



Australian Government

Department of Climate Change, Energy,  
the Environment and Water

Ref: 2018/8166

Mr. Anthony Aiossa  
Chief Executive Officer  
Tower Holdings Pty Limited  
via: anthony@towerholdings.com.au

**Harvest Estate, West Byron Urban Release Area, Ewingsdale Road, Byron Bay, NSW  
Variation to Conditions and approval of revised Rehabilitation Plan - EPBC 2018/8166**

Dear Mr Aiossa

Thank you for your correspondence, via Planit Consulting, dated 1 August 2022 requesting the variation of conditions attached to the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act) approval, and approval of the revised Rehabilitation Plan.

Officers of this department have reviewed the variation request relating to impacts to the Wallum Sedge Frog. As delegate of the Minister for the Environment, I have varied the conditions attached to EPBC Act approval 2018/8166 under section 143(1)(c) of the EPBC Act. The action must now be undertaken in accordance with the varied conditions specified in the variation notification, which has been attached for your information.

Officers of the department have advised me on the revised Rehabilitation Plan: Australian Wetlands Consultancy (2021) *Acid Frog Management Plan, 'Harvest Estate', West Byron Urban Release Area, Ewingsdale Road, Byron Bay*, prepared for Tower Holdings Pty Ltd, dated 18 October 2021. On this basis of this advice, and as a delegate of the Minister for the Environment, I have decided to approve the plan. This plan must now be implemented.

As you are aware, the department has an active monitoring program which includes monitoring inspections, desk top document reviews and audits. Please ensure that you maintain accurate records of all activities associated with, or relevant to, the conditions of approval so that they can be made available to the department on request.

Should you require any further information please contact the Post Approvals Section by email via [postapproval@dcceew.gov.au](mailto:postapproval@dcceew.gov.au).

Yours sincerely

Kim Farrant  
Branch Head  
Environment Assessments (Vic, Tas) and Post Approvals Branch  
Environment Approvals Division

8 November 2022

Att. Variation Notice



## VARIATION OF CONDITIONS ATTACHED TO APPROVAL

Harvest Estate, West Byron Urban Release Area, Ewingsdale Road, Byron Bay, NSW  
(EPBC 2018/8166)

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

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<b>Approval holder</b>	<b>Name:</b> Villa World Byron Pty Ltd  <b>ACN:</b> 612 247 195
<b>Approved action</b>	To develop the Harvest Estate staged master planned residential community within the West Byron Urban Release Area in Byron Bay, NSW [See EPBC Act referral 2018/8166]

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### Variation

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<b>Variation of conditions attached to approval</b>	<p>The variation is:</p> <p>Delete conditions 1, 5 and 8 attached to the approval and substitute with the conditions 1, 5 and 8 specified in the table below</p> <p>Delete definitions of <b>Existing habitat, Minister, Rehabilitation Plan</b> and <b>Wallum Sedge Frog</b> attached to the approval and substitute with the definitions of <b>Existing habitat, Minister, Rehabilitation Plan</b> and <b>Wallum Sedge Frog</b> specified in the table below</p> <p>Delete <u>Attachment B</u> attached to the approval and substitute with the <u>Attachment B</u> specified in the table below</p> <p>Add new conditions 15 and 16 specified in the table below</p> <p>Add new definitions of <b>Business day, Clear, cleared or clearing, Compliance reports, EPBC Act, Habitat creation areas, Impact, Incident, Project area, Plan</b> and <b>Website</b> specified in the table below</p> <p>Revoke conditions 2, 3 and 4</p> <p>Revoke the definitions of <b>BioBanking Statement</b> and <b>Statement of assessment of reasonable equivalence of biodiversity credits</b></p> <p>Revoke <u>Attachment A</u> and <u>Attachment C</u>.</p>
<b>Date of effect</b>	This variation has effect on the date this instrument is signed

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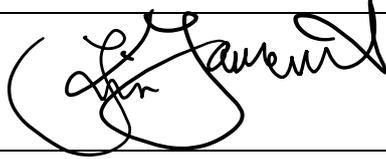
**Person authorised to make decision**

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**Name and position**      Kim Farrant  
Branch Head  
Environment Assessments (Vic, Tas) and Post Approvals Branch

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**Signature**



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**Date of decision**      8 November 2022

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Date of decision	Conditions attached to approval
As varied on the date this instrument was signed	1. To avoid impacts to the <b>Wallum Sedge Frog</b> , the person taking the action must retain all <b>existing habitat</b> within the <b>project area</b> .
As varied on the date this instrument was signed	2. <b>REVOKED</b>
As varied on the date this instrument was signed	3. <b>REVOKED</b>
As varied on the date this instrument was signed	4. <b>REVOKED</b>
As varied on the date this instrument was signed	<p>5. The person taking the action must implement the <b>Rehabilitation Plan</b> for the life of this approval. In accordance with the Appendix A of the <b>Rehabilitation Plan</b>, the person taking the action must, by 30 June 2028, establish at least:</p> <ul style="list-style-type: none"> <li>a. 0.64 ha of <b>Wallum Sedge Frog</b> breeding habitat in the <b>habitat creation areas</b>, and</li> <li>b. 4.77 ha of <b>Wallum Sedge Frog</b> movement/foraging habitat in the <b>habitat creation areas</b>.</li> </ul> <p>The <b>habitat creation areas</b> must be maintained and monitored to achieve the performance criteria specified in section 5.4 of the <b>Rehabilitation Plan</b> for, at least, the life of the approval.</p>
Original dated 6/7/2018	6. Within 20 business days after the <b>commencement</b> of the action, the person taking the action must advise the <b>Department</b> in writing of the actual date of <b>commencement</b> .
Original dated 6/7/2018	7. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, and make them available upon request to the <b>Department</b> . Such records may be subject to audit by the <b>Department</b> 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.
<b><i>Annual compliance reporting</i></b>	
As varied on the date this instrument was signed	8. The approval holder must prepare a <b>compliance report</b> for each 12-month period following the date of <b>commencement</b> of the action, or otherwise in accordance with an annual date that has been agreed to in writing by the <b>Minister</b> . The approval holder must:

Date of decision	Conditions attached to approval
	<ul style="list-style-type: none"> <li>a. publish each <b>compliance report</b> on the <b>website</b> within 60 <b>business days</b> following the relevant 12-month period,</li> <li>b. notify the <b>department</b> by email that a <b>compliance report</b> has been published on the <b>website</b> and provide the weblink for the <b>compliance report</b> within 5 <b>business days</b> of publication, and</li> <li>c. keep all <b>compliance reports</b> publicly available on the <b>website</b> until this approval expires.</li> </ul> <p><b>Note: Compliance reports</b> may be published on the <b>Department's</b> website.</p>
Original dated 6/7/2018	9. Unless otherwise agreed to in writing by the <b>Minister</b> , the person taking the action must publish all plans and agreements referred to in these conditions of approval on their website. Each plan and agreement must be published on the website within 1 month of being approved by the <b>Minister</b> or being submitted under condition 11. Plans and agreements must remain published for the life of the approval. Plans and agreements must continue to be published unless otherwise agreed to by the <b>Minister</b> in writing.
Original dated 6/7/2018	10. If, at any time after five (5) years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the <b>Minister</b> .
<b><u>Revision of plan</u></b>	
Original dated 6/7/2018	<p>11. The person taking the action may choose to revise the <b>Rehabilitation Plan</b> approved by the <b>Minister</b> without submitting it for approval under section 143A of the EPBC Act, if the taking of the action in accordance with the revised plan would not be likely to have a <b>new or increased impact</b>. If the person taking the action makes this choice they must:</p> <ul style="list-style-type: none"> <li>a. Notify the <b>Department</b> in writing that the approved plan has been revised and provide the <b>Department</b> with an electronic copy of the revised plan.</li> <li>b. Implement the revised plan from the date that the plan is submitted to the <b>Department</b>.</li> </ul> <p>For the life of this approval, maintain a record of the reasons the approval holder considers that taking the action in accordance with the revised plan would not be likely to have a <b>new or increased impact</b>.</p>
Original dated 6/7/2018	12. The person taking the action may revoke their choice under condition 11 at any time by notice to the <b>Department</b> . If the person taking the action revokes the choice to implement a revised plan without approval under

Date of decision	Conditions attached to approval
	<p>section 143A of the <b>EPBC Act</b>, the plan approved by the <b>Minister</b> must be implemented.</p>
<p>Original dated 6/7/2018</p>	<p>13. If the <b>Minister</b> gives a notice to the person taking the action that the <b>Minister</b> is satisfied that the taking of the action in accordance with the revised plan would be likely to have a <b>new or increased impact</b>, then:</p> <ul style="list-style-type: none"> <li>a. Condition 11 does not apply, or ceases to apply, in relation to the revised plan; and</li> <li>b. The person taking the action must implement the plan approved by the <b>Minister</b>.</li> </ul> <p>To avoid any doubt, this condition does not affect any operation of conditions 11 and 12 in the period before the day the notice is given.</p> <p>At the time of giving the notice the <b>Minister</b> may also notify that for a specified period of time that condition 11 does not apply for one or more specified plans required under the approval.</p>
<p>Original dated 6/7/2018</p>	<p>14. Conditions 11, 12, and 13 are not intended to limit the operation of section 143A of the <b>EPBC Act</b> which allows the person taking the action to submit a revised plan to the <b>Minister</b> for approval.</p>
<p><u>Reporting non-compliance</u></p>	
<p>As varied on the date this instrument was signed</p>	<p>15. The approval holder must notify the <b>Department</b> electronically, within 2 <b>business days</b> of becoming aware of any <b>incident</b> and/or potential non-compliance and/or actual non-compliance with the conditions or commitments made in a <b>plan</b>.</p> <p>The approval holder must specify in the notification:</p> <ul style="list-style-type: none"> <li>a. any condition or commitment made in a <b>plan</b> which has been or may have been breached.</li> <li>b. a short description of the <b>incident</b> and/or potential non-compliance and/or actual non-compliance.</li> <li>c. the location (including co-ordinates), date, and time of the <b>incident</b> and/or potential non-compliance and/or actual non-compliance.</li> </ul> <p><b>Note:</b> If the exact information cannot be provided, the approval holder must provide the best information available.</p>
<p>As varied on the date this instrument was signed</p>	<p>16. The approval holder must provide to the <b>Department</b> in writing, within 12 <b>business days</b> of becoming aware of any <b>incident</b> and/or potential non-compliance and/or actual non-compliance, the details of that <b>incident</b> and/or potential non-compliance and/or actual non-compliance with the</p>

Date of decision	Conditions attached to approval
	<p>conditions or commitments made in a <b>plan</b>. The approval holder must specify:</p> <ol style="list-style-type: none"> <li>a. any corrective action or investigation which the approval holder has already taken</li> <li>b. the potential impacts of the <b>incident</b> and/or non-compliance and/or non-compliance</li> <li>c. the method and timing of any corrective action that will be undertaken by the approval holder.</li> </ol>

Date of decision	Definitions attached to approval
As varied on the date this instrument was signed	<b>BioBanking Statement - REVOKED</b>
As varied on the date this instrument was signed	<b>Business day</b> means a day that is not a Saturday, a Sunday or a public holiday in the state of New South Wales.
As varied on the date this instrument was signed	<b>Clear, cleared or clearing</b> means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation.
Original dated 6/7/2018	<b>Commencement</b> means any physical works associated with the action, excluding fences and signage.
As varied on the date this instrument was signed	<p><b>Compliance reports</b> means written reports:</p> <ol style="list-style-type: none"> <li>i. providing accurate and complete details of compliance, <b>incidents</b>, and non-compliance with the conditions and the <b>plans</b></li> <li>ii. consistent with the <b>Department's Annual Compliance Report Guidelines (2014)</b></li> <li>iii. include a <b>shapefile</b> of any clearance of any <b>protected matters</b>, or their habitat, undertaken within the relevant 12-month period</li> <li>iv. annexing a schedule of all <b>plans</b> prepared and in existence in relation to the conditions during the relevant 12-month period.</li> </ol>
Original dated 6/7/2018	<b>Department</b> means the Australian Government Department or any other agency administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth) from time to time.
As varied on the date this instrument was signed	<b>EPBC Act</b> means the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).
As varied on the date this instrument was signed	<b>Existing habitat</b> means the areas represented in <u>Attachment B</u> by the zones enclosed within the blue solid lines labelled 'PROTECTED FROG HABITAT ZONES'.
As varied on the date this instrument was signed	<b>Habitat creation areas</b> means the areas represented in <u>Attachment B</u> by the black hatched shaded polygons labelled 'HABITAT CREATION AREAS FOR ACID FROGS'.

Date of decision	Definitions attached to approval
As varied on the date this instrument was signed	<b>Impact</b> means to cause any measurable direct or indirect disturbance or harmful change as a result of any activity associated with the action.
As varied on the date this instrument was signed	<b>Incident</b> means any event which has the potential to, or does, impact on <b>Wallum Sedge Frog</b> .
As varied on the date this instrument was signed	<b>Minister</b> means the Minister administering the <b>EPBC Act</b> and includes a delegate of the Minister.
Original dated 6/7/2018	<b>New or increased impact</b> means a new or increased impact on any matter protected by the controlling provisions for the action, when compared to the plan that has been approved by the Minister.
As varied on the date this instrument was signed	<b>Project area</b> means the location of the action, represented by the area enclosed within the red lines labelled 'SUBJECT LAND' in <u>Attachment B</u> .
As varied on the date this instrument was signed	<b>Plan</b> means any action management plan or strategy that the approval holder is required by these conditions to implement.
As varied on the date this instrument was signed	<b>Rehabilitation Plan</b> means the document: Australian Wetlands Consultancy (2021) <i>Acid Frog Management Plan, 'Harvest Estate', West Byron Urban Release Area, Ewingsdale Road, Byron Bay</i> , prepared for Tower Holdings Pty Ltd, dated 18 October 2021, or a version revised in accordance with this approval.
As varied on the date this instrument was signed	<b>Statement of assessment of reasonable equivalence of biodiversity credits - REVOKED</b>
As varied on the date this instrument was signed	<b>Wallum Sedge Frog</b> means the <b>EPBC Act</b> listed threatened species <i>Litoria olongburensis</i> , also known as the Olongburra Frog.
As varied on the date this instrument was signed	<b>Website</b> means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

Date of decision	Annexures
As varied on the date this instrument was signed	<b>Annexure A – REVOKED</b>
As varied on the date this instrument was signed	<b>Annexure B – Habitat Creation Areas for Acid Frogs</b>
As varied on the date this instrument was signed	<b>Annexure C – REVOKED</b>

Attachment B: Habitat Creation Areas for Acid Frogs



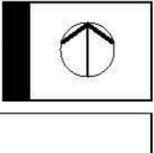
**LEGEND**

-  SUBJECT LAND
-  PROTECTED FROG HABITAT ZONES
-  FROG FENCING
-  MANAGED PRIVATE OPEN SPACE
-  HABITAT CREATION AREAS FOR ACID FROGS
-  PROPOSED DWELLING TOTAL: 4

PROJECT:	THREATENED SPECIES MANAGEMENT PLAN
DRAWING TITLE:	HABITAT CREATION AREAS FOR ACID FROGS

01	LANDSCAPE MANAGEMENT PLAN FOR INFORMATION	18.06.20	AH	AH	JA
02	LANDSCAPE OPW FOR INFORMATION	18.08.20	AH	AH	LT

JOB NO:	J5644	DC NO:	J5644_02
SCALE:	1:2500 @ A1		
CLIENT:	Tower Holdings Pty Ltd		



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