

# **APPENDIX C4**

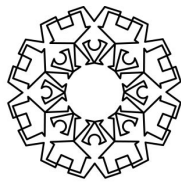
## **EPBC ACT ASSESSMENT**

OYSTER LEASE DREDGING, LEASE #80-178,  
WALLIS LAKE

PREPARED FOR:

**TREVOR DENT**

**OCTOBER 2006**

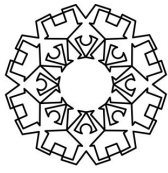


**GEOLYSE**

POSTAL ADDRESS PO BOX 280, TUNCURRY NSW 2428

LOCATION SUITE 4, 11 MANNING STREET, TUNCURRY NSW 2428

TELEPHONE 02 6555 3577 FACSIMILE 02 6555 3599 EMAIL [MNC@GEOLYSE.COM](mailto:MNC@GEOLYSE.COM) WEB SITE [WWW.GEOLYSE.COM](http://WWW.GEOLYSE.COM)



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<b>Report Title:</b>	<b>EPBC Act Assessment</b>
<b>Project:</b>	<b>Oyster Lease Dredging, Lease #80-178, Wallis Lake</b>
<b>Client:</b>	<b>Mr Trevor Dent</b>
<b>Report No.:</b>	<b>405062_REO_008_V1</b>
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Geolyse Pty Ltd and the authors responsible for the preparation and compilation of this report declare that we do not have, nor expect to have a beneficial interest in the study area of this project and will not benefit from any of the recommendations outlined in this report.

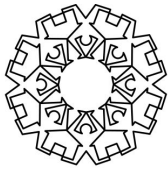
The preparation of this report has been in accordance with the project brief provided by the client and has relied upon the information, data and results provided or collected from the sources and under the conditions outlined in the report.

All maps, plans and cadastral information contained within this report are prepared for the exclusive use of the client to accompany this report for the land described herein and are not to be used for any other purpose or by any other person or entity. No reliance should be placed on the information contained in this report for any purposes apart from those stated therein.

Geolyse Pty Ltd accepts no responsibility for any loss, damage suffered or inconveniences arising from, any person or entity using the plans or information in this study for purposes other than those stated above.

Approved By:	<i>Tony Fish</i>
Position:	<i>Project Director</i>
Signed:	
Date:	19/10/2006

Prepared By:	<i>Dr Justin Meleo</i>
Position:	<i>Project Manager</i>
Signed:	
Date:	19/10/2006



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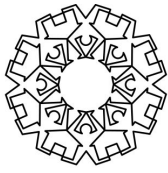
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# Environment Protection & Biodiversity Conservation Act 1999 Assessment

## 1.1 BACKGROUND

The *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) requires that assessment must be performed for to determine if approval is required for:

- Actions that have a significant impact on matters of National Environmental Significance (NES);
- Actions that have a significant impact on the environment of Commonwealth land; and
- Actions carried out by the Commonwealth Government.

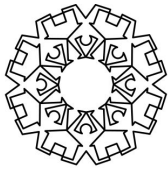
The matters of national environmental significance identified by the EPBC Act are:

- World Heritage properties;
- National Heritage Places;
- Ramsar wetlands of international significance;
- Listed threatened species and ecological communities;
- Listed migratory species;
- Commonwealth marine areas; and
- Nuclear actions (including uranium mining).

## 1.2 EPBC ACT 1999 ASSESSMENT

This report addresses the potential impact of the proposed development on matters of National Environmental Significance, except for nuclear actions. This assessment was undertaken with reference to the *Environment Protection and Biodiversity Conservation Act* Online Protected Matters Search Tool (29 March 2006), with a buffer area of 10 km surrounding the study area.

The relevance of each matter of National Environmental Significance when considering the study area and environs is discussed below and summarised in **Table 1.1**.



**Table 1-1 – Summary of potential impact of the proposed development on ‘Matters of NES’**

Consideration	Assessment
World Heritage Areas	The proposed development it is unlikely to impact upon any World Heritage Area.
National Heritage Places	There are no National Heritage places that will be affected by the proposed development.
Ramsar Wetlands of International Significance	The proposed development is will not cause a direct or indirect impact upon any Ramsar wetland.
Listed Threatened Species	The proposed development is unlikely to cause a significant impact to any Threatened species listed under the <i>EPBC</i> act.
Listed Ecological Communities	The proposal is unlikely to impact upon any nationally listed Ecological Communities.
Listed Migratory Species	It is concluded that the proposal is unlikely to cause a significant impact to the listed migratory species, including those on listed under JAMBA/CAMBA.
Commonwealth Marine areas	The proposed development is unlikely to cause a significant impact to any Commonwealth marine areas.

### **1.2.1 WORLD HERITAGE AREAS**

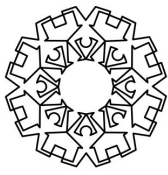
Barrington Tops National Park is the closest World Heritage Area and is located more than 50 km west of the study area. Therefore any development of the study area is unlikely to impact upon this or any other World Heritage Area.

### **1.2.2 NATIONAL HERITAGE PLACES**

The closest National Heritage Place is Kurnell Peninsula and is located over 300 km south of the study area. Therefore no National Heritage Places will be affected by the proposal.

### **1.2.3 RAMSAR WETLANDS OF INTERNATIONAL SIGNIFICANCE**

Myall Lakes, a Ramsar listed wetland is located approximately 30 km to the south of the study area. No areas of this wetland occur within the study area and as the study area drains into Wallis Lake, the proposal will not impact upon Myall Lakes. The proposal will not impact upon any Ramsar wetlands of international importance.



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### 1.2.4 NATIONALLY LISTED THREATENED SPECIES

A total of 39 Threatened species listed under the *EPBC Act* were identified by the EPBC Act Online Database Search as likely to occur within the 10 km of the study area. Despite this, the study area does not contain appropriate habitat for the majority of these species. In addition, only a small number of Threatened species listed under the *EPBC Act* have been recorded within the locality (NPWS, 2006). These include Swift Parrot (*Lathamus discolor*), Regent Honeyeater (*Xanthomyza phrygia*), Goulds Petrel (*Pterodroma leucoptera leucoptera*), and Green Turtle (*Chelonia mydas*).

The EPBC listed Threatened flora and fauna species recorded within the locality are provided in **Tables 3.3** and **Table 3.4** of the Flora and Fauna Assessment Report, which also provides an assessment of likely occurrence and based on this, the determination of Subject Species for the study area.

A total of one (1) Threatened flora species and four (4) Threatened fauna species listed under the EPBC Act were considered as Subject Species and the assessment for significant impact on these as a result of the proposal is provided in **Tables 3.3** and **Table 3.4** of the Flora and Fauna Assessment Report.

Where a Subject Species is listed as Threatened under both the *EPBC Act* and *TSC Act*, the species has been assessed for significant impact under the Section 5A criteria.

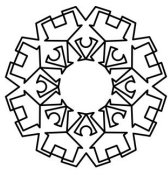
### 1.2.5 NATIONALLY LISTED ECOLOGICAL COMMUNITIES

There are no Threatened Ecological Communities listed under the *EPBC Act* identified by the EPBC Act online search to be within 10 km of the study area. There were no nationally listed Threatened Ecological Communities identified within or adjoining the study area during the surveys. The proposal is therefore unlikely to impact upon any Threatened Ecological Communities listed under the *EPBC Act*.

### 1.2.6 LISTED MIGRATORY SPECIES

A number of the listed migratory species have been recorded within the locality of the study area and some species such as the White-bellied Sea-Eagle (*Haliaeetus leucogaster*) and Latham's Snipe (*Gallinago hardwickii*) are known to forage in Wallis Lake. The study area contains potential habitat for a variety of listed migratory species from a range of Family groups, including species in the Family Accipitridae, Scolopacidae, Charadriidae and Recurvirostridae.

Migratory species known or considered likely to utilise the habitats within the study area have been assessed under the EPBC Act administrative guidelines. Some of the listed migratory species such as the Regent Honeyeater Swift Parrot, Osprey (*Pandion haliaetus*), Black-tailed Godwit (*Limosa limosa*), and Lesser Sand Plover (*Charadrius mongolus*) are also listed as Threatened and have been assessed in **Appendix C3 (Section 5A Assessment)**.



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It is concluded that the study area is not considered to contain an area of 'important habitat' for migratory species. In addition, the proposed development is unlikely to seriously disrupt the lifecycle of an ecologically significant proportion of any populations of migratory species known to occur in the locality of the study area. The proposed development is therefore considered unlikely to cause a significant impact to any listed migratory species, including those on JAMBA/CAMBA.

### **White-bellied Sea-Eagle (*Haliaeetus leucogaster*)**

***(a) substantially modify (including by fragmenting, altering fire regimes, altering nutrient cycles or altering hydrological cycles), destroy or isolate an area of important habitat of the migratory species, or***

The proposed dredge site and intertidal areas along the pipeline route provides a small area of potential foraging habitat for the White-bellied Sea-Eagle. Less than 25 regrowth trees occurring at the stockpile site represent potential nest trees for the species. The area of foraging habitat and potential nest trees within the study area is considered negligible in relation to the species mobility and home range and also the foraging areas (eg. Wallis Lake estuarine complex) and nesting habitat available in the locality.

The available foraging habitat within the study area represents a small proportion of a mosaic of similar habitats associated with estuarine environment Wallis Lake. In addition, the Coastal Beaches located within 3 km of the study area represents a very large area of foraging habitat for the local populations of White-bellied Sea-Eagle.

It is therefore highly unlikely that any individuals or populations would be dependant upon the available habitat within the study area alone. In addition, the study area is not situated at the distribution limit of the species, and this species has not been reported to be declining in the locality. The habitat within the study area is therefore unlikely to support an ecologically significant proportion of the population of the species and this habitat could not be considered an 'important area' of habitat for the species.

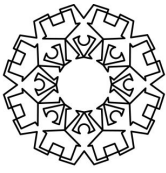
***(b) result in invasive species that is harmful to the migratory species becoming established in an area of important habitat of the migratory species, or***

As discussed in (a), the study area is not considered to contain an area of important habitat for this species. In addition, the proposal is unlikely to significantly contribute towards invasive species becoming established at the study area.

***(c) seriously disrupt the lifecycle (breeding, feeding, migration or resting behaviour) of an ecologically significant proportion of the population of the species.***

As discussed in (a), the study area is therefore unlikely to support an ecologically significant proportion of the population of the species.

This species would continue foraging over the dredge site, and habitat for the species adjoining the study area will not become fragmented or isolated from other areas of habitat as a result of the proposal.



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The proposed dredging operation would be of negligible impact to the lifecycle of the species in both the short and long term. The proposed development is therefore unlikely to seriously disrupt the lifecycle of an ecologically significant proportion of White-bellied Sea-eagle.

### **Migratory Waders and Shorebirds**

The migratory species considered for this assessment include a range of shorebirds and waders, including those from the Families Charadriidae, Recurvirostridae and Scolopacidae. The migratory species considered in the assessment below include Red-necked Stint (*Calidris ruficollis*), Latham's Snipe (*Gallinago hardwickii*), Masked Lapwing (*Vanellus miles*), Black-winged Stilt (*Himantopus himantopus*), Red Knot (*Calidris canutus*), Eastern Curlew (*Numenius madagascariensis*), and Curlew Sandpiper (*Calidris ferruginea*).

**(a) substantially modify (including by fragmenting, altering fire regimes, altering nutrient cycles or altering hydrological cycles), destroy or isolate an area of important habitat of the migratory species**

The proposed dredge site and intertidal areas (including saltmarsh community) along the pipeline route provides a small area of potential foraging habitat for migratory waders and shorebirds. The area of foraging habitat within the study area is considered negligible in relation to migratory species' mobility and to the areas of foraging habitat occurring in the locality. In addition, the potential foraging habitat within the study area represents a small proportion of a mosaic of similar habitats associated with estuarine environments within Wallis Lake.

The study area does not contain breeding habitat for migratory species that breed in Australia.

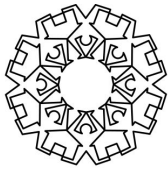
It is therefore highly unlikely that any individuals or populations would be dependant upon the available habitat within the study area. The study area is not situated at the distribution limit of any migratory species, and the habitat within the study area is unlikely to support an ecologically significant proportion of the population of migratory waders and shorebirds. The habitats within the study area would therefore, not be considered an 'important area' of habitat for any migratory waders or shorebirds.

**(b) result in invasive species that is harmful to the migratory species becoming established in an area of important habitat of the migratory species, or**

As discussed in (a), the study area is not considered to contain an area of important habitat for any EPBC Act listed migratory waders or shorebirds. In addition, the proposal is unlikely to significantly contribute towards invasive species becoming established at the study area.

**(c) seriously disrupt the lifecycle (breeding, feeding, migration or resting behaviour) of an ecologically significant proportion of the population of the species.**

As discussed in (a), the study area is therefore unlikely to support an ecologically significant proportion of the population of any EPBC Act listed migratory waders or shorebirds



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Waders and shorebird species could continue foraging around the pipes in the salt marsh, and habitat adjoining the study area will not become fragmented or isolated from other areas of habitat as a result of the proposal.

The proposed development would therefore have negligible impact to the lifecycle of any migratory waders or shorebirds species in both the short and long term. The proposed development is therefore unlikely to seriously disrupt the lifecycle of an ecologically significant proportion of any *EPBC Act* listed migratory waders or shorebirds.

### 1.2.7 COMMONWEALTH MARINE AREA

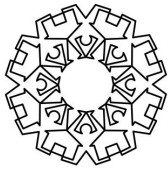
While a portion of the study area is located within Wallis Lake (eg dredge site and length of pipeline), this estuarine area is not a Commonwealth Marine Area. The study area is therefore located outside of the Commonwealth Marine Areas and the proposal will have no impact upon any Commonwealth Marine Areas.

### 1.3 OTHER MATTERS PROTECTED BY THE *EPBC ACT*

In addition to the Matters of National Environmental Significance listed in section A1.1, other matters protected by the *EPBC Act* include the following:

- Commonwealth Lands;
- Commonwealth Heritage Places;
- Places on the Register of the National Estate (RNE);
- Listed Marine Species;
- Whales and Other Cetaceans;
- Critical Habitats; and
- Commonwealth Reserves.

The relevance of each matter protected by the *EPBC Act* when considering the study area and environs is discussed below and summarised in **Table 1.2**. This assessment was undertaken with reference to an EPBC Act Online Database search, with a buffer area of 10 km.



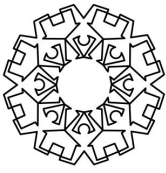
**Table 1.2 - Summary of the Potential Impact of the Proposed Development on ‘Other Matters Protected By the EPBC Act’**

Consideration	Assessment
Commonwealth Lands	The proposed development is unlikely to impact upon any Commonwealth Lands.
Commonwealth Heritage Places	No Commonwealth Heritage Places have been identified within the locality of the proposed activity.
Places on the RNE	The proposed development is unlikely to cause a direct or indirect impact upon any places on the RNE listed by the online searches.
Listed Marine Species	It is concluded that the proposed development is unlikely to cause a significant impact to listed marine species
Whales and Other Cetaceans	It is concluded that the proposed development is unlikely to cause a significant impact to the whales and other cetaceans listed under the EPBC Act.
Critical Habitats	No critical habitats listed under the <i>EPBC Act</i> have been identified within the locality of the study area.
Commonwealth Reserves.	No Commonwealth Reserves occur within the locality of the study area.

### 1.3.1 COMMONWEALTH LANDS

Three items under Commonwealth Lands were listed by the online search. These are:

- Communications, Information Technology and the Arts – Australian Postal Corporation;
- Communications, Information Technology and the Arts – Telstra Corporation Limited; and
- Defence – Royal Australian Navy Central Canteens Board.



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The proposed development is will not result in any adverse impact upon these items.

### 1.3.2 PLACES ON THE REGISTER OF NATIONAL ESTATE

Five items under the RNE were listed by the online search to be within 10 km of the proposed activity area. These are:

#### Natural

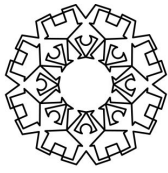
- Bandicoot Island Nature Reserve NSW;
- Cape Hawke Coastal Area NSW;
- Regatta Island Nature Reserve NSW;
- Wallis Island Nature Reserve NSW; and
- Yahoo Island Nature Reserve NSW.

The four Island reserves listed above are located in Wallis Lake. Bandicoot Island, Regatta Island and Wallis Island are located within approximately 3 km south of the study area, and Yahoo Island is located within approximately 7 km south of the study area. The proposed development will not result in any adverse impacts on these islands.

### 1.3.3 LISTED MARINE SPECIES.

The study area contains potential habitat for a variety of listed marine species such as Rainbow Bee-eater (*Merops ornatus*), Cattle Egret (*Ardea ibis*), and Black-faced Monarch (*Monarcha melanopsis*). In addition, a number of the listed marine species have been recorded within the locality of the study area and some species such as the White-bellied Sea-Eagle (*Haliaeetus leucogaster*), Green Turtle (*Chelonia mydas*) and Latham's Snipe (*Gallinago hardwickii*) are known to forage in Wallis Lake. A large proportion of the listed marine species have not been recorded within the locality of the study area, or no suitable habitat occurs within the study area. In addition, the majority of listed marine species known to or considered likely to occur within the study area are not considered as subject species as the area of habitat within the study area is considered negligible to the area of suitable habitat adjoining study area, including those areas associated with the estuarine environment of Wallis Lake. It is therefore considered that the proposed development is unlikely to cause a significant impact to any listed marine species or marine species habitat.

Any marine species considered as subject species for the proposal (eg. Swift Parrot and Latham's Snipe) that are also listed as 'migratory' and/or threatened under the EPBC Act have been assessed in accordance with Section 5A of the EP and A Act Assessment prepared Appendix C of the Flora and Fauna Assessment. These assessments also concluded no significant impact to subject marine species as a result of the proposal.



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### 1.3.4 WHALES AND OTHER CETACEANS

The study area does not contain suitable habitat for whales. The Bottlenose Dolphin (*Tursiops truncatus*) has been recorded in Wallis Lake and the proposed dredge site is considered to represent potential habitat for a number of other dolphin species. Despite this, the area of potential habitat affected by the proposal is considered negligible the estuarine area of Wallis Lake. The proposed development is therefore unlikely to affect a significant area of habitat for any Dolphins known to, or considered as potentially occurring in the locality. In addition, the operation of the dredge is unlikely to impact upon any dolphins utilising Wallis Lake.

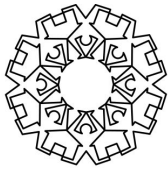
### 1.4 KEY THREATENING PROCESSES

There are currently 14 Key Threatening Processes listed under the *EPBC Act*. However, only two Key Threatening Processes are relevant to the proposed activity, namely Land Clearance and Loss of climatic habitat caused by anthropogenic emissions of greenhouse gases. The proposed development would not significantly contribute to either of these Key Threatening Processes.

### 1.5 CONCLUSION

The study area contains potential habitat for a variety of fauna listed as Threatened and/or migratory under the EPBC act. This habitat is however, considered negligible to the area of suitable habitat adjoining the study area and also occurring in the locality and is unlikely to provide substantial habitat resources for Threatened fauna occurring in the locality. In addition, the study area is not considered to contain an important area of habitat for any migratory species. It is submitted that the proposed development is not likely to result in the potential for significant effect on Threatened Species and Threatened Ecological Communities listed under the *EPBC Act* occurring within the locality.

It is concluded that the proposed development is unlikely to cause a significant impact to any Wetlands of International Significance, World Heritage Areas, Threatened species, Migratory species, or any other matters protected by the *EPBC Act*. It is therefore considered that the proposed development would not require referral to the Commonwealth for approval under the provisions of the *EPBC Act*.



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## References

DEH, (2006). EPBC Act online data base search. Available at Department of the Environment and Heritage website:

<http://www.deh.gov.au/erin/ert/epbc/index.html>. Accessed 29/03/06.

NPWS, (2006). *Atlas of NSW Wildlife*, National Parks and Wildlife Service, Hurstville.