



Department of Primary Industries



Our ref: OUT12/7943

Rebecca Newman
Senior Planning Officer
Infrastructure Projects
Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001



Dear Rebecca,

**Re: Environmental assessment for Port Waratah Coal Services Terminal 4
(MP10_0215)**

Thank you for your letter dated 5 March 2012 requesting comment from NSW Department of Primary Industries (Fisheries) on the above proposal.

NSW DPI 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, NSW DPI ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (namely the aquatic habitat protection and threatened species provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Aquatic habitat Management and Fish Conservation (1999)*. In addition, NSW DPI is responsible for ensuring the sustainable management of commercial and recreational fishing in NSW.

Overall the Department notes that the habitats inside the rail loop are highly modified and or degraded and isolated from the surrounding habitats. The reported fish kill of mullet in this area is an anomaly, as there are no clear linkages between these water bodies and the adjacent habitats, so it is not clear how these fish came to inhabit the ponds.

The Department does have some concerns about the potential impact of this development on the surrounding habitats, particularly to the north of the existing rail line. In particular, the offsite impacts during construction of the rail link as well as the cumulative impacts of creeping development removing fringes of healthy wetland habitats.

The Department is also concerned about the potential for offsite contamination of the estuary by leachate from the contaminated lands on the site and expects the approval authority to deal with this issue effectively.

NSW DPI has reviewed this proposal and the Statement of Commitments from the proponent in light of these provisions would recommend the following conditions of approval.

- Mitigation measures for the tidal flows in the wetland complexes to the north of the rail corridor are to be designed and implemented before construction of the railway embankments or works involved with relocation of infrastructure and services in the area. These channels are to be designed to mimic existing flow rates and volumes. Planning and design for these works are also to include Acid Sulphate Soil management plans and sediment and erosion control plans to

ensure off site impacts do not occur. These plans should also include protection measures for the channels from subsequent works, involving relocation of services and infrastructure and construction of the railway.

- The environmental offsets package to be documented in the Ecological Management Plan is to be fully developed and implementation commenced before construction works commence. The Ecological Management Plan for the offset sites shall include objectives the site is to achieve, a rehabilitation plan for the site as well as monitoring programs to ensure objectives for the site are achieved.
- Rock walls associated with the marine works are to be designed and constructed with consideration to the Environmentally Friendly Seawalls Guide, as noted in the Statement of commitments (19.5.v). Vertical concrete or steel retaining walls and structures are not to be incorporated in the designs.

If you require any further information please contact Mr Scott Carter on (02) 4916 3931.

Yours sincerely,



Bill Talbot

Director, Aquaculture, Conservation and Marine Parks

Date 19/4/12