



Approval

**Mt Buller Sustainable Water Security Project – Off-stream Storage, Victoria
(EPBC 2014/7303)**

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

Proposed action

person to whom the approval is granted	Mount Buller and Mount Stirling Alpine Resort Management Board
proponent's ABN	44 867 982 534
proposed action	To construct and operate a 100 megalitre capacity off-stream water storage and ancillary infrastructure within the Mt Buller Alpine Resort Ski Area, Victoria [See EPBC Act referral 2014/7303].

Approval decision

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approve


conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 1 June 2068.

Decision-maker

name and position	James Barker Assistant Secretary Assessments and Governance Branch
signature	
date of decision	25 / 6 / 2018

Conditions attached to the approval

Disturbance areas

1. The approval holder must only undertake the action in the **project area** shown in Annexure A.
2. For the life of the approval, the approval holder must achieve the following outcomes (relative to baseline monitoring and control sites):
 - a. no **direct impacts** to **Alpine bogs**;
 - b. no more than a 10 per cent (0.090 hectare) reduction in the total combined area of **indirectly affected areas** of **Alpine bogs**;
 - c. no more than a 10 per cent reduction in the total 'bog-dependent' native flora **species richness** of **indirectly affected areas** of **Alpine bogs**;
 - d. no more than a 10 per cent increase in the cover of 'non-bog dependent' species within **indirectly affected areas** of **Alpine bogs**; and
 - e. no more than a 10 per cent reduction in the average cover of sphagnum moss (*Sphagnum* spp) within **indirectly affected areas** of **Alpine bogs**.

Pre-disturbance surveys

3. The approval holder must undertake **pre-disturbance surveys** in the **project area** to identify any new or new occurrences/extent of **EPBC Act** listed threatened species or ecological communities. **Pre-disturbance surveys** must be supervised by a **suitably qualified person** and undertaken in accordance with the **Department's survey guidelines** in effect at the time of the survey or other equivalent survey methodology approved by the **Department**.
4. If new or new occurrences/extent of **EPBC Act** listed threatened species or ecological communities not previously identified are found in the **project area** during **pre-disturbance surveys** or during **construction**, the approval holder must:
 - a. immediately cease work;
 - b. notify the **Department** in writing within 48 hours of finding the **EPBC Act** listed threatened species and/or ecological communities; and
 - c. not **re-commence** or **commence the action** without written agreement from the **Minister**.
5. If new or new occurrences/extent of **EPBC Act** listed threatened species or ecological communities not previously identified are found in the **project area** during **pre-disturbance surveys** or during **construction**, the approval holder must outline in writing the number or extent and quality of the **EPBC Act** listed threatened species and ecological communities present, and how potential impacts to these **EPBC Act** listed threatened species and/or ecological communities will be avoided, mitigated and/or compensated for, for the **Minister's** approval. Once approved, the approved avoidance, mitigation and/or compensation measures must be implemented.

Hydrological and Ecological Monitoring and Adaptive Management Program

6. The approval holder must implement the **Hydrological and Ecological Monitoring and Adaptive Management Program (HEMAMP)** for the life of the approval. If monitoring results indicate that the outcomes in condition 2 has not been achieved or is not likely to be achieved, the approval holder must:
 - a. investigate why the outcome has not or will not be achieved
 - b. advise the **Department** within 14 days of receiving the monitoring results (including a summary of the provision of the investigation required under condition 6a); and
 - c. develop corrective actions, revised monitoring, mitigation, management measures and/or compensation measures to be included in the **HEMAMP**.
7. Any revised measure(s) to be included in the **HEMAMP** required under condition 6, must be peer reviewed by a **suitably qualified expert**. The peer review must be submitted to the **Minister** together with the revised **HEMAMP**, and a statement from the **suitably qualified expert** stating that the peer review adequately evaluated measures proposed.
8. Within three (3) months following the third anniversary of **commencement of the action**, the approval holder must assess the effectiveness of the monitoring, mitigation, and management measures in the **HEMAMP** in achieving the outcome in condition 2(b). The assessment must be undertaken by a **suitably qualified independent expert**. The findings of the assessment must immediately be made publicly available on the approval holder's website, and be provided to the **Department** within five (5) days of publishing.
9. If the **Minister** at any time is not satisfied that the outcomes in condition 2 have been achieved or are likely to be achieved, the **Minister** may (in writing) require the approval holder to submit a new plan or program for the **Minister's** approval to reduce, mitigate, remediate or compensate impacts to **Alpine bogs**, within a designated timeframe. The **Minister** may request that the plan or program be prepared or reviewed by a person designated or agreed to by the **Minister**. If the **Minister** approves the plan or program, then the approved plan or program must be implemented.

Note: To avoid doubt, any proposed compensation measures must be additional to that required under condition 12.

Ecological Rehabilitation Plan

10. Information obtained during **pre-disturbance surveys** required under condition 3 must be used to inform the implementation of the **Ecological Rehabilitation Plan**. Any changes to the plan must be submitted to the **Department** for the **Minister's** written approval prior to the **commencement** of the rehabilitation works.
11. Within one (1) month following completion of **construction**, or following approval by the **Minister** as required under condition 9, the approval holder must **commence** rehabilitation of the **project area** in accordance with the **Ecological Rehabilitation Plan**.

Offset Areas

12. Prior to the **commencement of the action**, to compensate for the potential reduction in the total combined area of up to 0.090 ha of **indirectly affected areas** of **Alpine bogs**, the approval holder must **legally secure** 0.381 hectares of **Alpine bogs** at Mt Stirling as identified in the **Offset Strategy**, or another offset agreed to by the **Minister** in writing.

13. Within three (3) months of **legally securing** the offset required under condition 12, the approval holder must submit an Offset Management Plan, for the written approval of the **Minister**. Once approved, the approved Offset Management Plan must be implemented for the life of this approval. The Offset Management Plan must:
- a. be prepared by a **suitably qualified expert**
 - b. provide the **Department** with a written description and map to clearly define the location and boundaries of the offset area(s). This must be accompanied with the **offset attributes** and **shapefiles**
 - c. include timeframes and key milestones for implementation of offsets.
 - d. detail management actions and regeneration and revegetation strategies to be undertaken on the offset area(s) to improve and extend the ecological quality of **Alpine bogs**, including:
 - i. a discussion of how measures outlined take into account relevant **conservation advice** and are consistent with the measures in relevant **recovery plans** and **threat abatement plans**
 - ii. a description and timeframe of measures that will be implemented to improve the condition and extent of **Alpine bogs** within the offset area(s);
 - iii. performance and completion criteria for evaluating the management of the offset areas, and criteria for triggering remedial action;
 - iv. a program to monitor and report on the effectiveness of these measures, and progress against the performance and completion criteria;
 - v. a description of potential risks to the successful implementation of the plan, a description of the measures that will be implemented to mitigate against these risks and a description of the contingency measures that will be implemented if defined triggers arise; and
 - vi. details of who is responsible for monitoring, reviewing and implementing the plan.

Administrative conditions

14. Within 20 business days after the **commencement of the action**, the **approval holder** must advise the **Department** in writing of the actual date of **commencement of the action**.
15. The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
16. Within one (1) month of every 12 month anniversary of **commencement**, the approval holder must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions and any monitoring results required. Any monitoring program results or peer-reviews must be publicly available on the approval holder's website and remain on the approval holder's website for the life of the approval. Documentary evidence providing proof of the date of publication and details of non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published.

17. Upon the direction of the **Minister**, the approval holder must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
18. If, at any time after five (5) years from the date of this approval, the approval holder has not **commenced** the action, then the approval holder must not **commence** the action without the written agreement of the **Minister**.
19. Unless otherwise agreed to in writing by the **Minister**, the approval holder must publish all reports and agreements referred to in conditions 7, 8, 10, and 13 on their website. Each report and agreement must be published on the website within one (1) month of being approved by the **Minister**.

Definitions

Alpine bogs means the **EPBC Act** listed threatened ecological community *Alpine Sphagnum Bogs and Associated Fens*.

Commencement of the action (also **commence**, **re-commence**, **commenced**) means the first instance of **construction**.

Conservation advice means a conservation advice approved by the Minister under the **EPBC Act**.

Construction means the erection of a structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, or repair; preliminary site preparation work which involved breaking of the ground; clearing vegetation; the laying of pipes and other prefabricated materials in the ground, and any associated excavation works; but excluding the installation of fences and signage.

Department means the Australian Government Department administering the **EPBC Act**.

Department's survey guidelines means Survey Guidelines for Australia's Threatened Frogs, Threatened Birds, Threatened Fish, Threatened Mammals, Threatened Reptiles and Threatened Bats: <http://www.environment.gov.au/epbc/guidelines-policies.html>

Direct impact means any clearing such as the cutting down, felling, thinning, logging, removing, poisoning, ringbarking, uprooting or burning of native vegetation, but does not include measure for weed, pest management.

Ecological Rehabilitation Plan refers to the document titled '*Mount Buller Sustainable Water Security Project – Off-stream Storage Ecological Rehabilitation Plan. Final Report. 8 December 2016*', or subsequent versions as approved by the **Minister**.

EPBC Act is the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Hydrological and Ecological Monitoring and Adaptive Management Program (HEMAMP) refers to the document titled '*Mount Buller Sustainable Water Security Project – Off-stream Storage Hydrological and Ecological Monitoring and Adaptive Management Plan. Final Report. 21 September 2017*'.

Indirectly affected areas refers to 0.898 hectares of **Alpine bogs** 4.2, 6, 8, 9, 10, 11.2 and 12 as shown in Annexure B and occurring in the catchment area that may be **indirectly impacted** by the action.

Legally secure/securing means to secure a legal agreement under section 18B of the *Victorian Crown Land (Reserves) Act 1978* or the *Victorian Planning and Environment Act 1987*, to provide enduring protection for the site against development incompatible with conservation.

Minister means the Commonwealth Minister administering the **EPBC Act** and includes a delegate of the Minister.

Mountain Pygmy-possums means the **EPBC Act** listed species Mountain Pygmy-possum (*Burramys parvus*).

Offset attributes means an '.xls' file capturing relevant attributes of the offset area, including:

- i. **EPBC Act** reference number;
- ii. physical address of the offset area;
- iii. coordinates of the boundary points in decimal degrees;
- iv. **EPBC Act** listed threatened species that the offset compensates for;
- v. any additional protected matters that are benefiting from the offset; and
- vi. size of the offset in hectares.

Offset Strategy refers to the document titled *Mount Buller Sustainable Water Security Project – Off-stream Storage EPBC Act Offset Strategy. Draft Report. 5 October 2017*.

Pre-disturbance surveys means surveys that are undertaken within the **project area** to determine the occurrence of any **EPBC Act** listed threatened species (or their habitat) and/or ecological communities prior to the **commencement of the action**.

Project area is the area shown in Annexure A and described as 'project construction footprint'.

Recovery plans means a recovery plan made or adopted by the **Minister** under the **EPBC Act**.

Shapefiles means an Esri compatible file containing '.shp', '.shx' and '.dbf' files and any other relevant file extensions capturing attributes including at least the **EPBC Act** reference number and **EPBC Act** protected matters present at the relevant site.

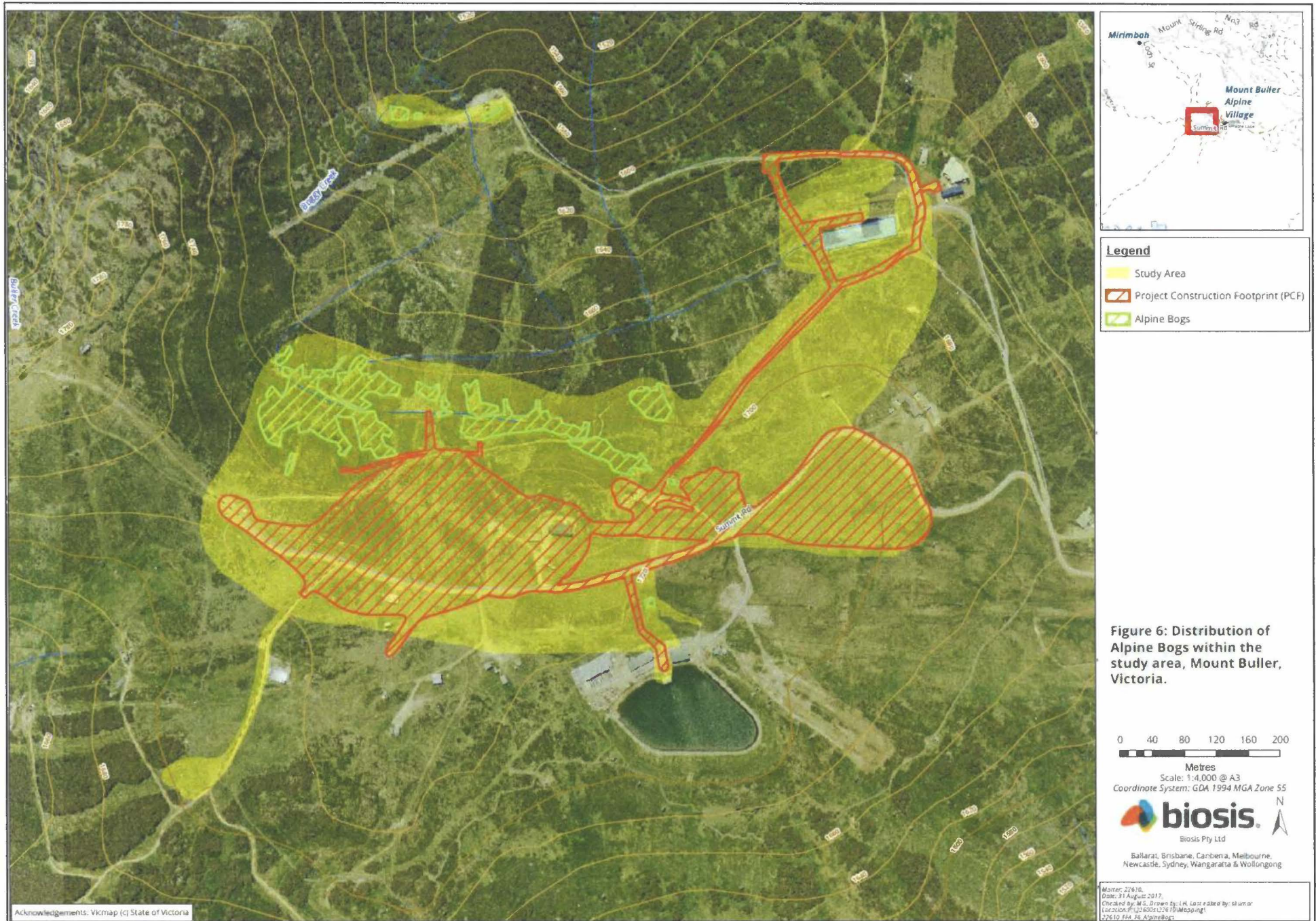
Species richness means the number of different species represented in the **indirectly affected areas**.

Suitably qualified independent expert means a person who is approved by the **Department**, and who is independent, is not an employee of the approval holder, and who has relevant tertiary qualifications and a minimum of five years demonstrated experience relevant to the review of management plans, strategies or monitoring programs.

Suitably qualified expert means a person with tertiary qualification and a minimum of five years demonstrated experience relevant to the nominated subject matter/s and who can provide authoritative assessment advice and analysis about performance relevant to the subject matters using relevant protocols, standards, methods or literature.

Threat abatement plans means a threat abatement plan made or adopted by the **Minister** under the **EPBC Act**.

Annexure A: Project area and distribution of Alpine Bogs



Annexure B: Indirectly impacted Alpine bogs

