

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

| | |
|---------------------------|---|
| Application type | State significant development modification |
| Application number | DA282-11-2004-I-Mod-4 |
| Project name | Australian Bay Lobster Aquaculture Facility |
| Applicant | Australian Bay Lobster Producers Limited |
| Consent Authority | Minister for Planning and Public Spaces |

Decision

The Executive Director, Energy, Resources and Industry Assessments, under delegation from the Minister for Planning and Public Spaces has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**the Act**) modified the consent subject to the recommended conditions.

A copy of the instrument of modification and conditions is available [here](#).

A copy of the Department of Planning, Industry & Environment's assessment report is available [here](#).

Date of decision

24 December 2021

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's assessment report;
- the prescribed matters under the Environmental Planning and Assessment Regulation 2000;
- the reasons given by the consent authority for the granting of the original consent;
- the objects of the Act;
- the considerations under section 7.17(2) of the *Biodiversity Conservation Act 2016* (NSW);
- all information submitted with the modification application during the assessment and information considered in the Department's assessment report;
- the findings and recommendations in the Department's assessment report;
- advice from relevant government authorities and Tweed Shire Council;
- the response received from Gales-Kingscliff Pty Ltd; and
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Department's assessment report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent (as last modified under section 75W).

The key reasons for granting the modification are as follows:

- the modification would provide a range of benefits for the region and the State as a whole by supporting the continued research and commercial cultivation of Australian Bay Lobsters, and facilitating the development of the site into a thriving aquaculture precinct;
- the modification is consistent with NSW Government policies including the *North Coast Regional Plan* and the *NSW Land Based Sustainable Aquaculture Strategy*;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by Tweed Shire Council and the relevant State government authorities during consultation have been considered and adequately addressed through the recommended modifying conditions of consent;
- no issues were raised by the community during consultation and in submissions; and
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification from 7 August 2019 until 21 August 2019 (15 days) and received advice from seven government authorities, including Tweed Shire Council and six State government authorities. A response was also received from Gales-Kingscliff Pty Ltd in relation to Australian Bay Lobster Producers Limited's **(the Applicant's)** Response to Submissions.

The issues raised by Tweed Shire Council, the State government authorities and Gales-Kingscliff Pty Ltd have been addressed in the Department's assessment report.

No public submissions were received during the exhibition period and, consequently, there were no issues raised by the community. There were no other community views that needed to be taken into consideration by making this decision.