



Department of
Primary Industries

OUT13/9696

24 APR 2013

Mr David White
Infrastructure Projects
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

David.White@planning.nsw.gov.au

Dear Mr White,

**Kurnell Port and Berthing Facility (Port Botany) (SSD_5353)
Response to exhibition of Environmental Impact Statement (EIS)**

I refer to your letter dated 26 February 2013 requesting advice from the Department of Primary Industries (DPI) in respect to the above matter.

Comment by NSW Office of Water

The NSW Office of Water advises it has no further comment on this application, other than to clarify that the comment that the proposed works should give greater consideration to the reuse of dredged material (Table 6-5 in the EIS (under 'Water and Sediment Quality'), page 6-10) was raised by Crown Lands and not the Office of Water.

For further information please contact Janne Grose, Planning and Assessment Coordinator (Penrith office) on 4729 8262, or at: Janne.Grose@water.nsw.gov.au.

Comment by Fisheries NSW

Detailed advice by Fisheries NSW is given in Attachment A.

For further information please contact Carla Ganassin, Conservation Manager (Wollongong office) on 4254 5527, or at: carla.ganassin@dpi.nsw.gov.au.

Yours sincerely

Phil Anquetil
Executive Director Business Services

Attachment A

Kurnell Port and Berthing Facility (Port Botany) (SSD_5353) Response to exhibition of the Environmental Impact Statement (EIS) Comment by Fisheries NSW

Fisheries NSW is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this Fisheries NSW ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A, respectively, of that Act) and the associated *Policy and Guidelines for Aquatic Habitat Management and Fish Conservation (1999)*. In addition, Fisheries NSW is responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture and marine protected areas within NSW.

In consideration of these provisions and policies, Fisheries NSW advises as follows:

1. The proposal is likely to result in elevated turbidity levels around the project site for a period of 23 weeks. While the resulting increased sedimentation on the habitats within Botany Bay has been assessed in the EIS, there is little consideration of the impact of reduced light penetration on key aquatic habitats, such as seagrasses, and fish communities. Fisheries NSW notes that the timing of the proposed works are likely to coincide with the main season for seagrass growth and juvenile fish recruitment within Botany Bay (i.e. the spring-summer period). As the growth rate of part of the Endangered Population of *Posidonia australis* seagrass in Botany Bay is likely to be adversely impacted by reduced light levels and there is likely to be potential localised, but unknown, impacts on fish populations, it is recommended:
 - (a) options to further minimise turbidity from "overflow dredging" be investigated. This could include measures to release the overflow from the split hopper barges lower into the water column (i.e. approximately 10m below the surface) so that sediment can settle more rapidly. It is not known if this is possible, but perhaps measures to achieve this are to discharge overflow via a pipe or installing sediment curtains around the split hopper barges, either fully or partially through the water depth.
 - (b) the Endangered Population of *Posidonia australis* seagrass that has been identified in the EIS as falling under the extended footprint of impact of the proposed works is monitored for signs of decline during the dredging event. Should this become evident then this should trigger a reduction or avoidance of overflow dredging. *Posidonia* seagrass is suited to such monitoring as it is a slow-growing relatively stable species that does not naturally fluctuate in extent.
 - (c) the management measure not to undertake "overflow dredging" within fixed berthing areas (p.4-9 of the EIS) be supported. However, to further avoid impacts to nearby seagrasses, dredging works within the fixed berthing areas should also, if at all possible, be staged to avoid the spring-summer seagrass growth season.

Fisheries NSW acknowledges that the whole of Botany Bay can frequently experience considerable increased turbidity levels during extended periods of rainfall for some time and that the existing aquatic ecosystem responds and adjusts accordingly. However, if it is possible to further reduce additional turbidity related impacts from this relatively long-term human-induced pulse event, then Fisheries NSW recommends that such measures be employed. The preference of Fisheries NSW is that turbidity from this dredging event does not impact nearby seagrass beds.

2. Fisheries NSW is aware that the proposed works are occurring within an area that is considerably contaminated with Tributyltin compounds (TBT). Fisheries NSW is particularly concerned about potential impacts on adult and juvenile fish and other aquatic species from re-suspended TBT, particularly within and in the immediate vicinity of the project site. It appears from the EIS that such impacts are not likely to significantly affect aquatic life within this area. However, advice and appropriate recommendations from the Government agency with relevant expertise and jurisdiction over this matter should be sought.
3. The EIS suggests that the hard rock armoured revetment around Fixed Berthing 1 will create additional artificial reef habitat. It would be more accurate to state that this will create additional hard rock substrate habitat within Botany Bay that with time will support species assemblages that are adapted to this environment. The 'artificial reef' structures installed on the northern side of Botany Bay by recreational fishers are composed of purpose-designed reef ball units with structural complexity (i.e. cavities) to specifically promote fish assemblages and create quality recreational fishing opportunities.
4. Fisheries NSW supports the proposed mitigation and management measures detailed in Chapter 19 of the EIS if they are implemented as proposed with the following amendments and additions. These measures will assist in minimising impacts to the aquatic environment:
 - (a) when considering the proposed adaptive mitigation measures in response to monitoring it is important that the environmental manager responsible for these measures is independent and/or that there is some level of independent auditing of this process.
 - (b) the live monitoring of turbidity levels needs to occur at several locations along the northern portion of the nearby seagrass bed. These sites need to include areas of the Endangered Population of *Posidonia australis* seagrass.
 - (c) in regard to the monitoring of turbidity levels in Item D2, an accompanying mitigation measure needs to be included which states that at any time the stated turbidity levels are triggered, the overflow dredging works are to cease immediately and mitigated accordingly. As it is written, Item D4 seems to relate more to the monitoring of pH and Dissolved Oxygen (DO) rather than turbidity. Further, mitigation responses to turbidity should be triggered for any exceedance of the stated triggered levels, rather than the 'persistent exceedance' (i.e. 3 or more exceedances within a 24 hour period) as stated in Item D4.
 - (d) the Endangered Population of *Posidonia australis* seagrass that has been identified as falling under the extended footprint of impact of the proposed works is to be monitored for signs of decline during the dredging event. Should this become evident then this should trigger a reduction or avoidance of overflow dredging.
5. Fisheries NSW request the opportunity to comment on any *Construction Environmental Management Plan* and *Dredging and Spoil Disposal Management Plan* prior to implementation.
6. Part of the modelled sediment deposition over seagrass areas falls in the area of seagrass habitat where active remediation research is currently occurring following the harm resulting from AusGrid's Energy Cable Laying Project. Fisheries NSW scientists have been alerted of this and have asked to be kept informed of when the dredging activity will occur. The Department of Planning and Infrastructure is hereby advised of this request, and it is also recommended that comment is also sought from AusGrid on this matter.
7. As the EIS notes, Botany Bay is a Recreational Fishing Haven. This was established in 2002, when recreational fishers invested \$10 million, via recreational fishing licence fees, to

buy out commercial fishing effort in Botany Bay, and gain sole fishing rights within the Bay. Since then, the recreational fishing community has invested significant funds in improving recreational fishing opportunities and amenities within Botany Bay. Recreational fishing stakeholders have expressed ongoing concerns with potential impacts of the proposal on recreational fishing in the Bay, especially in relation to the size of the dredge footprint and disturbance caused by vessel movements. It is proposed that 0.1% of current recreational fishing grounds in this Recreational Fishing Haven will be lost to the Marine Security Zone to incorporate the expansion of Fixed Berth 1. The EIS states that this area is not regularly fished as it is close to the existing fixed berth. Fisheries NSW questions the validity of this assumption as no studies have been conducted to determine this. In fact, the 35m wide x 310m long area is in relatively safe protected waters close to the mouth of the Bay and is likely to be fished especially when ships are not berthed at the fixed berth. The preference for Fisheries NSW is that long term recreational fishing access is to be maintained to all fishable sites within this highly-valued Recreational Fishing Haven. As proposed within the EIS, Fisheries NSW recommends that negotiations with the recreational fishing community are progressed following this public exhibition of the EIS and that consideration be given towards possible forms of compensation or offsets for the reduction of fishable waters within Botany Bay from these upgrades.

8. Considering the popularity of Botany Bay with the recreational fishing and wider community and the exposure of the site to the general public, Fisheries NSW recommends that an effective public communications strategy and complaint-line is maintained during the dredging event. It is important that stakeholders are kept informed of when the dredging and spoil disposal activities are occurring, the mitigation measures being employed, and what impacts this will have on conducting their activities if any. Fisheries NSW also requests to be notified of such consultations, so that Fisheries NSW can ensure that recreational and commercial fisheries stakeholders and seagrass researchers are informed of the dredging event so that they can adjust their activities accordingly.
9. The proposed disposal of dredged spoil at the Sydney Offshore Dumping Ground is an activity that requires authorisation by the Federal Government. Commercial and recreational fishing stakeholders who fish in this area have expressed concern regarding the deposition of contaminated material at sea. Fisheries requests this matter be appropriately considered to ensure the deposited sediment does not have any significant impacts on marine ecosystems within and adjacent to the proposed dump site.

End Attachment A