# APPROVAL DECISION

**ALBANY PORT AUTHORITY PORT EXPANSION PROJECT, WA, EPBC REFERRAL 2006/2540**

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

**Proposed action**

<table>
<thead>
<tr>
<th>person to whom the approval is granted</th>
<th>Albany Port Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>proponent's ACN and ABN (if applicable)</td>
<td>60 105 812 112</td>
</tr>
<tr>
<td>proposed action</td>
<td>to undertake channel deepening (dredging), land reclamation and off-shore disposal of dredge material in King George Sound and Princess Royal Harbour at Port Albany, WA.</td>
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</table>

**Approval decision**

<table>
<thead>
<tr>
<th>Controlling Provision</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Listed threatened species and communities (ss 18, 18A)</td>
<td>Approved</td>
</tr>
<tr>
<td>Listed migratory species (ss 20, 20A)</td>
<td>Approved</td>
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</table>

**conditions of approval**

This approval is subject to the conditions specified below.

**expiry date of approval**

This approval has effect until 31 December 2015.

**Person authorised to make decision**

<table>
<thead>
<tr>
<th>name and position</th>
<th>Vicki Middleton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Secretary</td>
<td>Environment Assessment Branch</td>
</tr>
</tbody>
</table>

**signature**

[Signature]

**date of decision**

11 June 2010
**Conditions attached to the approval**

**Conditions**

1. **Dredging and Land Reclamation Environmental Management Plan**
   
   Prior to construction commencing, the person taking the action must submit a Dredging and Land Reclamation Environmental Management Plan to the Minister for approval. The action must not commence until the Plan has been approved. The approved Plan must be implemented and must include, but not be limited to, the following:

   a) a description of the pile driving methodology to be employed, including soft starts (where the initial five impacts from the hammer are at no more than half of full hammer weight, to encourage animals to move away from subsequent blows).

   b) a cetacean exclusion zone of 2 km during pile driving operations.

   c) a pinniped exclusion zone of 500 m during pile driving operations.

   d) visual monitoring within the above exclusion zones for the presence of cetaceans and pinnipeds. Visual monitoring must be undertaken for at least 20 minutes prior to and during pile driving activities, by a qualified Marine Mammal Observer during peak whale migration periods (May to October), or by personnel experienced and/or trained in fauna observation, distance estimation and reporting, at all other times.

   e) a cetacean and pinniped exclusion zone of 300 m during dredging and sea dumping operations.

   f) proposed contingency measures in the event cetaceans or pinnipeds are observed within, or moving into, pile driving exclusion zones noted at condition 1 b) and c), including procedures to immediately commence shutdown of piling activities. Shutdown of piling activities must be maintained for at least 20 minutes from the time of last sighting within the exclusion zones, or until the cetacean or pinniped has been observed to move outside the exclusion zone. Provisions must be made for periods of low visibility, where two kilometres cannot be clearly viewed. Night time pile driving operations are not permitted.

   g) proposed contingency measures in the event cetaceans or pinnipeds are observed within, or moving into, the dredging or sea dumping exclusion zone noted at condition 1 e), including procedures to immediately commence shutdown of dredging or sea dumping activities. Shutdown of activities must be maintained for at least 20 minutes from the time of last sighting within the exclusion zone, or until the cetacean or pinniped has been observed to move outside the exclusion zone, or the dredge vessel is to move to another area of the dredge/disposal ground to maintain a minimum distance of 300 m between the vessel and any cetacean or pinniped.

   h) observation and reporting of injured fauna during pile driving, sea dumping and dredging including the maintenance of a log of fauna observations during pre-startup and operation of piling equipment.

   i) water quality mitigation measures and measures for monitoring turbidity and light attenuation.

   j) seagrass and reef community health monitoring.

   k) measures to prevent and respond to the introduction of introduced marine pest species.

   l) measures to prevent and respond to accidental fuel, oil or chemical spills.

   m) triggers for initiating adaptive management, including matters discussed in conditions 1 h) to k).

2. **Dredging Exclusion Period**

   To protect seagrasses, no Stage 2 capital dredging of the shipping channel is to occur between 1 November to 28 February in any year.

3. **Sea Dumping Permit**

   The person taking the action must have an approved sea dumping permit pursuant to the Commonwealth Environment Protection (Sea Dumping) Act 1981 prior to dredging and spoil disposal.
4. Process for Variation to Plans
If the person taking the action wishes to carry out any activity otherwise than in accordance with the plan referred to in condition 1 the person taking the action may submit for the Minister's approval a revised version of the plan. If the Minister approves a revised plan so submitted, the person taking the action must implement that plan instead of the plan as originally approved.

5. Right of Minister to Require Revisions
If the Minister believes that it is necessary or desirable for the better protection of the environment to do so, the Minister may request the person taking the action to make specified revisions to a plan approved pursuant to condition 1 and to submit the revised plan for the Minister's approval. The person taking the action must comply with any such request. If the Minister approves a revised plan pursuant to this condition, the person taking the action must implement that plan instead of the plan as originally approved.

6. Compliance Reporting
By 1 July each year after the commencement of the action, the person taking the action must provide a report to the Department addressing compliance with the conditions of this approval over the previous 12 months. Reports must be provided until closure of the action.

7. Commencement of Action
If, at any time after five years from the date of this approval, the person taking the action has not commenced construction of the action, then the person taking the action must not commence construction without the written consent of the Minister.

Within 14 days of commencement of the action, the person taking the action must advise the Department of the actual date of commencement.

8. Public Availability of Plans, Reports, Systems and Programs
Management plans, reports, systems and programs (however described) referred to in these conditions of approval must be made publicly available as determined by the Minister.

9. Independent Audit
Upon the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister.

10. Record Keeping
The person taking the action must maintain accurate records of activities associated with or relevant to the above conditions of approval, and make them available on request by the Department. Such documents may be subject to audit by the Department and used to verify compliance with the conditions of approval.
Definitions

The Department: is the Australian Government Department responsible for the Environment Protection and Biodiversity Conservation Act 1999.

The Minister: is the Australian Government Minister who administers the Environment Protection and Biodiversity Conservation Act 1999.


Stage 2 dredging: dredging of the proposed shipping channel by a trailer suction hopper dredge (TSHD), as described in the Public Environmental Review Supplementary Information Package March 2009, page 7.