

Our Ref: 405062_LEO_031

19 April 2007

Major Development Assessment
Department of Planning
GPO Box 30
SYDNEY NSW 2001

Attention: Paul Weiner

Dear Paul,

Re: Application # 05_0174 Proposed Dredging of Oyster Lease and Operation of Sand Stockpile – Oyster Lease # 80-178 and Lots 59, 101, 123, 124, 125 DP 753207, Lot 12 DP 816473, 2 – 6 Rodmay St, Tuncurry

We refer to the above application and to the correspondence forwarded by you from Department of Primary Industries (DPI) dated 9 December 2006 and 27 March 2007. We have provided a response to the Department of Planning (DoP) previously in relation to the DPI's initial correspondence on the project dated 29 November 2006 (Our Ref: 405062_LEO_023a).

We note that the DPI has changed its position in relation to the depth of dredging and that they have agreed to the position stated by us originally, namely, that a dredge depth of 2 m below mean low water is consistent with DPI policy. We have provided adequate justification in previous correspondence to substantiate this dredge depth. We trust that this issue is now resolved.

We note that in their correspondence of 9 December 2006, the DPI has raised new issues for the project. Specifically, it is our understanding that, contrary to advice provided to us by the DPI during the EA preparation, the DPI is now willing to consider transplanting of seagrass as a remediation strategy. While we are not adverse to this concept, we seriously question the requirement for an 'environmental bond' on the seagrass to be transplanted for several reasons:

- Does the DPI have a written policy on the requirement for environmental bonds?
- Is a bond required for seagrass areas that have a very low density coverage and are at best, marginal at present? At what density per m² would a bond be required? For example, if an area of seagrass to be removed has a 10 % coverage and is in poor condition, would that area require a bond?
- As stated in DPI's letter of 9 December 2006, the DPI itself is investigating methods and mechanisms for successful transplanting of seagrass (which was given as a reason by the DPI for not supporting transplanting – viz, they are unsure of the efficacy of transplanting seagrass). Therefore, the usefulness of transplanting seagrass as a remediation strategy is at best in its developmental phase and therefore it's success or failure rate (as implicitly acknowledged by DPI in their letter) is unknown. This therefore raises serious issues about the appropriateness of

requiring the proponent pay a bond for transplanting seagrass, the repayment of which is contingent upon the success or failure of the remediation, which is acknowledged by DPI as being unknown. We therefore strongly object to the DPI's request for an environmental bond.

- As stated in the EA, the majority of seagrass to be removed over the lease area is low density in coverage and represents marginal habitat. Areas of high quality seagrass have been avoided and are not included in the proposed dredge envelope. Our aquatic ecologist, a specialist in seagrass, determined that the post-dredge environment will be more conducive to seagrass growth due to its permanent inundation and depth of water. Therefore, the requirement to transplant seagrass (much less pay a bond for transplanted seagrass) is seriously questioned.
- The proponent would, however, be happy to work with the DPI on trialling different methods of transplanting and monitoring to assist their research programme into seagrass transplanting.

The DPI's request for the dredge project to be overseen by an independent project co-ordinator at the proponent's expense is also strongly rejected for the following reasons:

- the justification given by the DPI for the need for independent oversight, namely, that this project is located in a sensitive environment similar to a dredge project at Towra Beach in Botany Bay is incorrect. The dredge area contains mostly poor quality seagrass (being sub aerial for significant portions of the tidal cycle) and is not in a highly sensitive area like Towra Beach, which contained high density, pristine seagrass habitats inundated through all phases of the tidal cycle;
- the appointment of an independent project coordinator will not add any value to the monitoring and reporting process. As indicated in the EA, we have proposed an Environmental Management Strategy for the entire project which will detail monitoring and reporting requirements to the relevant state authorities;
- the aim of this project is to undertake maintenance dredging of an oyster lease. A comprehensive assessment of the impacts of the project has been prepared, which has been reviewed by the agencies and where required, clarified with additional information. The imposition of another level of scrutiny over and above that which is already in place is unnecessary given the reporting process proposed to the DoP and relevant agencies, which will ensure that the environmental impacts of the proposal are minimised;
- the size and scale of the project is such that independent oversight of the project is unwarranted. As Leader of the Expert Panel (2002 – 2005) for the dredging operation at Harrington Waters Estate in the Manning River, (12x greater volume) and having continued involvement in the EMS reporting of the project to date (which has not had any adverse impact on the environment), my experience on these types of projects indicates that the issues for this project can be adequately managed through the proposed EMS reporting protocol and reporting requirements of the various licences to the relevant agencies. A project of this size and scale does not warrant another level of

bureaucracy, which if implemented, would have no practical benefits, impose unnecessary additional costs on the proponent and set an unwarranted precedent for any future oyster lease maintenance dredging projects.

The DPI has demonstrated that their assessment of this project has been inconsistent with their own policies (indicated by their change in position on dredge depth, which only came about after detailed discussions with us). We ask the DoP to seriously evaluate the efficacy of the advice provided by the DPI to date and to consider the detailed responses provided by us in correspondence forwarded previously to the DoP in response to issues raised by the DPI in respect of this project.

Given the wide range of issues associated with this project and the level of detail provided in correspondence from us in response to agencies' comments, we request that the Department allow us to review the draft conditions of consent prior to their finalisation. We are aware of the DoP providing draft conditions to the applicant on other State Significant projects in which we have been involved. You would appreciate that we are keen to have all the issues resolved to the satisfaction of all parties prior to finalisation of the project. We would be happy to attend a meeting to discuss the draft conditions if that is more appropriate. We would appreciate your advice in this regard.

We trust that this information assists in your ongoing assessment of this application. If you have any queries, please do not hesitate to contact the undersigned.

Yours faithfully
Orogen Pty Ltd

A handwritten signature in dark ink, appearing to read 'Meleo', written in a cursive style.

DR JUSTIN MELEO
Project Director