

Urban Assessments
Department of Planning
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Our Ref: TE06A11
Your Ref: MP 05_0174
29 November 2006

12

Attention: Mr Mike Young
Manager, Mining & Extractive Industries
Major Development Assessment

Dear Sir,

**Re: Proposed Oyster Lease Dredging, Wallis Lake
Project Application No. 05_0174**

I refer to your letter of 27 October 2006 inviting comment on the Environmental Assessment of the above proposal, currently on exhibition and offer the following comments in terms of Crown Lands administration and land management.

Crown Lands Administration.

1. It is presumed that the proponent has lodged an application with the Department of Planning pursuant to Part 3A of the EP&A Act 1979. Part of the proposal affects Crown land being part of the bed of Wallis Lake and foreshore reserve *R210104 for Access and Environmental Protection*. The Department of Lands has not given landowner's consent to lodge such application and will require confirmation that the proponent is the registered lessee of OL 80-178 Wallis Lake.
2. The Department of Lands requires a condition of the consent authority's approval to include issue of licence under the Crown Lands Act 1989, for dredging purposes. Area of licence to include all Crown lands affected by the dredging, dredge pipeline route and return waters pipeline route.
3. The Environmental Assessment report Figure 1.4 is incorrect in terms of land status indicated with Crown roads abutting Lots 123, 124 and 125 DP 753207 being omitted. The proposed routes of the dredge pipeline, booster pumps and return waters pipeline are to be located on the freehold lands and **not** on the Crown road reserves as indicated.

Crown Lands Management.

1. The Environmental Assessment report does not address the issue of controlling the dredging to maintain operations within the approved footprint.

The following comments from the Manager, Minor Ports North (Crown Lands Division, Taree) are made to urge a conservative approach to the work proposed. The effects as a

consequence of dredging are slow to emerge and impossible to reverse. An example of which is the dredging of the channel at the end of Point Road which has resulted in the erosion of the north east end of Mathers Island:-

2. The numerical modelling was carried out and only run for a "period" of 7 days over a spring tide period. The changes sediment transport noted was not significant. It is contended that the model should have been run for a much longer period since the bed movements in such situation are very slow to develop.
3. It is likely that the "barrier" left in place to the north of the site will in due course be eroded away making the flow through the oyster lease area much more "efficient".
4. The greater efficiency will result in increased velocities and bed lowering at the ends of the site.
5. No attempt was made to test sediment transport during a typical flood flow through the area with the considerably greater velocities.
6. It would be premature to consider the issue further until the above information is provided.
7. Should the Department of Planning choose to proceed without the information then the site should be licensed for as long a period as possible during which period the licensee should place a bond for the necessary surveys to determine any changes to the upstream and downstream islands and for any necessary remediation work.

Yours sincerely,



R. W. Birse
Team Leader
Land Management
Crown Lands Division, Taree



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

Our ref: CF06-245
Your ref: 05_0174

29 November 2006

Paul Weiner
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Tim Kepple - aquaculture
Scott - corv @ dpi
lan 4/18

(13)

Dear Paul,

**Re: Proposed oyster lease dredging – Wallis Lake,
Project Application Number 07_0174**

Thank you for giving DPI Fisheries the opportunity to comment on the above proposal.

Officers from the Department have reviewed the documentation provided and would like to make the following comments.

The proposal is, in the Departments view, primarily a sand extraction operation with the development of the oyster leases as an aside. The Department is in a position that, whilst supporting the development of a sustainable oyster industry, the flow-on effects from this proposal are potentially large.

There are several areas the Department does not consider that the EIS either effectively addresses or does not support the conclusions.

The loss of unvegetated soft substrates (45%), and 'low density' seagrass areas (15%) will have direct, and indirect, impacts upon the fisheries environment. The intertidal areas in question have been identified by officers from the department as being highly productive habitat for invertebrates. The noted density of "nippers" is greater than other similar areas and that this flat is considered the largest and most productive flat of its type in the lower estuary. "Nippers" are the most significant prey species for whiting, and the loss of this expanse of habitat has the potential to effect the whiting populations, a significant recreational and commercial species in Wallis Lake.

The Wallis Lake Fishermen's Co-operative has expressed reservations about the proposal and discussed lodging an objection.

The EIS states the impact upon recreational fishing is "considered negligible" with particular regard to direct loss of nipper habitat for bait collection purposes. Whilst boat access is required, this area is still considered very important for live bait collection by recreational fishers, noting alternative areas within the estuary also have access limitations. As with impacts upon commercial fishing more information is required to provide a quantitative assessment of both direct and indirect impacts upon recreational fishing. In this regard there have been four letters of objection received at the Tuncurry Fisheries office from concerned recreational fishers.

Concerns have also been expressed by the recreational anglers about the potential for the dredging to further reduce velocities of water flows in the boating channels adjacent to Jonnel Cove, increasing deposition of material and potentially further reducing navigability.

The Departments support for a sustainable oyster Industry led to the development of the (draft) NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS).

OISAS aims to recognise and protect oyster growing areas, establish industry best practice based on the principals of ecological sustainable development and provide for the protection of water quality in oyster growing areas.

OISAS has been developed by a whole of government taskforce comprised of all NSW agencies with a responsibility for environmental protection, natural resource management, economic development and fisheries management.

In this case, OL 80-178 is identified as a 'priority oyster lease area' under the draft OISAS document the former lessee described it as "75% barren, unproductive ground" (1996). The proposal does not comply with the principles outlined in the OISAS for maintenance dredging. OISAS states that permits from the Department would not be issued unless:

- The material to be dredged is clean marine sand;
- No potential or actual acid sulphate materials will be disturbed;
- Maximum dredging depth is 1.0 metres below mean low water mark;
- There is no *Posidonia australis* sea grass present in the dredge area;
- The dredging activity will have no significant adverse impact on any threatened species or habitats;
- An approved spoil disposal site is available;
- The activity will not result in any significant water pollution; and
- An aquaculture lease maintenance dredging plan has been prepared in consultation with the Department of Planning, Department of Natural Resources, the Department of Primary Industries and the relevant local council.

The concerns relate to the presence of fluvial silts in the dredge material and the presence of PASS but most critically the depth proposed by the proponent is almost twice that identified in OISAS.

Consequently, the Department objects to the proposal in its current form.

For further information please contact me on 02 4916 3931.

Yours faithfully



Scott Carter
Senior Conservation Manager - Central



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

Our ref: CF06-245
Your ref: 05_0174

9 December 2006

Paul Weiner
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Paul,

Re: Proposed oyster lease dredging – Wallis Lake, Project Application Number 07_0174

Thank you for giving DPI Fisheries the opportunity to provide further comments.

The proposal is, in the Departments view, primarily a sand extraction operation with the development of the oyster leases as an aside. The Department is in a position that, whilst supporting the development of a sustainable oyster industry, the flow-on effects from this proposal are potentially large. In previous response the Department has objected to the proposal on the grounds of environmental and social grounds.

In doing so unfortunately the Department overlooked the requirements for mitigation or offset if the Minister for Planning saw fit to issue an approval.

The proposal is to dredge a substantial area of seagrass and intertidal sand and mudflats. The Department has a standing policy that seagrass loss must be compensated at a 2 for 1 ratio and is normally managed under a permit under s.204-5 of the *Fisheries Management Act*. The EA states that the Department is not in favour of transplanting seagrass. This is not totally correct as the Department is continuing investigations of methods and mechanisms for successful transplanting. Consequently:

- any dredging operation that removes seagrass is required to develop a remediation strategy, in consultation with DPI, to replace any seagrass lost during the operation. This strategy will outline methods and mechanisms to remove and transplant seagrass during the operation, preparation of the receiving substrate to ensure success of the planting operation and monitoring programs to determine the success or failure of the planting.
- The Department also, in the past, has required environmental bonds (based on \$30 per square metre of seagrass lost) to be taken and held until the success or failure of the planting programmes was known.



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

In line with best practice in other dredging operations in sensitive areas, e.g. Towra Beach Renourishment Project, the Department would also request the operation to be overseen by an independent project co-ordinator at the proponent's expense.

For further information please contact me on 02 4916 3931.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Scott Carter'.

Scott Carter
Senior Conservation Manager - Central



Your Ref: 908312-1
Our Ref: ER6404B

Mr Paul Weiner
Senior Environmental Planning Officer
Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Mr Weiner

**Proposed Oyster Lease Dredging - Wallis Lake
Project Application Number 05-0174**

I refer to your letter of the 24 October 2006 seeking submissions with respect to the above project. The department has reviewed the environmental assessment documentation prepared by Geolyse P L supporting this application and offers the following comments for your consideration.

Justification for the proposal

As previously advised, the EA document states that the primary objective of the proposal is the re-establishment of a non-productive oyster lease with a secondary objective of utilising the dredge spoil to meet the market demand for sand.

A cursory inspection of air photos dating back to 1937 show that the site has been predominantly sand shoals, shallow channels and mud flats with little evidence of significant changes or major aquaculture infrastructure that would indicate that the area has been a highly "productive" oyster lease. This raises questions whether this proposed development is the "re-establishment" of an oyster production area or the substantial modification of an area to create a new site suitable for oyster production.

It is also of concern that the capital outlay for the dredging is substantially greater than the potential income generated from oyster production. This level of capital outlay for a small annual return on investment is difficult to rationalise on economic grounds.

It seems evident that the justification for the substantial capital outlay is to achieve the gross potential yield from the sale of the extracted sand resource.

Based on the historic air photos and the economics presented in the assessment, the description of the proposal as "to re-establish the lease as a productive oyster growing area" seems questionable and it appears that the principle objective of the proposal is to carry out an extractive industry.

- It is therefore suggested that the merits of the proposal be evaluated primarily as an extractive industry with a secondary outcome of dredging an area to create a new site suitable for oyster production.

Location of the dredge area and oyster lease

Section 2.2.2. There appears to be some discrepancy between the boundary locations of the dredge area shown in Fig 1.2 & 1.4, the boundary of the oyster lease areas shown in Fig 1.3 and the boundaries shown in the hydro-survey in Appendix B.

- This discrepancy should be clarified by a figure overlaying the hydro survey dredge boundaries and the lease boundaries on the base air photo used in Fig 1.4.

Section 3.2.3 Draft NSW Oyster Industry Sustainable Aquaculture Strategy

It is noted that the proposal involves dredging to a maximum depth of 2m below mean low water mark. Mean low water level in the vicinity of the site is estimated from tidal planes to be approximately 0.0m to -0.1m AHD. This would indicate that the maximum dredge depth would be -2.0 to -2.1m AHD. However the diagram in appendix B indicates the depth of the final bed profile in the dredge area -2.2m AHD.

- This discrepancy requires further clarification.

It is also noted that the proposed dredge depth remains inconsistent with the draft NSW Oyster Industry Sustainable Aquaculture Strategy. Although the EA provides some justification for the additional water depth, it appears that adjoining oyster leases are successfully producing oysters in a water depth of between -1.4m to -1.6m AHD. This is evident from the hydrosurvey in Appendix B and the 1998 hydrosurveys from DLWC.

- This matter requires further clarification.

Hydrodynamics

A cursory inspection of air photos indicates that there have been changes in the distribution of flows in the lower Wallamba River as a result of past dredging activity. Dredging to the north and east of Native Dog Island in the late 1970s is likely to have resulted in a redistribution of flows and an increase in conveyance through this eastern channel.

Dredging of the adjoining oyster leases undertaken in the late 1980's is likely to have increased the conveyance to the west of Native Dog Island. The dredge is clearly evident in the 1987 air photo. The redistribution of flows has potentially reduced flows through the eastern channel leading to community concerns about progressive shoaling in this area.

Fig 3.21 and Fig 3.23 outline the predicted changes in velocity and conveyance as a result of the current dredging proposal. The hydrodynamic model indicates that velocities and the conveyance of water will increase in sections of the channel between Native Dog and Oakey Islands with the potential for erosion upstream and downstream of the dredge area. If this erosion is to occur it has the potential to redirect further flows through the channel between Native Dog and Oakey Islands. It is likely that there will be corresponding changes in the conveyance of water through the channel to the east of Native Dog Island.

Although these predicted impacts may have limited effect on the flows or hydrodynamics of the overall Wallamba River and Wallis Lake estuary system as stated in the EA, it is likely that there will be localised effects.

- It is anticipated that the modelled changes in velocity and redistribution of flows may further exacerbate community concerns about shoaling in the vicinity of Jonnell Cove.

Wetland and Saltmarsh

To reach the settling ponds, the pipeline will traverse a SEPP 14 wetland for a distance of 2.3 km. The route runs north-west along the northern bank of the Wallamba River to the creek entrance of the spoil deposition site along the Wallamba Broadwater. The pipeline will be laid on the ground and wind its way through some existing open space within the wetland and along cleared boundary fence alignments. A 100 m section will traverse an area of saltmarsh while another section will traverse 75m of un-cleared SEPP 14 wetland. Although the EA has concluded that the proposed development would not have a significant impact upon the wetland, and, in fact would be "benign" (pg 34 Volume 1), DNR has concerns regarding the potential impact of the establishment, operation and decommissioning of the dredge spoil pipeline across the wetland and endangered ecological communities.

Although the EA states that it will not be necessary to clear wetland vegetation, the pipeline will be dragged through the wetland in 100m sections, including through areas that are vegetated and sensitive to disturbance. The proposal has the potential to impact upon endangered ecological communities that are considered groundwater dependent ecosystems (saltmarsh, coastal Melaleuca communities and Swamp Sclerophyll Forest). Operation of the pipeline will involve impacts associated with foot traffic. Saltmarsh, for example, is particularly vulnerable to trampling and where trampling is high, saltmarsh plants are unable to regenerate or re-establish. The pipeline may also fragment part of the saltmarsh which could affect the foodweb structure of the marsh.

The *NSW State Groundwater Policy Framework* and the *NSW Groundwater Dependent Ecosystem Policy* promote the sustainability of groundwater dependent ecosystems. The *Water Management Act (2000)* includes principles that are of relevance to this proposal, in particular "dependent ecosystems, including groundwater and wetlands should be protected and restored and where possible land should not be degraded". Given that proposal will further degrade the existing wetland, saltmarsh and swamp forest and that the proponent will clearly benefit from the use of these areas, the Department requires the rehabilitation of all affected parts of the wetland and saltmarsh as per the *NSW Wetlands Management Policy*, Principle 6 which states that "natural wetlands should not be destroyed, but when social and economic imperatives require it, the rehabilitation or construction of a wetland should be required". The *NSW Wetlands Management Policy* indicates that where a project is deemed to be overwhelmingly in the public interest and no feasible alternative exists to the destruction or degradation of a natural wetland, compensation is required. In this case, the rehabilitation of degraded areas of the wetland so as to help maintain regional biodiversity, habitat and catchment functions. To this end, a rehabilitation and revegetation plan should be developed for all areas affected by the pipeline, including those cleared areas and be included in the Statement of Commitments.

The conservation value of the wetland and saltmarsh, as a whole, is high. The discussion paper under the *NSW Wetlands Management Policy "Compensatory Wetlands"* notes that if the conservation value of a wetland is high, that wetland should not be subject to development at all. To minimize the impact of the proposal on the SEPP 14 wetland and coastal floodplain endangered ecological communities, a thorough analysis of all feasible options should be explored. The EA was less than thorough. The analysis of options should include further exploration of alternative spoil sites so as to minimize the need to drag the pipeline through saltmarsh and SEPP 14 wetland habitat.

The *Wallis Lake Estuary Management Plan 2005* indicates the presence of SEPP 14 wetlands at Oakey Island, the location of the proposed oyster lease dredge area. The impact on these and the nearby SEPP 14 wetlands at Native Dog Island have not been assessed.

In summary the following aspects need to be addressed:

- The rehabilitation of all affected parts of wetland and salt marsh areas.
- Development of a rehabilitation and Revegetation Plan for all areas affected by the pipeline, including those cleared areas. This Plan should be included in the Statement of Commitments.
- To minimize the impact of the proposal on the SEPP 14 wetland and coastal floodplain endangered ecological communities, a thorough analysis of all feasible options should be undertaken.
- An assessment of the impact of the proposal on the SEPP 14 wetlands at Oakey Island and nearby Native Dog Island.

Mitigation measures

The Statements of Commitments should include implementation of measures in case of accidental breaks in the dredge pipe resulting in smothering of wetland vegetation or the contamination of surface and groundwater.

Riparian issues

Whilst a permit under Part 3A of the *Rivers and Foreshores Improvement Act 1948* is not required for works on *protected land*, the proposal should not cause erosion to the bed or banks of the channel nor alter the hydraulic, hydrologic or geomorphic function of the channel.

Stormwater & Flooding

- Stormwater management and drainage issues at this site do not appear to have been addressed in the draft document. The documentation does not appear to include a detailed site description or contour plan of the stockpile site that also contains property boundaries and existing drainage patterns. This makes it difficult to determine the location of the proposed stockpiles or the adequacy of stormwater management and drainage at the site.
- It should also be noted that the proposed stockpile area is affected by flooding from the Wallamba River. While stockpile is located in a flood fringe area, no assessment has been made of potential localised flooding impacts resulting from the development or the impact of flooding on the proposed stockpile area or stockpile operations. These impacts need to be addressed.
- The settling ponds and stockpiled material should be confined only to cleared areas and away from sensitive communities and nearby watercourses.

Groundwater

It is likely that excavation of the settling ponds will intercept groundwater and result in a window to the water table. Creation of a window to groundwater increases the risk of contamination of the aquifer, particularly if the slurry being pumped into the ponds contains acid sulphate sediments. Management principles of the *NSW State Groundwater Quality Protection Policy* include the prevention of groundwater pollutions so that future remediation is not required. If groundwater should be intercepted as a result of excavation of the settling ponds, a license under Part V of the *Water Act 1912* will be required. In order for DNR to

complete an assessment under relevant legislation, it is essential that details of all proposed works that will intercept groundwater be provided. Particulars must include:

- Predicted highest groundwater table at the selected settling pond site
- Predicted impacts of any final landform on the groundwater regime
- Description of the aquifer system to include the direction and rate of groundwater flow through the site, physical and chemical characteristics
- Details of existing groundwater users (including the natural environment) within the area of the proposed activity and any potential impacts on these users
- An assessment of the quality of groundwater for the site
- Details of how the proposed development will not potentially diminish the current quality of groundwater, both in the short and long term
- Details to prevent groundwater pollution so that further remediation is not required
- Details to demonstrate adequate groundwater protection having regard to the scale and scope of the works proposed.

If you would like to discuss these comments in more detail please phone Bruce Coates on (02) 4960 5070 or Laura Kuginis on (02) 4904 2540.

Yours sincerely

Greg Bernard
A/Coast & Floodplain Management Team Leader
Hunter/Central Coast

COPY

Your reference : 9038312-
Our reference : DOC06/53726 File: 2733071A1 Part 3A
Contact : Steve Lewer, 4908 6814

 **FAXED**
16/2/07

Mr P Weiner
Senior Environmental Planning Officer
Major Development Assessment
Department of Planning
GPO 39
SYDNEY NSW 2001

Dear Mr Weiner

**Proposed Oyster Lease Dredging – Wallis Lake
Project Application Number 05_0174 – Part 3A**

I refer to the Environmental Assessment (EA) report for Project Application (05_0174) - Oyster Lease Dredging and Sand Stockpile, Wallis Lake forwarded to the Department of Environment and Conservation (DEC) for evaluation and comment.

The proposed development occurs on Lots 59, 101, 123, 124 and 125 of Deposited Plan 753207 and Lot 12 of Deposited Plan 816473, Parish of Tuncurry, County of Gloucester, at 2-6 Rodmay Drive in Tuncurry, NSW.

DEC provided suggested assessment requirements for an EA to the Department of Planning on 16 January 2006, and advice on the adequacy of the draft EA on 28 July 2006. In the latter correspondence DEC indicated that modifications to the project proposal would be required to reduce and/or mitigate the environmental impacts of the proposal. Suggested modifications included, but were not limited to:

- Consideration of alternative routes for the dredge pipeline, with the aim of selecting a pipeline route to minimise impacts on SEPP 14 wetlands and coastal floodplain endangered ecological communities.
- Consideration of alternative sites for stockpiling spoil to ensure a preferred option which minimised clearing and destruction of vegetation and threatened species habitat.
- Observation and survey dates and conditions prevailing during the ecological survey should be specified in the flora and fauna survey and accompanying assessment report to enable DEC to evaluate potential impacts on threatened species. Surveys are required to be undertaken during optimal climatic and seasonal conditions and need to consider issues such as migratory species movements, the availability of shelter, breeding patterns and prerequisites, and also the relative availability of food resources.

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Department of **Environment and Conservation** NSW

Based on the current EA, DEC does not consider that the proponent has adequately assessed the above key matters, nor appropriately addressed threatened species issues in general. More specific details are provided in the attachment.

If you have any questions, or wish to discuss this advice further please contact Mr Steve Lewer, Biodiversity Conservation Officer, North East Branch, on (02) 4908 6814.

Yours sincerely



16/2/07

JOE WOODWARD
Executive Director Operations
Environment Protection and Regulation

Encl

ATTACHMENT**1. Inadequate assessment of likely impacts on threatened species and endangered ecological communities (EEC)**

The EA significantly underestimates the impact of the proposal on three Endangered Ecological Communities (EECs), specifically the Coastal Saltmarsh, Swamp Sclerophyll Forest on coastal floodplains and Swamp Oak Forest on coastal floodplains EECs.

Coastal Saltmarsh EEC

Laying the dredge pipeline on the ground surface is likely to impact on hydrological regimes affecting the saltmarsh (e.g. tidal inundation and/or freshwater flooding) with a resultant decline in the aerial extent of this community, increased weed invasion and potential mangrove encroachment.

DEC estimates that the proposal will impact a 600 metre long strip of Saltmarsh, substantially more than the 100 metre long strip estimated in the EA. While the EA does not indicate how wide the strip might be, DEC approximates in the order of at least 10 metres, taking into account the radius of the pipe (200mm) and the likely requirement for vehicle access to lay the pipe into place. It is also likely that turn-around areas would need to be cleared for vehicle access.

DEC is not convinced by statements in the EA that the pipeline will be located entirely on previously cleared land. Indications are that further clearing of EECs will be required along the pipeline route. Specific information on the accurate length and width of the construction envelope for the proposed development is essential in determining the impacts to threatened species, especially with respect to the fragmentation of habitat areas or loss of movement corridors.

The impacts on this EEC from winching the pipeline into place through the Saltmarsh, installing booster pumps and fuel storage, providing ongoing access for maintenance of the pipeline and booster pumps and removing the infrastructure at project completion is not adequately considered.

Swamp Sclerophyll Forest and Swamp Oak Forest EECs on coastal floodplains

DEC is of the opinion that the EA underestimates the area of these communities which would be affected by the proposal. The EA estimates a 75 metre strip would be impacted by clearing. DEC estimates (on the basis of a site inspection and aerial photograph interpretation using GIS measurements) that a strip about 1700 metres long would need to be cleared. The width of the strip would be similar to that described above but DEC notes that clearing, in part, has occurred along the northern section and the width here is in the order of 10-20 metres wide.

The EA does not adequately address the impacts on this EEC from the laying, maintaining and removing the pipeline at project completion.

The proposed pipeline route traverses a continuous vegetated corridor of remnant vegetation, which is important dispersal and resident habitat for a number of threatened species. Fragmentation or severing of this corridor will impede the movement ability of less mobile species such as the Wallum Froglet and Eastern Chestnut Mouse, which prefer continuous areas of connected habitat. For example a new east-west easement between Lots 101 and 59 will be created, further exacerbating fragmentation of the corridor and direct and indirect edge effects to the corridor. These effects have not been addressed in the EA.

Threatened Species

Threatened species (e.g. Black Bittern, Black-tailed Godwit, Wallum Froglet, Brush-tailed Phascogale, Eastern Chestnut Mouse and Squirrel Glider) known to this area (including their habitats), are likely to use the saltmarsh areas and swamp forest communities for foraging and breeding habitat. The EA suggests that habitat surrounding the proposal is adequate for mitigating any impacts of the proposal. However, the EA does not demonstrate through survey data that the

adjoining areas support populations of potentially affected threatened species. Nor does it indicate whether the proposed clearing on the site would lead to the displacement and/or habitat pressure on existing threatened species.

The EA provides an inadequate assessment of the likely cumulative impact on threatened species which are already under pressure from development in the Tuncurry area, particularly the Brush-tailed Phascogale and Squirrel Glider, and their habitat. These species are known from the adjoining areas (e.g. Chapman Road) and little is known about these species' home ranges within the locality and what impact development will have on this aspect of their life cycle and long-term survival in the Tuncurry area.

Laying the pipeline on the ground surface would impede the movement ability of poorly mobile species, such as Wallum Froglet and Eastern Chestnut Mouse. To reduce impacts on such species the EA proposes to raise the pipeline by placing wooden blocks at 15 metre intervals where it traverses known and potential Wallum Froglet habitat and potential Eastern Chestnut Mouse habitat. Although raising the pipeline may facilitate movement for these small and cryptic species, even though their preference is for continuous undisturbed habitat, potential subsidence of the pipeline would restrict their movement ability. DEC is concerned that such an arrangement may require frequent maintenance due to potential subsidence of the pipeline, resulting in frequent access and disturbance of the surrounding environment.

2. Inadequate consideration of alternative routes for the dredge pipeline

DEC previously raised this concern with Department of Planning and the proponent, and the issue has not been resolved. In particular DEC sought detailed consideration of alternative routes which might minimise the impact on SEPP 14 wetlands and the coastal floodplain EECs. Although this issue is briefly addressed in the EA, DEC is not convinced that reasonable and feasible alternatives have been assessed in the EA.

3. Inadequate consideration of alternative sites for stockpiling activities

DEC is concerned about the impacts of stockpiling spoil on a site that is currently vegetated and the potential impacts that clearing this vegetation would have on threatened species. DEC is aware that habitat which is the subject of another development proposal 100-200 metres to the north of the stockpile site is known habitat for Squirrel Glider and Brush-tailed Phascogale. Given that the habitat on these sites is similar, the stockpile site may also be important habitat for these species. Although the EA suggests that the overall development site contains limited foraging and denning resources, given the recent records of Gliders and Phascogales to the north of stockpile site, DEC is concerned about the gradual fragmentation and loss of their preferred habitat within the Tuncurry area. DEC has previously suggested in correspondence to Department of Planning on 28 July 2006 that alternative stockpile locations should be identified and a preferred option selected with the overall aim of minimising impacts from habitat destruction.

4. Inadequate offset provisions

The EA does not identify suitable offsets for the EEC that will be impacted by the pipeline, including clearing, pipeline installation and maintenance and environmental incidents. This approach to the EA is inconsistent with Department of Planning guidelines for threatened species assessments supporting Part 3A development projects. Identification of suitable offset areas should be based on an evaluation of the size, condition and type of habitat being lost compared to the habitat proposed to be preserved. Consideration should also be given to the longevity of any covenant to be placed on the land to be preserved such that conservation and appropriate management is ensured in perpetuity, such as under section 88B of the *Conveyancing Act 1919* or Voluntary Conservation Agreement under the *National Parks and Wildlife Act 1974*. Typically, an area of equal size and quality to that being lost, suitable for relevant threatened species, is the DEC's starting point for reaching agreement on an acceptable offset proposal.

Footnote?

5. Impacts of accidents, leakage and spills

There is a lack of detail in the EA with respect to ongoing maintenance and repairs of the pipeline and associated infrastructure (e.g. booster pumps and fuel storage tanks). The EA indicates that only new pipe would be used and continuous pressure monitoring and regular pipeline inspections will be conducted to safeguard against leakage and spills. The EA does not specify how this process will be conducted, such as on-foot or by vehicle. Further impacts to EECs and threatened species are likely from ongoing access through the area and these impacts should be appropriately assessed by the proponent.

DEC is concerned about potential pipeline breakage and subsidence, and the impacts these events may have on threatened species habitat and the local environs in general. Dredge spoil deposition from a pipeline break could have a significant detrimental effect on EECs, such as smothering of more sensitive and succulent *Sarcocornia* and *Suaeda species*. The EA does not provide details of mitigation strategies and cleanup measures for these events.

6. Groundwater impacts

A detailed analysis of the potential impacts on groundwater from the proposal has not been provided. DEC is concerned that potential infiltration of saline water into the groundwater through the settling ponds and saline intrusion as groundwater flows to the Wallamba River may have a negative impact on the surrounding wetland vegetation, in particular Swamp Sclerophyll Forest and Swamp Oak Forest EECs on coastal floodplains.

7. Inconsistencies with DEC Guidelines for fauna survey methodology

A number of significant departures from the survey methodology recommended in DEC's *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities* have been identified in the EA. For example appropriate survey techniques for certain fauna assemblages (e.g. pit falls or Elliott A traps) for small mammals, tree traps, including small hair-sampling tubes for arboreal species and specific avifauna surveys and insufficient survey effort (e.g. call playback was only undertaken on two sites over three non-consecutive nights). DEC guidelines suggest a minimum two sites per stratification unit over at least two non-consecutive nights for non-flying mammals (Squirrel Glider), and at least five nights per preferred habitat site for owl species (Powerful Owl, Barking Owl and Grass Owl).

The EA suggests that only a small number of mature trees will be removed and no clearing in the undisturbed Swamp Sclerophyll communities will occur and therefore no live trapping methods were required. DEC does not agree with this assumption. Based on DEC's assessment, a strip of forested vegetation approximately 1700 metres long will be affected. This would include the clearing a number of mature trees and understorey species which may be used for foraging and nesting / den purposes. Live trapping techniques are considered appropriate methodologies for detecting species in these environments.

8. Clarification of adjoining development

DEC has previously raised concerns with Department of Planning regarding the potential conflict between this proposal and a development application for a Seniors Living Development on the adjoining Lot 192 DP 1037212. The Seniors Living Development is the subject of a Class 1 appeal in the Land and Environment Court. DEC and Great Lakes Council are currently assessing the Species Impact Statement (SIS) for the proposal, including a Habitat Management Plan (HMP) and a compensatory habitat package offsetting threatened species impacts.

The SIS and HMP for the Seniors Living Development include provision for the management and enhancement of habitat within Lot 59 DP753207 and also suggests that the "retention of extensive areas of treed habitat on the land of the proponents to the south west of the subject site" (i.e.

referring to Lot 59 in DP 753207 and Lots 23 – 127 in DP 753207) are adequate to offset impacts from the Seniors Living Development. Part of these areas form part of this dredging proposal, and as such negates their suitability as offsets for other proposals. DEC is concerned that the inter-relationships between the land-holdings of this proposal and that of the Senior Living DA have not been clarified and any apparent inconsistencies resolved, to ensure that any land used as an offset for one proposal is not compromised or considered as an offset for another proposal.

DEC has determined that it is not able to support this oyster lease dredging project, as currently presented, for the above reasons. DEC would be prepared to review its assessment if the proponent comprehensively addresses the issues identified in this letter.



GREAT LAKES COUNCIL

Breeze Parade, Forster
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Telephone: (02) 6591 7222
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Paul Weiner
Senior Environmental Planning Officer
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Your Reference: 9038312-1

Contact: Mark Brown
Telephone: (02) 6591 7260

1 December 2006

Dear Sir:

**RE: PROJECT APPLICATION NO. 05 - 0174
PROPOSED OYSTER LEASE DREDGING - WALLIS LAKE**

I refer to the SEPP Major Project referred to Council for comment on 24 October 2006. Council is unable to provide in detail comments due to the limited time frame available to thoroughly review the submitted reports. From an initial review of the proposal from internal departments of Council concerns are raised with the proposal and further documentation should be provided for further assessment.

The concerns relate to, but not limited to: potential upon from flooding; access (note that the application is being considered by the Hunter Regional Traffic Committee on 6 December 2006); rehabilitation of the site once dredging works have been completed; ecological matters and legislative directions including the absence of an SIS (TSC Act 1995); issues concerning ecological description, justification, survey and assessment, protective safeguards and mitigation measures and the type, nature and significance of ecological impacts and risks both in and estuarine and terrestrial context.

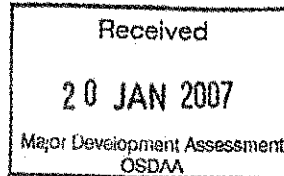
In the coming weeks Council will be reporting the matter to an internal Development Control Unit meeting for formal resolution of the comments. A copy of this report will be forwarded once completed.

If you require further information regarding the points raised above, please contact Mark Brown on (02) 6591 7260 between 8:30am and 10:00am Monday to Friday.

Yours Faithfully

Glenn Handford
Director of Planning & Environmental Services

410DA66;1
06/2464
Peta Waite



**Hunter Regional
Development Committee**

C/- RTA
Locked Bag 30
NEWCASTLE NSW 2300

Phone: (02) 4924 0240
Facsimile: (02) 4924 0342

Director, Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Mr Paul Weiner

**PROPOSED OYSTER LEASE DREDGING - WALLIS LAKE (PROJECT APPLICATION
NO. 05_0174)**

Dear Mr Weiner

I refer to your letter dated 24 October 2006 (Your reference: 9038312-1) regarding the subject development application. Please accept my apologies for not responding earlier.

The Hunter Regional Development Committee (HRDC) considered the application under the requirements of SEPP 11 - Traffic Generating Developments, at its meeting on 6 December 2006.

The Committee would have no objections to the proposed development provided the following matters are addressed and included in the conditions of development consent:

- The access from Grey Gum Road to the stockpile site should be sealed to prevent material from being tracked onto the road to Council's requirements.

On determination of this matter, it would be appreciated if a copy of the notice of determination could be forwarded to the HRDC for record purposes.

Please contact me on (02) 4924 0240 if you require further advice.

Yours sincerely

A handwritten signature in black ink, appearing to be "Dave Young".

Dave Young
Chairperson
Hunter Regional Development Committee

17 January 2007

Cc Mr Mike Keegan
Great Lakes Council

NSW DEPARTMENT OF
PRIMARY INDUSTRIES

Mr Paul Weiner
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

27 March 2007
Ref: 06-245A HB050086

Dear Mr Weiner,

Re: Proposed Oyster lease dredging - Wallis Lake. Project Number 07-0174

NSW DPI objected to this proposal in advice dated 29 November 2006. In this advice NSW DPI noted effects on seagrass, effects on commercial and recreational fishing and an inconsistency between the proposal and *Section 8.7 Maintenance Dredging of Oyster Leases* in the NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS).

NSW DPI's concerns over the potential effect of this proposal on seagrass, commercial and recreational fishing have not been alleviated, however the use of the Oyster Industry Sustainable Aquaculture strategy to establish a maximum allowable dredge depth for this proposal requires clarification.

The intent of OISAS Section 8.7 is to provide guidance on the type of maintenance dredging of oyster leases that could be routinely undertaken without significant environmental impact. It was intended that maintenance dredging of oyster leases in the Wallis Lake "Paddock" could proceed under these conditions without being designated development as provided for in Schedule 3 19(2)(g) of the *Environmental Planning and Assessment Regulation 2000*.

It is not the intention of OISAS Section 8.7 to prevent oyster lease maintenance dredging outside of these criteria, rather, that these proposals be subject to detailed environmental assessment and approval on merit.

The relevant NSW DPI policy in the case of the proposed development is the Policy and Guidelines for Aquatic Habitat Management and Fish Conservation 1999. Section 5.1.3 of this document states that "dredging in shallow areas **generally must not exceed 2 m below mean low water mark**, to facilitate water mixing and to ensure that the substrate remains in the light penetration (euphotic) zone to allow recolonisation of algae, seagrass or macrophytes."

If the proponent can justify that two meters below mean low water mark is required and can demonstrate adequate assessment of environmental impacts as well as mitigation and compensatory measures for the impacts on seagrass, commercial and recreational fishing as outlined in the departments response dated 29 November 2006, then NSW DPI will re-consider its objection.

Yours sincerely

Bill Talbot
Director, Fisheries Conservation and Aquaculture

NSW Department of Primary Industries
Locked Bag 1 NELSON BAY NSW 2315
Taylors Beach Road TAYLORS BEACH NSW 2315

ABN 51 734 124 190
www.dpi.nsw.gov.au
Tel: 02 49821232 Fax: 02 49819074



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

Our Ref: CF06-245

Your Ref: 07_0174

21 February 2008

Mr Howard Reed
Manager Mining and Extractive Resources
NSW Department of Planning
GPO Box 39
Sydney NSW 2001

Dear Mr Reed

**Re: Proposed Oyster lease dredging – Wallis Lake
Project Application Number 07_0174**

In response to Mr David Fitzgibbon's email of 17 December 2007 I can confirm that the bond for seagrass rehabilitation, as proposed for this development, is \$342,000.

However, the department is prepared to consider an alternate arrangement where 1.14 hectares of the area is dredged to a depth of 1.0 metres instead of 2.0 metres as proposed. This area would preferably be on either the inside or outside margins of the lease and would be the area on which seagrass rehabilitation must be undertaken.

This shallower dredge depth will reduce the risk of failure to re-establish seagrass. As a result of this reduced risk, should the proponent choose this option then NSW DPI would reduce the bond to \$34,200.

Also, NSW DPI recommends a condition of consent that permits only floating basket infrastructure over the seagrass rehabilitation zone to reduce potential shading impacts.

If the proponent chooses the alternate option, then NSW DPI requests that a revised project plan be submitted for its approval.

For either option, the proponent may lodge either a cash deposit or bank guarantee. At the completion of the project and rehabilitation works a percentage of the bond will be returned to the proponent depending on the success or otherwise of the rehabilitation.

In recent discussions with the proponent it became evident that there were slight discrepancies between the survey plan used to plan the dredging (see pages 1 and 11 of Appendix B) and the legal survey plan of OL80/178. Attached is an amended plan provided by the proponent that corrects these discrepancies.

For any further information please telephone Mr Scott Carter, Senior Conservation Manager on (02) 4916 3931.

Yours sincerely,

 3/2/08

Bill Talbot
Director, Fisheries Conservation and Aquaculture

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