyapps.ga.gov.au/sunrise>) for Seaspray on the particular day.

**Definitive Ranked Lists of Registered Products** means the Offshore Chemical Notification Scheme Ranked Lists of Notified Chemicals compiled by the Centre for Environment Fisheries and Aquaculture Science, United Kingdom as published on the date of this decision.

**Note:** On the date of this decision, the Definitive Ranked Lists of Register Products is available at: <https://www.cefas.co.uk/data-and-publications/ocns/>

**Dynamic positioning thruster** means an engine that is used to hold a **survey vessel** steady (in a fixed position) and minimise drift.

**Geophysical Survey** means a non-intrusive method of sampling the sub-bottom seafloor.

**Geotechnical Survey** means an intrusive method of sampling the sub-bottom seafloor.

**Good visibility** means conditions during **day-time** that enable the clear visual detection and identification of any **whale** present in the **Precaution Zone**.

**Invasive marine species** means organisms that do not naturally occur in a particular location.

**Low-power zone** means all waters between 0.5 kilometres and 1 kilometre of a **survey vessel**.

**Lowest safe power setting** means the lowest possible power that would not risk damaging **survey equipment** or endanger human safety.

**Low visibility** means conditions, including **night-time**, rainfall, fog, rough seas and high winds, that would prevent the clear visual detection and identification of any **whale** the **Precaution Zone**.

**Marine Mammal Observer or MMO** means a person trained and experienced in **cetacean** identification and behaviour, distance estimation, and capable of making accurate identifications and observations of **cetaceans** in Australian waters.

**Night-time** means all times which fall outside of **day-time**.

**Observation Zone** means all waters within 3 kilometres of a **survey vessel** but further than 1 kilometre from a **survey vessel**.

**Precaution Zone** means the **Observation Zone**, the **Low-Power Zone** and the **Shut-down Zone** combined.

**Project area** means the location of the Action, represented in Attachment A by the area outlined in blue designated as 'Feasibility License Area', the area shaded yellow designated "Survey area buffer (1nm)" and the area shaded orange designated 'Proposed eastern cable corridor'.

**Senior Marine Mammal Observer or Senior MMO** means a person who has been trained and has at least 2 years of field experience, including a minimum of 120 days at sea experience, in **cetacean** identification and behaviour, distance estimation, and is capable of making accurate identifications and observations of **cetaceans** in Australian waters.

**Shut-down event** means the powering down or shutting off of underwater noise producing equipment in accordance with this notice.

**Shut-down Zone** means all waters within 500 metres of a **survey vessel**.

**Soft-start procedure** means gradually ramping up of the power of a **Sub-bottom Profiler** over 30 minutes, starting from minimum power and only reaching the power required to obtain the desired data for the **Geophysical Survey** being undertaken after 30 minutes.

**SRW Reproduction Exclusion Area** means the area represented in Attachment A by the pink hatched zone designated as 'Southern Right Whale exclusion zone'.

**Sub-bottom profiler** means any of a sparker, boomer, pinger, parametric echo sounding or compressed high-intensity radar pulse.

**Survey equipment** means equipment used to undertake any **Geotechnical Survey** or **Geophysical Survey**, including the **survey vessel**.

**Survey vessel** means a ship, boat, raft or pontoon or any other thing capable of carrying persons or goods through or on water and includes a floating structure and hovercraft being used as part of this Action.

**Technology** means infrared technology, a night vision camera, night vision goggles or passive acoustic monitoring equipment.

**Trained crew** means crew that have demonstrated sound understanding of the requirements of this notice, and have had experience in and demonstrated aptitude for **whale** observation, **whale** identification, distance estimation and reporting.

**Underwater Archaeologist** means a person that meets the criteria as detailed in S.VII of the UNESCO *Manual for Activities Directed at Underwater Cultural Heritage* (Maarleveld, Guerin, Egger 2013: 163-176).

**Underwater Cultural Heritage** means any trace of human existence that has cultural, historical, or archaeological character, and is located underwater.

**Whale** means a member of the sub-order Mysticeti or Odontoceti of the Order Cetacea.

Attachments

A: Project area map – including BIAs

