

## ASSESSMENT REPORT

### Section 75W Modification Redlake Industrial Estate & WesTrac Facility, Tomago Amendment to Groundwater Monitoring Condition (MP 07\_0086 MOD 2)

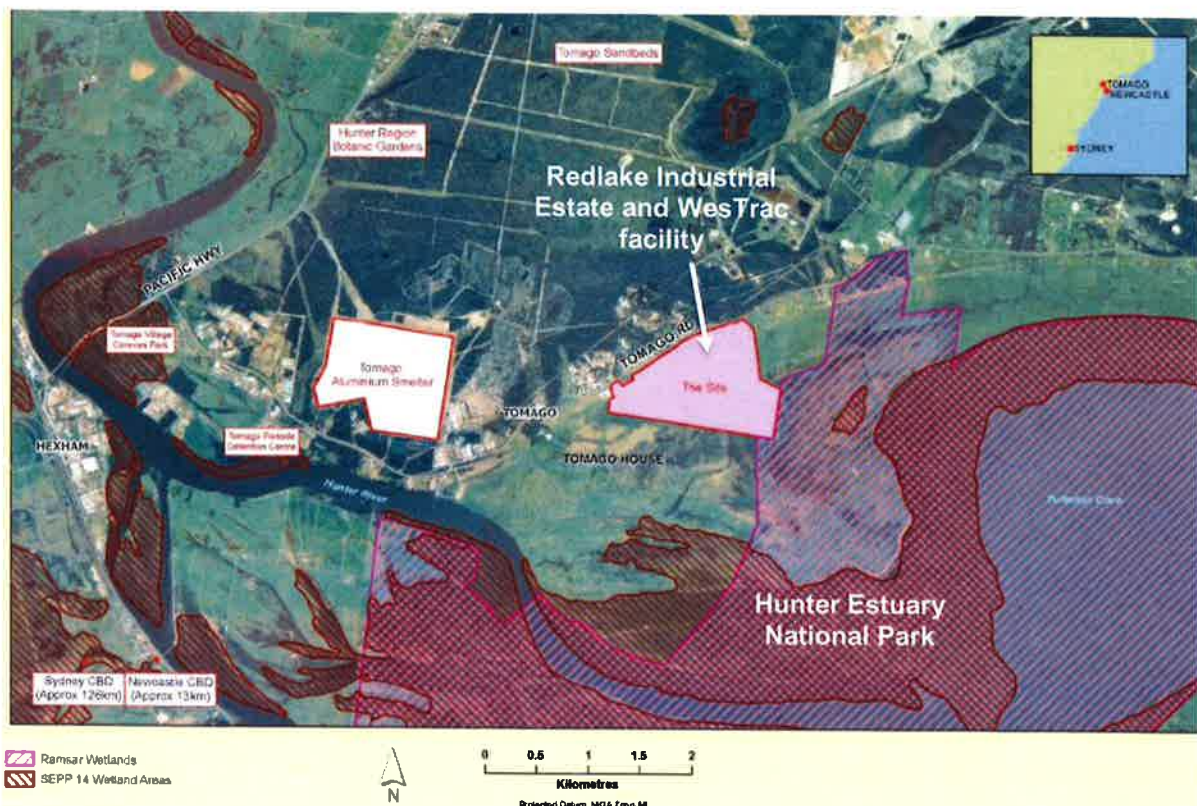
#### 1. INTRODUCTION

This report assesses a modification request by APN Funds Management Limited (the Proponent) to the WesTrac facility within the Redlake Industrial Estate located at Tomago Road, Tomago. The request has been lodged pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

#### 2. BACKGROUND

The Proponent owns and operates the WesTrac facility at Tomago in the Port Stephens local government area (see **Figure 1**). The WesTrac facility includes a manufacturing and maintenance facility for Caterpillar heavy machinery and equipment and covers an area of around 25 hectares (ha) of land on Tomago Road. The facility forms Stage 1 of a large industrial park (referred to as the Redlake Industrial Estate) approved by the then Minister for Planning on 7 August 2009.

The WesTrac facility was completed in 2012, employs between 300 and 400 people and is WesTrac's NSW/ACT headquarters. The facility includes 12 separate buildings housing a training centre, sales and administration building, a large parts warehouse, highway trucks centre, component rebuild/assembly centre, cafeteria and change rooms. The buildings are located on a large concrete hardstand area with connecting internal roads, parking areas and large areas for drainage and groundwater infiltration.



**Figure 1:** Location of the approved Redlake Industrial Estate including the WesTrac facility, Tomago

### 3. SUBJECT SITE

The site is located close to other industrial developments on the northern side of Tomago Road, including major facilities such as the Tomago aluminium smelter to the west. Areas to the east are predominantly rural with the nearest rural residential dwelling located around 60 metres (m) from the site adjacent to its eastern boundary (see **Figure 1**).

To the south of the site is the Hunter Estuary National Park, which includes the Tomago and Fullerton Cove Wetlands and the internationally listed (Ramsar) Hunter Estuary Wetlands (see **Figure 1**). The wetlands are separated from the site by a 22 ha biodiversity offset that formed part of the project approval, which has now been transferred to the National Parks and Wildlife Service (NPWS) Estate.

The Hunter Estuary Wetlands are recognised as a significant area of conservation for migratory birds, with a number of migratory birds recorded in this area listed under international treaties including the Japan-Australia and China-Australia Migratory Bird Agreements (JAMBA and CAMBA). Other key natural features in the area include Fullerton Cove to the east (~2 kilometres (km)), and the Hunter River to the south and west (~1.5 km).

### 4. PROJECT APPROVAL

On 7 August 2009, approval was granted by the then Minister for Planning for the Redlake Industrial Estate (MP 07\_0086). The project approval allowed for:

- three stages of subdivision and bulk earthworks on 116 ha of vacant agricultural land, including filling of the site above the 1 in 100-year flood level to protect future industrial businesses on the site; and
- the construction and operation of an integrated WesTrac facility.

The project approval has been modified on one previous occasion to address drainage issues associated with surface water on the site (MP 07\_0086 MOD 1). On 26 November 2015, approval was granted by the Director, Industry Assessments for alterations to the site's drainage infrastructure at the south-eastern corner of the site and additional water monitoring requirements. This modification is discussed further in **Section 4.1**.

When the original project approval and modification was issued, the site (including the WesTrac facility) was owned and operated by Northbank Enterprise Hub Pty Ltd (NEH). The site was later subdivided and in October 2016, the Proponent purchased the WesTrac facility (Lot 212, DP 1174939) and land to the south of the WesTrac facility, earmarked for a future Stage 2 development (Lot 211, DP 1174939) (see **Figure 2**). NEH has retained ownership of land to the west of the WesTrac facility to be developed for a future Stage 3 development (Lot 210, DP 1174939).

#### 4.1 Site History and Water Management Issues

The site has a history of surface water issues because it is located on low-lying land and is subject to inundation during periods of prolonged rainfall. The groundwater and surface water interactions in this area are complex and affect many competing land uses.

In November 2010, the Department received a complaint from an adjoining landowner regarding waterlogging on their property (see **Figure 2**). Since 2010, the Department has received ongoing complaints regarding this issue. Due to the complex nature of the water regime in that area, the Department commissioned two independent expert hydrologists to investigate the waterlogging issue (Equatica in 2012 and Bewsher Consulting in 2013).

Both hydrologists concluded the WesTrac facility was causing waterlogging on the adjoining property (although the Department notes this is disputed by NEH), given the increase in surface water discharges from the sediment basin which had concentrated near the southern boundary of the neighbouring properties (see **Figure 2**). Previously, this area had received very little water from the site.

To address the issue, the Department obtained further expert hydraulic advice from Bewsher Consulting, who recommended redirecting flows from the site's sediment basin to the west, via a route acceptable to NPWS and that would be practical for future development stages of the project (see **Figure 2**).

In February 2015, NEH lodged a modification request (MP 07\_0086 MOD 1) to alter the site's discharge location to alleviate the waterlogging issue on adjoining properties. The Department recommended additional conditions requiring NEH to:

- carry out alterations to the drainage location at the southern end of the site;
- undertake further specific spillway flow and ground water monitoring and reporting; and
- update the site water balance.

Following the determination of MP 07\_0086 MOD 1, NEH approached the Department to renegotiate the additional conditions, particularly the groundwater monitoring requirements, which it considers are onerous and unnecessary as groundwater inflows would be monitored using groundwater level information from a Hunter Water Corporation (HWC) bore installed at the northern boundary of the site.

The Department advised it would consider this request and that a modification request would need to be submitted.

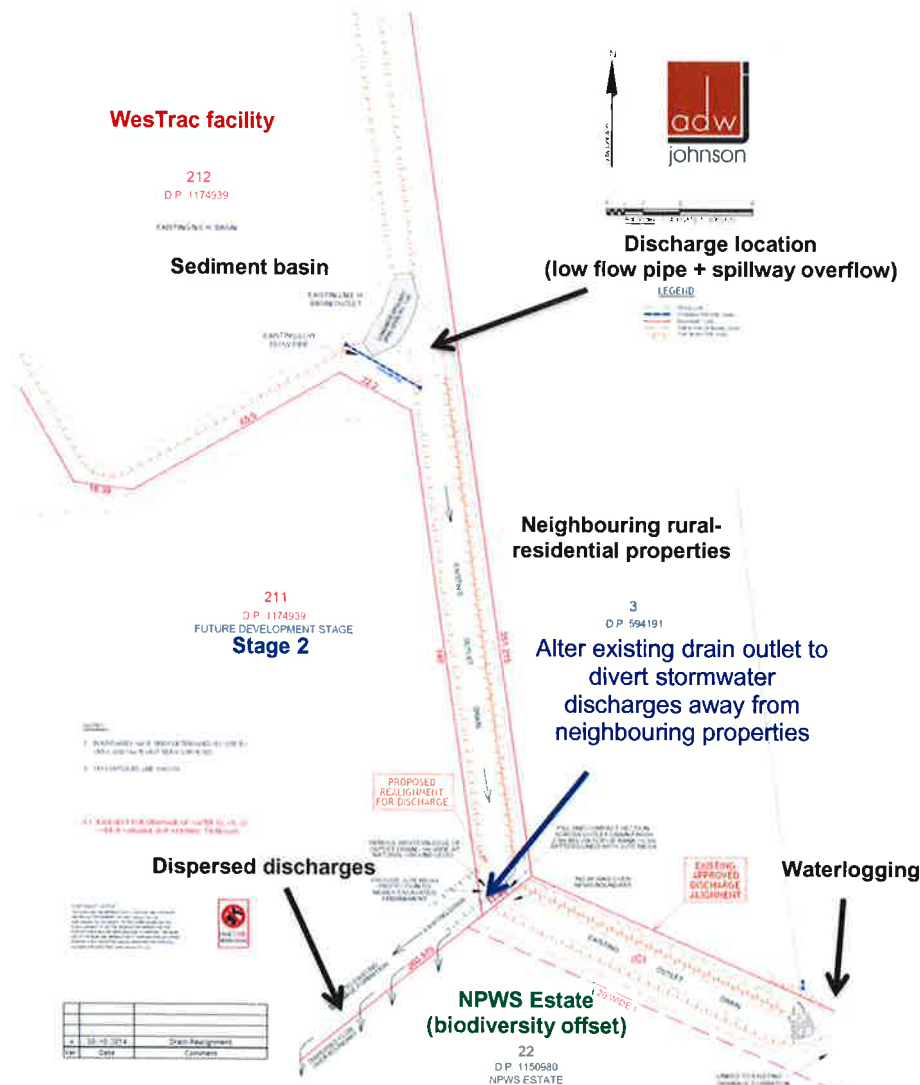


Figure 2: Modified drainage and discharge location from the WesTrac facility

## 5. PROPOSED MODIFICATION

The Proponent lodged a modification request (MP 07\_0086 MOD 2) under section 75W of the EP&A Act to modify the Redlake Industrial Estate and WesTrac facility project approval to remove Conditions 13A and 13B, which relate to the groundwater monitoring requirements for the site.

As discussed in **Section 4.1**, the Proponent considers these monitoring requirements are not necessary. The modification is described in full in the Proponent's request included in **Appendix B**.

## 6. STATUTORY CONTEXT

### 6.1 Approval Authority

The Minister for Planning is the approval authority for the request. Under the Minister's delegation of 16 February 2015, the Director, Industry Assessments, may determine the request under delegation as:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

## 6.2 Section 75W

In accordance with Clause 12 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification;
- the modification is of a scale that warrants the use of section 75W of the EP&A Act;
- the approved use of the site for the WesTrac facility would remain unchanged as a result of the proposed modification; and
- any potential environmental impacts would be appropriately managed through the existing or modified conditions of approval.

Therefore, the Department is satisfied the proposed modification is within the scope of section 75W of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the request should be assessed and determined under section 75W of the EP&A Act rather than requiring a new development application to be lodged.

## 7. CONSULTATION

Under section 75W of the EP&A Act, the Department is not required to notify or exhibit the modification request. Upon receipt, the request was placed on the Department's website and following a review of the documentation, the Department did not consider that further consultation was necessary. Notwithstanding, the Department sought comments from the Office of Environment and Heritage (OEH).

The OEH (which includes NPWS) did not object to the removal of the groundwater monitoring requirements.

## 8. ASSESSMENT

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- EA and assessment report for the original application;
- existing conditions of approval (as modified);
- the EA supporting the proposed modification (**Appendix B**);
- the Proponent's response to issues raised in submissions;
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issues relate to the Proponent's justification to remove groundwater monitoring requirements. This issue is considered further below.

### 8.1 Removal of Groundwater Monitoring Requirements

Conditions 13A and 13B of the project approval require the Proponent to prepare and implement a groundwater monitoring program that details the procedures for the measurement of groundwater inflows, infiltration rates and groundwater outflows within the site. These conditions were imposed under MP 07\_0089 MOD 1 to enable the Proponent to identify any changes to conditions on the NPWS Estate as a result of the altered drainage flows.

As discussed previously, the Proponent considers the specific groundwater monitoring requirements are unnecessary given groundwater inflows are being monitored upstream of the site by HWC. The Department notes the groundwater level data from the HWC bore has been unavailable for the last few years, however, the Proponent has committed to undertaking remedial work to the HWC bore (at its own expense) to restore the accuracy of regional groundwater level data provided to HWC.

The Department also obtained further independent expert advice from Bewsher Consulting on the groundwater monitoring requirements who recommended:



- conditions 13A and 13B be removed;
- additional reporting of spillway flows be included in the Proponent's Annual Environmental Management Report (AEMR) under Condition 44 of the project approval, including reporting on discharge rates and volumes exiting the basin; and
- a new condition describing the contingency measures to be implemented if monitoring indicates adverse impacts on the NPWS Estate are occurring.

OEH did not raise any concerns and agrees with the advice provided by Bewsher Consulting.

The Department considers the deletion of Conditions 13A and 13B is acceptable as the Proponent would be able to obtain regional groundwater level data from HWC once the bore is repaired. The Department further recommends the Proponent include monitoring results from the HWC bore in its AEMR, which has been included in the recommended instrument.

The Department also considers it reasonable to require the Proponent to undertake additional reporting of spillway flows in its AEMR, and to implement contingency measures if adverse impacts occur on the NPWS Estate, since these requirements are essential to managing the waterlogging issue. Bewsher Consulting further advised that the additional spillway monitoring would be crucial to understanding the site's water balance. The Department has included these requirements in the recommended instrument.

The Department's assessment concludes the updated monitoring and reporting requirements will assist in the early identification of water issues, so that additional management measures can be implemented to minimise any significant overflow discharges and flooding of neighbouring properties.

## 9. CONCLUSION

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification would not result in an increase in environmental impacts from the approved project. The recommendations do not alter the operation of the site but instead clarify expectations on water monitoring and reporting.

The Department is satisfied that the modification should be approved, subject to conditions.

## 10. RECOMMENDATION

It is recommended that the Director, Industry Assessments:

- **consider** the findings and recommendations of this report;
- **approve** the proposed modification under section 75W of the EP&A Act; and
- **sign** the attached Instrument of Modification (in **Appendix A**).

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ENDORSED:

  
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20/6/17