



Office of
Environment
& Heritage

Your reference: SSI-5118
Our reference: DOC12/43937; FIL11/9404
Contact: Steve Lewer, 4908 6814

Mr Chris Ritchie
Manager – Industry, Mining and Industry Projects
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2324

Attention: Ms. Kerry Hamann

Dear Mr Ritchie

RE: REVIEW OF ENVIRONMENTAL IMPACT STATEMENT FOR DEPARTMENT OF PRIMARY INDUSTRIES MARINE FINFISH AQUACULTURE RESEARCH LEASE, PROVIDENCE BAY, PORT STEPHENS (SSI-5118)

I refer to your letter dated 22 October 2012 requesting comments on the accompanying 'Department of Primary Industries Marine Aquaculture Research Lease Draft Environmental Impact Statement' (including its appendices, dated October 2012 (the EIS)). The Office of Environment and Heritage (OEH) understands the EIS was on public exhibition from 26 October 2012 to 29 November 2012.

OEH has undertaken a review of the above document and is of the opinion that it has adequately addressed OEH matters, albeit some minor outstanding issues are identified in **Attachment A**. In general, OEH is of the opinion that the risk assessment, operating procedures and mitigation measures proposed for the marine fauna all appear to deal with issues raised in earlier correspondence and appear to follow best practice. In view of this, and taking into account the lack of significant problems encountered with a similar, earlier installation at and/or near this site, there are no foreseeable significant negative impacts associated with threatened marine mammals, reptiles or pelagic birds. In regards to the proposed lighting for the site, although seabirds nest on islands close by, and marine turtles occur in relative abundance in the surrounding waters, they are unlikely to be affected by the proposal, provided artificial lights are minimised and/or fitted with appropriate guards that prevent light dissipation towards threatened species habitat, and the facility is operated as proposed.

If you require any further information regarding this matter please contact Steve Lewer, Regional Biodiversity Conservation Officer, on 4908 6814.

Yours sincerely

5 DEC 2012

RICHARD BATH
Head – Hunter Planning Unit
Conservation and Regulation, North East

Enclosure: Attachment A

ATTACHMENT A: OEH REVIEW – MINOR ISSUES

THREATENED SPECIES

OEH has reviewed the EIS and Draft Environmental Management Plan and is of the opinion it addresses most of the concerns raised in previous OEH correspondence. With respect to the artificial lighting that will be generated by the proposal, it is unlikely it will pose a significant threat to threatened marine fauna (including pelagic birds), though seabirds nest on Islands close by, and marine turtles occur in relative abundance in the surrounding waters, providing artificial lights are minimised and/or fitted with appropriate guards, and the facility is operated as proposed.

OEH notes the following minor issues that should be addressed or amended as suggested prior to any approval of the project:

- No protocol has been provided for dealing with the carcasses of dead marine fauna either entrapped by the nets or floating carcasses captured by anchor cables. This could be dealt with in the Marine Fauna Interaction Management Plan, and as such, OEH recommends the proponent amend this Plan.
- With respect to the following pages of the EIS, the following recommendations are made:
 - Page 42 - Modify notification procedures to ensure that information is quickly communicated to NPWS following and entanglement/entrapment.
 - Page 41 - Approach distance needs to include a 300 metre approach for whale cow and calf pair or 50 metres for dolphin (100 metre for dolphin and calf).
 - Table 5 on Page 24 - Should add the National Parks and Wildlife Service (NPWS) State Ops Duty Officer number 9895 7128 and Coastal Duty Officer 6650 7124.
 - Table 5 on Page 24 - Add Coordinator Marine Fauna Programs as OEH Contact. Geoffrey Ross contact details - Mobile: 041 111 0882, email: geoff.ross@environment.nsw.gov.au
 - Page 25 - Need a statement identifying that the proponent will fund the establishment and training of; or provide funding support for, the existing large whale disentanglement team located in the local area (either Marine Parks Authority personnel, NPWS personnel, Department Primary Industries Fisheries personnel or a combination of all of the above. OEH recommends a combination as there is a currently trained Large Whale Disentanglement team in the Hunter region).
- OEH notes that the EIS (on page 185) implies that recent investigations suggest that the navigation abilities of the Gould's Petrel are not impacted by maritime navigation lights, but this species does become distressed when artificial lights are in close proximity to their breeding habitat. However, the EIS states, these observations are not conclusive and as a precautionary measure it is recommended that any interactions between seabirds and the proposed Aquaculture Research Lease be closely monitored to ensure that there are no adverse effects from artificial lighting, including from the navigational marker or vessel lights. This is detailed in the 'Marine Fauna Interaction Management Plan – Appendix 2'.

Although OEH supports the monitoring aspects proposed in the above paragraph, OEH are unaware of research that indicates that Gould's Petrel navigational abilities are not impacted by maritime navigation lights. Given the close proximity of Cabbage Tree Island, which represents listed 'critical habitat' any adverse impacts on the species movements would be considered unacceptable. OEH understands that the recent investigations referred to in the EIS are from a student undertaking studies on the Gould's Petrel. As such, these results should not be considered conclusive until this information has been scientifically reviewed. OEH strongly recommend that this activity be closely monitored to ensure that no adverse impacts occur to the Gould's Petrel.

OEH supports the intent of the EIS to ensure that any interactions between sea birds and the Aquaculture Research Lease are closely monitored through the Draft Environmental Management Plan. However, OEH notes that the Draft Environmental Management Plan only states that there will be protocols to observe interaction during normal work activities (i.e. during the day Section 3.3.2 "*Recording movements of threatened species and light sensitive species*"). Given that the Gould's Petrel arrive and depart the island in darkness, OEH is of the opinion that observations should be undertaken during this period. The EIS describes the requirement for night work at the site is minimal, and there is no mention of dedicated night observation trips or any structured observation activity targeting Gould's Petrel during their peak departure and arrival times at night. OEH recommends that appropriate monitoring include observations made at night during likely arrival and departure times for the Gould's Petrel.

- With respect to artificial lighting, both on vessels (including navigational lights) and the research lease, that this be minimised and/or fitted with appropriate guards that prevent light dissipation towards threatened species habitat, particularly Cabbage Tree Island which represents 'critical habitat' to the Gould's Petrel.
- With respect to the storage on shore of the pelletised fish food, OEH recommends that appropriate rat and mice control, in accordance with industry standards, is undertaken to ensure that this food when carried out on vessels to the aquaculture research lease is not contaminated with such vermin. The accidental introduction of rats to Cabbage Tree Island, which is listed as 'critical habitat' (under the *Threatened Species Conservation Act 1995*) for the 'vulnerable' Gould's Petrel, would be considered a catastrophic impact on the island if rats and/or mice became established.
- OEH recommends that all threatened species and records of marine fauna (including marine mammals, reptiles and pelagic birds) that are opportunistically observed and/or recorded as part of any monitoring program be provided to (i) OEH 'Atlas of NSW Wildlife' database, (ii) to the local NPWS office at Nelson Bay, and (iii) to the local Marine Parks Authority office at Nelson Bay; for their records.