

Anon 42

Attention: Director, Industry, Key Sites and Social Projects
Department of Planning & Infrastructure NSW
GPO Box 39, SYDNEY NSW, 2001
c.c. The Honourable Mr. Brad Hazzard Minister Planning & Infrastructure NSW

RE: Application Number MP 10-0006 (Pindimar Abalone Project)



I have not made a reportable political donation in the past two years and I would prefer that my name and contact information be withheld.

Record of Objection:

I vehemently object to the proposed development of an Abalone factory within the Port Stephens estuarine waters. The proposed abalone factory is destined for both economic failure and environmental catastrophe.

In terms of the Director General Requirements, subsection General Requirements, paragraph 6, I am concerned about the lack of economic justification for the viability of the proposed project.

Viability evaluation and justification for both construction and operating return-on-investment are required to ensure the investment doesn't collapse leaving the government to clean up the environmental mess. Costs of disaster recovery must be borne by the proponents, not left to government and local constituents, should it fail financially at any stage during construction and operation. Best practice risk management would require the proponents to record the justification and so be held accountable.

I have presented my concerns in detail, below, by identifying the lack of justification. I have also identified some serious errors of omission of information from the Environmental Assessment Report [EAR] in terms of disaster contingency plans and the proponents' failure to adequately assess impacts upon the local Loggerhead turtle population. And they failed to disclose the existence and close proximity of the oyster leases.

Recommendations:

I strongly recommend that the minister, or agent(s), visit South Pindimar before any decision is made. Please contact Judith Richardson, Chairperson Pindimar Abalone committee for the Pindimar/Bundabah Community Association, Contact phone 0402655790 or write to 16 Cambage Street, Pindimar NSW, 2324.

- 1) I recommend that the Minister reject the proposal and instruct that the proponent provide a suitable clean up and environmental recovery bond to the government. The Minister should ensure that the bond, collected from the investors, is to be held in trust by the government and made readily available to cover costs of environmental clean-up and rehabilitation should the factory fail during any stage of construction, development and/or operation.
- 2) I recommend that the Minister reject the proposal and request the proponents provide specific and detailed contingency plans for Disaster Recovery. Disaster recovery plans must disclose detail in terms of the number of people and their responsibilities, actions and all associated

time-frames. Plans must explain how they mitigate consequences and impacts upon the environment and residents.

- 3) I recommend that the Minister reject the proposal and request the proponents to provide an appropriate investigation and assessment of the impact of the proposed development upon the local Loggerhead turtle population.
- 4) I recommend that the Minister reject the proposal for failing to accurately report the existence of the oyster lease in close proximity to the proposed developments' effluent outlets.

Background:

Prior attempts to have this factory project approved, albeit at half the proposed operational capacity, was quashed in the NSW Land and Environment Court in 2007. I refer to NSW Land and Environment Court Judgement from *The Pindimar / Bundabah Community Association Incorporated v Great Lakes Council & Ors* [2007] NSWLEC 165 (19 March 2007)

I also understand that a previous NSW Fisheries experiment for commercial abalone production at the Toomeree headland of Port Stephens also failed.

The proposed industry will be located approximately 11km from the open ocean; which is well beyond the natural, water-quality requirements for the wild abalone population. Water quality will continue to deteriorate with the proposed abalone factory pumping its effluent back into the bay.

The high risk of waterways contamination is demonstrated by the devastating disease outbreaks that occurred in Victoria, spreading to wild abalone populations and, subsequently, to the Tasmanian populations. The large distance of the disease spread clearly indicates the insidious nature of the *gongylonchitis virus* that remains without cure.

I was unable to determine, from the EAR and Appendix 9 Record of Minister's opinion- Major Projects under Part 3A, the justification for classification of the proposed Abalone farm as a 'State Significant project'. The letter dated 17 July 2007 from Australian Bounty Seafoods, upon which the minister based his decision, has not been made available.

I refer the Minister to a previous NSW Land and Environment Court Judgement from *The Pindimar / Bundabah Community Association Incorporated v Great Lakes Council & Ors* [2007] NSWLEC 165 (19 March 2007)

Paragraph 18; "The proposed development is not State significant development and the prohibited part cannot be approved as it was in a *Minister for Planning v Gales Holdings Pty Limited* [2006] NSWCA 212; (2006) 146 LGERA 450."

Matters Arising and Points to Consider:

Please find below a more detailed account of my objection based upon of the risks and matters that have not been properly addressed by the Environmental Assessment Report [EAR] and associated Appendices.

1) Proponents EAR, Section 3.5 Project Justification failed to discuss Disaster Recovery should the venture fail at any stage of development.

In terms of financial risk assessment:-

- a) I strongly recommend that the proponent provide a suitable clean up and environmental recovery bond to the government, to be held in trust, to ensure investor funds are set aside before any construction is commenced.
 - i) The Minister should ensure that the bond, collected from the investors, is to be held in trust and made readily available to cover costs of clean-up and rehabilitation should the factory project fail during any stage of construction, development and/or operation.
 - ii) The Minister should determine an appropriate \$ amount for the bond from a detailed cost assessment provided by the proponents.
 - iii) What is the cost of cleanup at each stage of the venture?
 - iv) Who bears this cost of clean-up and rehabilitation should the project fail?

- v) Who ensures the proponents have the funds to meet this obligation to cleanup?
- vi) The Great Lakes Council has not addressed this issue.
- vii) The Port Stephens Council has not addressed this issue.
- b) It is high risk and concern to the community if the proponents are allowed to simply state that there is several years lead-time until revenue-earning capability (5 years?) and before the proposal can offset or recoup construction, development and then operating costs.
- c) Section 3.5 Project Justification does not contain and financial analysis and assessment for the proposal's viability over construction, development and expected life of the operation.
 - i) There has been no financial cost/benefit analysis provided for assessment to determine if this venture is viable and justifiable.
 - ii) Cost benefit analysis and return on investment analysis must be assessed and audited by appropriate government offices to ensure the viability of the investment.
- d) Who pays to clean up the site, tidal zones and the waterway should the investors venture fail? Who bears this cost? What is the cost of cleanup at each stage of the venture?
- e) Who ensures that the proponents can pay to manage the damage and impacts upon the local community should their investment venture fail.
- f) Key drivers have been proposed but no detailed assessment has been provided:-
 - i) Job creation has been stated as a 'key driver' by proponents but no assessment has been provided. Evidence is required for 'What jobs? What skills? People are sourced from where?'
 - ii) Economic benefit to the community has been stated as a key driver by proponents but no details and cost/benefit assessment has been provided. We the community cannot understand or establish any community benefit. We recognise the community cost.
 - iii) Warning: All stated project key drivers are null and void if the operation is not viable.
- g) Would the minister or director invest personally given the information provided?

2) Proponents failed to adequately discuss any Disaster Recovery processes that will create volumes of biomass waste e.g., for extended power failure.

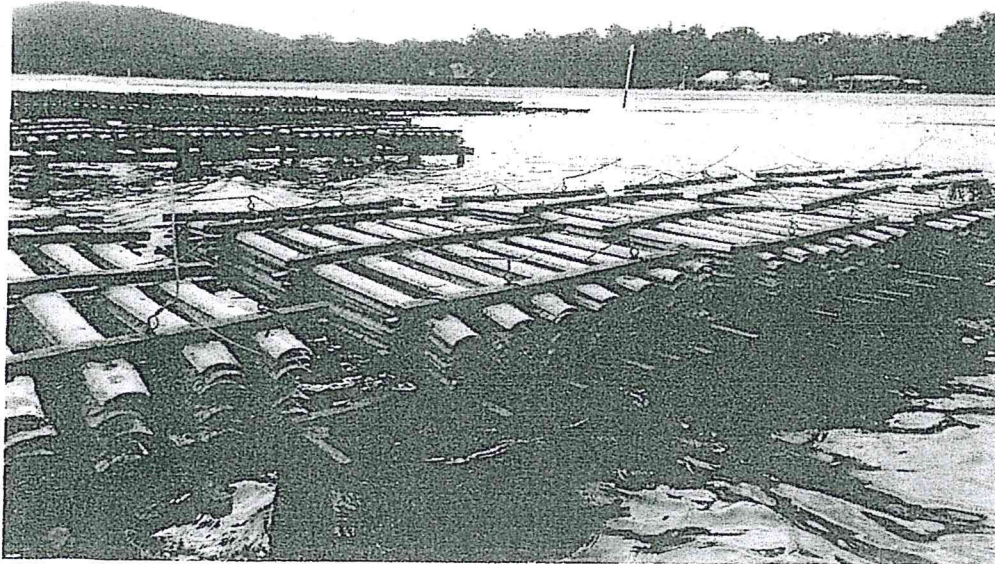
- a) Refer EAR page 94 [3.7.4.2] : "The generator will be capable of powering all facilities within the farm, with the exception of the pumps utilised for the Intake / Outflow Pipes, until electricity is restored.
- b) The Minister must request that the proponents assess, specify and record the equipments' susceptibility to power-failure. e.g., a recent power outage March 16th 2014 lasted 2 days.
- c) The Minister must request that the proponents assess, specify and record their contingency plans in terms of people, responsibilities, response times, actions, time-frames, consequences and impacts upon the environment and residents.
- d) What happens when the processes fail e.g., pumps stop and/or generators fail?
 - i) I believe there can be over 100 tonne of abalone at various stages of development.
 - ii) What happens to en-masse biomass waste? e.g., disposal of large volumes of abalone dead carcasses and the tank and pond cleanout biomass?
 - iii) Who performs what tasks?
 - iv) Who is on hand to take action?Especially Out of Hours?
 - v) What are the response times?
 - vi) Who physically collects, cleans and disposes of biomass and in what timeframe?
 - vii) Where is the biomass dumped?
 - viii) What happens when disease and contamination takes hold in the water?

3) Proponents failed to adequately assess affects on the local Loggerhead turtle population.

- a) The EAR does not provide an adequate assessment of the impact of the proposed factory development, its 24hr, 7 days a week pumping resonance and waste disposal upon the local Loggerhead turtle population.
- b) The EAR response only generally discusses Marine turtles.
 - i) I refer you to the opening paragraph of Appendix 16 on Marine Turtles that simply refers to 'Australia-wide' information on marine turtles, not specifically the Port Stephens population, and this 'general context' governs the context of each response by the proponents.
- c) In order to provide the response on page 68 of Appendix 16, how did the proponents reach the inferred conclusion that there is no significant impact on the existing, local turtle population? I remain unable to understand if a proper risk assessment of the local turtle population was done.

- d) I refer the Minister to the Marine Parks Authority NSW Recreational Fishing Guide 08/10 Map 28 (showing the marine park immediately adjacent to the development) which provides "Loggerhead turtles use the marine park as a restaurant, visiting frequently to feed on shellfish, crabs, sea urchins and jelly fish;"
 - e) Small turtles can be seen regularly off Piggies beach and around the adjacent rocky outcrops.
 - f) I have heard of breeding activities on the beach, adjacent to the development, but have been unable to find any adequate investigation into possible turtle breeding activities by the proponents or their associated experts.
 - g) Marine Parks have acknowledged that a definitive study of turtle populations, breeding and feeding areas has not yet been undertaken in Port Stephens. However, Marine Parks' satellite tracking of turtles show activity in the Pindimar and Piggies Beach areas.
 - h) Marine Parks, in conjunction with Turtle Watch, acknowledge that there is a lack of definitive scientific and ecological information on the Port Stephens turtle population.
- 4) **EAR Appendix 16 page 40 Oyster Farms : states "There are no operational oyster leases in near proximity" is not true.**
- a) There is an operating oyster lease right in front of our Cambage Street homes that would be less than 500 metres from the proposed development's two effluent outlets.
 - b) I do not understand how the proponents reached their conclusion in Appendix 16 Aquatic Ecology Assessment that there are no operational oyster leases.
 - c) Again, the EAR is most misleading in its statements to the Minister that:
 - i) "There are no operational oyster leases in near proximity to the proposed abalone farm and its discharge pipes. Any discharge of water from the farm will result in the fast dilution of any nutrients that could have the potential to impact on oysters within the port (Sanderson, 2013)."

See photo below of oyster leases catching wild spat in front of South Pindimar Village within 500 metres of proposed abalone factory effluent outlets.



Yours Faithfully