

ASSESSMENT REPORT

Wallis Lake Oyster Lease Dredging Project (05_0174)

Section 75W Modification

1 BACKGROUND

Mr Trevor Dent (the Proponent) is leaseholder of oyster lease No. 80-178 in the northern part of Wallis Lake, just south of Tuncurry at the mouth of the Wallamba River (see Figure 1).

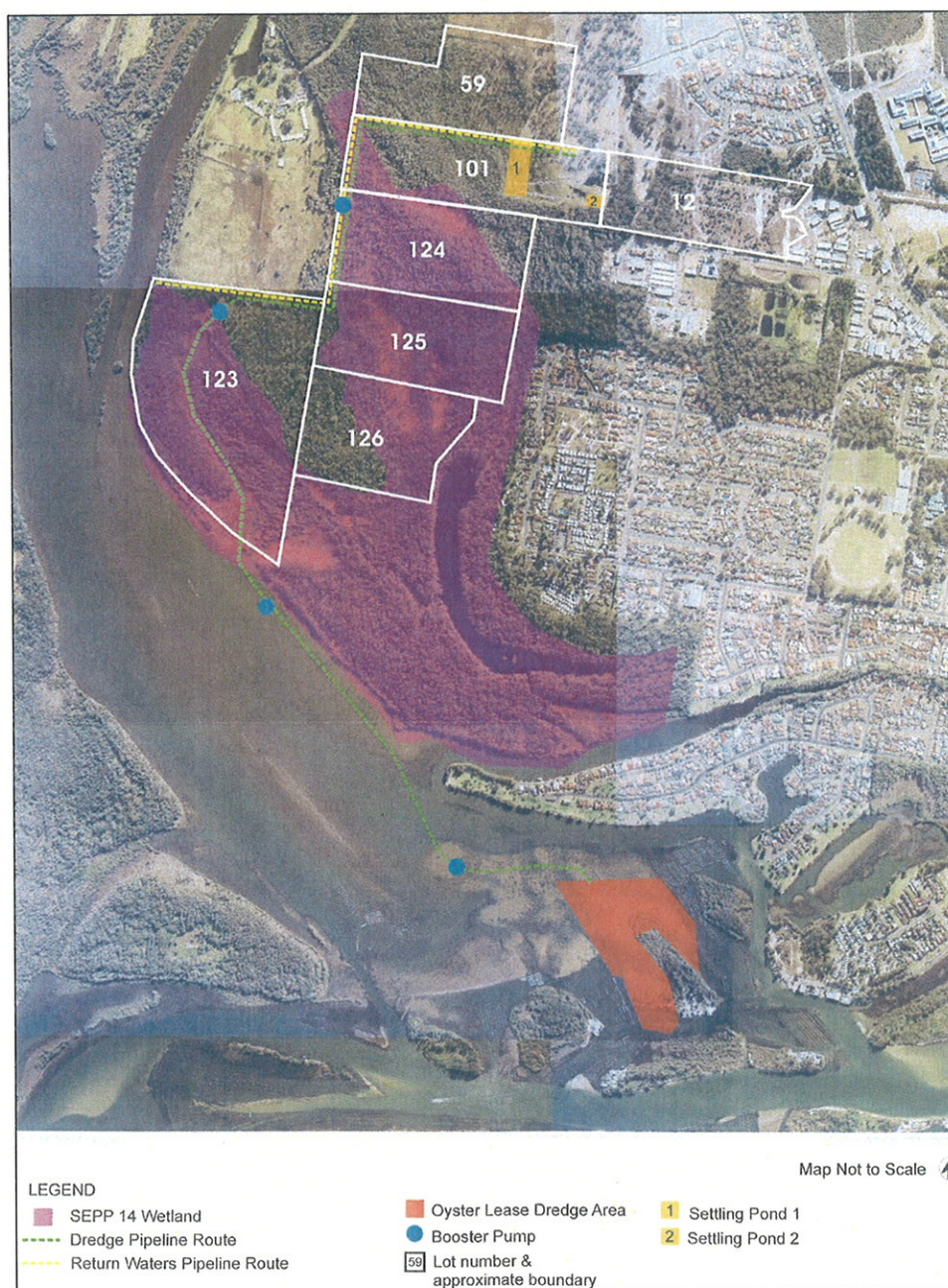


Figure 1: Location of the Wallis Lake Oyster Lease Dredging Project.

On 4 March 2009, the Minister for Planning approved the Wallis Lake Oyster Lease Dredging Project (MP 05_0174). This approval allows the Proponent to undertake the following (see Figure 1):

- dredge the oyster lease to enable renewed oyster cultivation;
- pipe dredged sand and silt material to an onshore stockpile and processing site; and
- stockpile sand on that site for sale and dispatch.

Development under this approval has not commenced and is not likely to commence for at least 12 months.

2 PROPOSED MODIFICATION AND PROJECT NEED

On 4 November 2009, the Proponent submitted an application to the Department under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify the project's approval.

Under Schedule 3 of the current approval, the Proponent is required to implement various monitoring programs prior to undertaking any development on site. Under Condition 2 of Schedule 5, the Proponent is required to consolidate these monitoring programs into a single document known as an Environmental Monitoring Program (EMP). The EMP must be submitted to the Director-General within 6 months of the date of the approval. However, given that works under the approval have not commenced and are not likely to commence for at least 12 months, the Proponent is seeking to amend Condition 2 of Schedule 5 to require the EMP to be submitted and approved by the Director-General prior to undertaking any development on the site.

No other modifications to the project approval are sought under this application.

3 STATUTORY CONTEXT

Approval Authority

The Minister was the approval authority for the original project application, and is consequently the approval authority for this modification application. However, under the Minister's delegation of 4 March 2009, the Executive Director, Major DA Assessments, may determine the application.

Modification

The proposed modification does not involve changes to any of the mine's operating functions. Consequently the Department is satisfied that the proposed modification would not involve a "radical transformation" of the project and that it can be determined under section 75W of the EP&A Act.

Consultation

Under section 75W of the EP&A Act, the Department is not required to exhibit the modification application or undertake consultation. However, the modification application was referred to the Department of Environment, Climate Change and Water (DECCW), which subsequently provided its support for the proposal.

4 ASSESSMENT

Under Schedule 3 of the approval, the Ecological, Surface Water, Groundwater and Noise Monitoring Programs each must be submitted to the Department prior to works commencing on site. However, Condition 2 of Schedule 5 reads as follows:

The Proponent shall prepare an Environmental Monitoring Program for the project to the satisfaction of the Director-General. This program must be submitted to the Director-General within 6 months of the date of this approval, and consolidate the various monitoring requirements in Schedule 3 of this approval into a single document.

In order to fulfil the requirements of Condition 2 of Schedule 5, the Proponent would need to prepare these monitoring programs now, which is not considered necessary given that the project is not expected to commence for at least 12 months. The Department accepts that the monitoring programs can be prepared and submitted closer to the project's commencement. The Department recommends that Condition 2 of Schedule 5 be amended to read as follows:

The Proponent shall prepare an Environmental Monitoring Program for the project to the satisfaction of the Director-General. This program must consolidate the various monitoring requirements in Schedule 3 of this approval into a single document and must be submitted and approved by the Director-General prior to undertaking any development on the site.

The Department considers that the proposed modification will have nil environmental impact and will ensure appropriate timing for the implementation of monitoring activities and programs.

5 RECOMMENDED CONDITIONS

The Department has recommended a modified condition of approval for the Wallis Lake Oyster Lease Dredging Project and is satisfied that the recommended condition is adequate to manage the development.

6 CONCLUSION

The Department has assessed the application in accordance with the relevant requirements of the EP&A Act. This assessment has found that the proposed modifications would be of nil environmental impact, and may improve the relevance of the EMP.

On this basis, the Department is satisfied that the proposed modification is justified, and should be approved.

7 RECOMMENDATION

It is RECOMMENDED that the Executive Director, Major DA Assessments:

- **consider** the findings and recommendations of this report;
- **determine** that the proposed modification would not "radically transform" the approved project;
- **approve** the proposed modification under section 75W of the EP&A Act; and
- **sign** the attached Notice of Modification (Tag A).

Kitto 1/12/09

David Kitto
Director
Major Development Assessment

[Signature] 3.12.05

Chris Wilson
Executive Director
Major DA Assessments

Howard Reed 1.12.09
Howard Reed
Manager Mining
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Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Chris Wilson
Executive Director, Major DA Assessments
(as Delegate for the Minister for Planning)

Sydney 3 DECEMBER 2009

SCHEDULE 1

The Project Approval (05_0174) for the Wallis Lake Oyster Lease Dredging Project, granted by the Minister for Planning on 4 March 2009.

SCHEDULE 2

1. In Condition 2 of Schedule 5, delete all words after "must" and replace with the following:

consolidate the various monitoring requirements in Schedule 3 of this approval into a single document and must be submitted and approved by the Director-General prior to undertaking any development on the site.