

Appendix 5
EPBC Act Revised Proposal Approval
(DAWE 2022)



Australian Government

Department of Agriculture, Water and the Environment

Ref: 2017/7950

Ms Anthea Pate
Manager Environment & Approvals
Covalent Lithium Pty Ltd
PO Box Z5200 St Georges Terrace
PERTH WA 6831

Earl Grey Lithium Project (EPBC 2017/7950): Variation to conditions of approval.

Dear Ms Pate

Thank you for your request, dated 14 October 2021, to vary the conditions attached to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approval.

Officers of this Department have reviewed the request and the supporting information, including the *Earl Grey Lithium Project Revised Proposal: Environmental Review Document*, Covalent Lithium Pty Ltd (prepared by Globe Environments Australia Pty Ltd) August 2021. The Department has advised me on your request and on further amendments to the above conditions, as agreed by you and recommended by the Department. On this basis, and as a delegate of the Minister for the Environment, I have decided to agree to the variation of conditions of approval attached to EPBC 2017/7950.

The conditions as varied are attached for your information. Please note the conditions as varied will shortly be published on the Department's website.

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 Hannah McFarlane, Post Approvals Section, on 02 6274 2973 or by email: postapproval@awe.gov.au.

Yours sincerely

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

29 March 2022

Att. Variation to conditions of approval for EPBC 2017/7950.



Australian Government

Department of Agriculture, Water and the Environment

Variation of Conditions Attached to Approval

Earl Grey Lithium Project (EPBC 2017/7950)

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

Approved action

Person to whom the approval is granted Covalent Lithium Pty Ltd
ACN: 623 090 139

Approved action To clear native vegetation to undertake open cut mining and processing of lithium ore, at the abandoned Mt Holland Mine Site, WA, with transport of a lithium concentrate to an existing Western Australian port for export to overseas markets, subject to the variations of the action accepted by the Minister under section 156 B on 11 February 2018 and 14 November 2019.
[See EPBC Act referral 2017/7950]

Variation

Variation of conditions of approval The variation is:
Delete conditions 1, 4 and 4A attached to the approval and substitute with the conditions 1, 4 and 4A specified in the table below
Revoke condition 4C
Delete the definitions of **development envelope**, **environmental management plan guidelines** and **EPBC Act Environmental Offsets Policy** attached to the approval and substitute with the definitions specified in the table below
Delete **Attachment A** attached to the approval and substitute with the **Attachment A** specified in the table below.

Date of effect This variation has effect on the date the instrument is signed

Person authorised to make decision

Name and position Kim Farrant
Assistant Secretary
Environment Assessments (Vic, Tas) and Post Approvals Branch

Signature

Date of decision 29/03/2022

Date of decision	Conditions attached to approval
Part A – Conditions specific to the action	
As varied on the date this instrument was signed	<p>1. To minimise impacts to the Malleefowl (<i>Leipoa ocellata</i>) and Chuditch (<i>Dasyurus geoffroii</i>), the approval holder must not clear more than 442 ha of native vegetation within the 1,984 ha development envelope shown at <u>Attachment A</u>.</p>
Variation dated 23/12/2020	<p>2. To minimise impacts to Ironcaps Banksia (<i>Banksia sphaerocarpa</i> var. <i>dolichostyla</i>), the approval holder must not clear more than 2 Ironcaps Banksia plants.</p>
Variation dated 23/12/2020	<p>3. To minimise impacts to the Malleefowl (<i>Leipoa ocellata</i>) and Chuditch (<i>Dasyurus geoffroii</i>), the approval holder must comply with Condition 7 (Terrestrial Fauna Environmental Management Plan) of the Western Australia approval, where relevant to Malleefowl (<i>Leipoa ocellata</i>) and Chuditch (<i>Dasyurus geoffroii</i>).</p>
As varied on the date this instrument was signed	<p>4. To compensate for residual significant impacts to the Malleefowl (<i>Leipoa ocellata</i>) and Chuditch (<i>Dasyurus geoffroii</i>), the approval holder must:</p> <ul style="list-style-type: none"> a. acquire, manage and protect for enduring conservation offset area(s) that comprise Malleefowl and Chuditch foraging and breeding habitat and that collectively offset the residual significant impacts of the action to the Malleefowl (<i>Leipoa ocellata</i>) and Chuditch (<i>Dasyurus geoffroii</i>) in accordance with the EPBC Act Environmental Offsets Policy to the satisfaction of the Minister; b. submit for the Minister’s written approval a Fauna Offset Management Plan in respect of each offset area required to meet Condition 4.a.; and c. implement each approved Fauna Offset Management Plan at least until the end date of the period of effect of the approval.
As varied on the date this instrument was signed	<p>4A. Each Fauna Offset Management Plan required under Condition 4 must be prepared in accordance with the environmental management plan guidelines, and include the following:</p> <ul style="list-style-type: none"> a. the residual significant impacts to the Malleefowl (<i>Leipoa ocellata</i>) and Chuditch (<i>Dasyurus geoffroii</i>), quantified as the area of clearing of native vegetation within the development envelope, that will be offset by implementing the plan; b. the environmental values of the proposed offset area, including results from field validation surveys, quantifiable ecological data on habitat quality and how the offset area will provide habitat connectivity with adjacent vegetation communities and biodiversity corridors; c. the size of the offset area in hectares, and maps that define the location and boundaries of the offset area; d. measurable ecological outcomes for habitat quality, when these will be achieved and the period for which these will be maintained;

Date of decision	Conditions attached to approval
	<ul style="list-style-type: none"> e. offset completion criteria to demonstrate attainment of the ecological outcomes and an explanation of how the proposed offset completion criteria will be achieved; f. management measures (including timing, frequency, duration and method of outcome measurement) that will be implemented to achieve the ecological outcomes for Malleefowl (<i>Leipoa ocellata</i>) and Chuditch (<i>Dasyurus geoffroii</i>); g. evidence that the management measures are consistent with relevant conservation advices, recovery plans and threat abatement plans; h. an analysis of potential risks of the plan, if implemented, failing to attain and/or maintain the offset completion criteria; i. criteria for triggering corrective actions should risks be realised, and a monitoring program designed to detect the criteria and track progress against offset completion criteria; j. the activities and land uses that will be prohibited in the offset area, including, for example, mining, exploration or grazing; k. a schedule for evaluating and reporting, at least annually, on the effectiveness of management measures and progress against offset completion criteria; l. the nature and timing of the proposed legal mechanism for securing the offset area, and contingency measures if the specified legal mechanism is not established in a timely manner; m. an explanation of how the offset area and offset area management addresses the principles of the EPBC Act Environmental Offsets Policy; and n. the role of the approval holder in controlling and managing the offset area and the identity and offset management role(s) of any other involved party. <p>Each Fauna Offset Management Plan required under Condition 4 must be submitted to the Department within 12 months of the clearing of native vegetation within the development envelope that, in accordance with Condition 4A.a., it offsets.</p> <p>Each Fauna Offset Management Plan submitted in accordance with Condition 4.b. must be accompanied by shapefiles that define the location and boundaries of the offset area, the offset attributes (including physical address of the offset area(s), coordinates of the boundary points in decimal degrees, the EPBC Act Listed threatened species that the environmental offset area(s) compensate for, and the size of the offset area(s) in hectares</p>
Variation dated 23/12/2020	4B. The approval holder must not commence the action until a Fauna Offset Management Plan is approved by the Minister in writing.
As varied on the date this instrument was signed	4C. REVOKED
Variation dated 23/12/2020	5. To mitigate significant impacts to the Ironcaps Banksia (<i>Banksia sphaerocarpa</i> var. <i>dolichostyla</i>), the approval holder must prevent impacts to Ironcaps Banksia other than as permitted under Condition 2 and, within

Date of decision	Conditions attached to approval
	<p>10 years from commencement of the action, establish at least 69 Ironcaps Banksia plants within the development envelope.</p> <p>The approval holder must submit for the Minister's written approval an Ironcaps Banksia Conservation Plan (the Plan) to specify how it will achieve these requirements. The Plan must be prepared consistent with the environmental management plan guidelines, and must:</p> <ol style="list-style-type: none"> a. show how the approval holder will prevent impacts to Ironcaps Banksia, other than as permitted under Condition 2: <ol style="list-style-type: none"> i. include maps that clearly show the location of Ironcaps Banksia within the development envelope and in relation to native vegetation to be cleared or otherwise disturbed; ii. specify the total number and location of Ironcaps Banksia plants within the development envelope; iii. identify potential impacts to Ironcaps Banksia from the action, and describe management measures to avoid and/or mitigate those impacts and corrective actions to be implemented if impacts are detected; iv. include management triggers for detecting potential impacts to Ironcaps Banksia from the action; v. demonstrate that management measures are consistent with relevant approved conservation advices, recovery plans and threat abatement plans; b. show how the approval holder will, within 10 years from commencement of the action, establish at least 69 Ironcaps Banksia plants within the development envelope: <ol style="list-style-type: none"> i. specify a portion of the development envelope, that is contained within an exclusion zone specified in Condition 6-1 of the Western Australia approval, in which Ironcaps Banksia can be established and protected; ii. include shapefiles to clearly define the location and boundaries of the Ironcaps Banksia establishment site(s), coordinates of the boundary points in decimal degrees, and the area of the establishment site(s) in hectares; iii. include establishment criteria for Ironcaps Banksia plants; iv. include an analysis of the potential risks that may prevent Ironcaps Banksia plants being established and self-sustaining at the proposed establishment site(s); v. describe management measures to achieve the establishment criteria, and corrective actions to be implemented if establishment criteria have not been, or are unlikely to be, achieved or maintained; vi. describe how establishment criteria will be maintained for the period of approval; c. include a program that monitors the health of Ironcaps Banksia plants and is designed to detect management triggers and attainment of establishment criteria;

Date of decision	Conditions attached to approval
	<p>d. contain a schedule for evaluating and reporting, at least annually, on the health of Ironcaps Banksia plants, the detection of management triggers, progress against establishment criteria, and the effectiveness of management measures; and</p> <p>e. include timeframes for implementing corrective actions.</p> <p>The approval holder must not commence the action until the Plan is approved by the Minister in writing. The Plan must be implemented at least until the end date of the period of effect of the approval.</p>
Part B – Standard administrative conditions	
Notification of date of commencement of the action	
Original dated 21/02/2020	<p>6. The approval holder must notify the Department in writing of the date of commencement of the action within 10 business days after the date of commencement of the action.</p>
Compliance records	
Original dated 21/02/2020	<p>7. The approval holder must maintain accurate and complete compliance records.</p>
Original dated 21/02/2020	<p>8. If the Department makes a request in writing, the approval holder must provide electronic copies of compliance records to the Department within the timeframe specified in the request.</p> <p>Note: Compliance records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the Department's website or through the general media.</p>
Preparation and publication of plans	
Original dated 21/02/2020	<p>9. The approval holder may, at any time, apply to the Minister for a variation to an action management plan approved by the Minister, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the EPBC Act. If the Minister approves a revised action management plan (RAMP) then, from the date specified, the approval holder must implement the RAMP in place of the previous action management plan.</p>
Original dated 21/02/2020	<p>10. The approval holder must:</p> <p>a. submit plans electronically to the Department for approval by the Minister;</p> <p>b. publish each plan on the website within 20 business days of the date the plan is approved by the Minister or of the date a revised action management plan is submitted to the Minister or the Department, unless otherwise agreed to in writing by the Minister;</p> <p>c. exclude or redact sensitive ecological data from plans published on the website or provided to a member of the public; and</p>

Date of decision	Conditions attached to approval
	<p>d. keep plans published on the website until the end date of this approval.</p>
<p>Original dated 21/02/2020</p>	<p>11. The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under a plan, is prepared in accordance with the Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department in accordance with the requirements of the plan.</p>
<p>Annual compliance reporting</p>	
<p>Original dated 21/02/2020</p>	<p>12. The approval holder must prepare a compliance report for each 12-month period following the date of commencement of the action, or otherwise in accordance with an annual date that has been agreed to in writing by the Minister. The approval holder must:</p> <ul style="list-style-type: none"> a. publish each compliance report on the website within 60 business days following the relevant 12-month period; b. notify the Department by email that a compliance report has been published on the website and provide the web link for the compliance report within five business days of the date of publication; c. keep all compliance reports publicly available on the website until this approval expires; d. exclude or redact sensitive ecological data from compliance reports published on the website; and e. where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication. <p>Note: Compliance reports may be published on the Department's website.</p>
<p>Reporting non-compliance</p>	
<p>Original dated 21/02/2020</p>	<p>13. The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:</p> <ul style="list-style-type: none"> a. any condition which is or may be in breach; b. a short description of the incident and/or non-compliance; and c. the location (including co-ordinates), date, and time of the incident and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
<p>Original dated 21/02/2020</p>	<p>14. The approval holder must provide to the Department the details of any incident or non-compliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying:</p>

Date of decision	Conditions attached to approval
	<ul style="list-style-type: none"> a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future; b. the potential impacts of the incident or non-compliance; and c. the method and timing of any remedial action that will be undertaken by the approval holder.
Independent audit	
Original dated 21/02/2020	15. The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister .
Original dated 21/02/2020	16. For each independent audit , the approval holder must: <ul style="list-style-type: none"> a. Provide the name and qualifications of the independent auditor and the draft audit criteria to the Department; b. only commence the independent audit once the audit criteria have been approved in writing by the Department; and c. submit an audit report to the Department within the timeframe specified in the approved audit criteria.
Original dated 21/02/2020	17. The approval holder must publish the audit report on the website within 10 business days of receiving the Department's approval of the audit report and keep the audit report published on the website until the end date of this approval.
Completion of the action	
Original dated 21/02/2020	18. Within 30 days after the completion of the action , the approval holder must notify the Department in writing and provide completion data .

Date of decision	Definitions attached to approval
Part C - Definitions	
In these conditions, except where the contrary intention is expressed, the following definitions are used:	
Original dated 21/02/2020	Approved conservation advice means a conservation advice approved by the Minister under section 2668(2) of the EPBC Act . Where relevant, this includes the approved <i>Conservation Advice for Banksia sphaerocarpa var. dolichostyla (Ironcaps Banksia)</i> .
Original dated 21/02/2020	Business day means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
Original dated 21/02/2020	Clear/Clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds - see the <i>Australian weeds strategy 2017 to 2027</i> for further guidance).
Original dated 21/02/2020	Commencement of the action means the first instance of any specified activity associated with the action including clearing and construction . Commencement of the action does not include minor physical disturbance necessary to: <ul style="list-style-type: none"> i. Undertake pre-clearance surveys or monitoring programs; ii. install signage and /or temporary fencing to prevent unapproved use of the project area; iii. protect environmental and property assets from fire, weeds and pests, including use of existing surface access tracks; and iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the EPBC Act Listed threatened species.
Original dated 21/02/2020	Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The Department's preferred spatial data format is shapefile .
Original dated 21/02/2020	Completion of the action means all specified activities associated with the action have permanently ceased.
Original dated 21/02/2020	Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.
Original dated 21/02/2020	Compliance reports means written reports: <ul style="list-style-type: none"> i. providing accurate and complete details of compliance, incidents, and non-compliance with the conditions and the plans; ii. consistent with the Department's Annual Compliance Report Guidelines (2014); iii. include a shapefile of any clearance of any protected matters, or their habitat, undertaken within the relevant 12-month period; and

Date of decision	Definitions attached to approval
	iv. annexing a schedule of all plans prepared and in existence in relation to the conditions during the relevant 12-month period.
Original dated 21/02/2020	Construction means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.
Original dated 21/02/2020	Department means the Australian Government agency responsible for administering the EPBC Act .
As varied on the date this instrument was signed	Development envelope means the area enclosed by the yellow line designated as 'Development Envelope' in the map at Attachment A .
As varied on the date this instrument was signed	Environmental management plan guidelines means the <i>Environmental Management Plan Guidelines</i> , Commonwealth of Australia 2014. Available at: https://www.awe.gov.au/sites/default/files/documents/environmental-management-plan-guidelines.pdf
Original dated 21/02/2020	EPBC Act means the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).
As varied on the date this instrument was signed	EPBC Act Environmental Offsets Policy is the <i>Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy</i> (October 2012), or subsequent revision, including the Offsets Assessment Guide. Available at: https://www.awe.gov.au/sites/default/files/documents/offsets-policy_2.pdf
Original dated 21/02/2020	EPBC Act Listed threatened species means the EPBC Act listed Malleefowl (<i>Leipoa ocellata</i>), Chuditch (<i>Dasyurus geoffroyi</i>) and Ironcaps Banksia (<i>Banksia sphaerocarpa</i> var. <i>dolichostyla</i>).
Original dated 21/02/2020	Habitat quality means the baseline condition of suitable habitat for EPBC Act Listed threatened species determined from ecological surveys and with consideration of relevant Departmental documents including, but not be limited to, the EPBC Act Environmental Offsets Policy , EPBC Act referral guidelines, listing advices, approved conservation advices and recovery plans .
Original dated 21/02/2020	Incident means any event which has the potential to, or does, impact on one or more protected matter(s) .
Original dated 21/02/2020	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> (2019).

Date of decision	Definitions attached to approval
Original dated 21/02/2020	Minister means the Australian Government Minister administering the EPBC Act including any delegate thereof.
Original dated 21/02/2020	Plan(s) means any of the documents required to be prepared, approved by the Minister , published on the website and/or implemented by the approval holder in accordance with these conditions (includes action management plans and/or strategies).
Original dated 21/02/2020	Protected matter means a matter protected under a controlling provision in Part 3 of the EPBC Act for which this approval has effect.
Original dated 21/02/2020	Recovery Plan means a recovery plan made or adopted by the Minister under the EPBC Act , including the <i>National Recovery Plan for Malleefowl Leipoa ocellata</i> and the <i>Chuditch (Dasyurus geoffroii) Recovery Plan</i> .
Original dated 21/02/2020	Sensitive ecological data means data as defined in the Australian Government Department of the Environment (2016) <i>Sensitive Ecological Data - Access and Management Policy V1.0</i> .
Original dated 21/02/2020	Shapefile means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.
Original dated 21/02/2020	Suitably qualified person means a person who has professional qualifications, training, skills, and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.
Original dated 21/02/2020	Threat abatement plan means a threat abatement plan made or adopted by the Minister under the EPBC Act .
Original dated 21/02/2020	Total quantum of impact has the same meaning as in the Offset Assessment Guide of the EPBC Act Environmental Offsets Policy . It is a measure of the adjusted hectares based on an assessment of the maximum impact area specified in Conditions 1 and 2, measured against the of habitat quality for that area.
Original dated 21/02/2020	Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.
Original dated 21/02/2020	Western Australia approval means the WA Ministerial statement issued under the <i>Environmental Protection Act 1986 - Statement No. 1118</i> published on 21 November 2019.

Date of decision	Attachment A
As varied on the date this instrument was signed	Attachment A – Development Envelope

