



Attention

6 pages

19th April 2005
Our ref: D105_002
Your ref:

* Tim Ward
Environmental Planning Officer
Major Development Assessment Office
Department of Infrastructure, Planning and Natural Resources
GPO Box 39
Sydney NSW 2001

Dear Tim

Re: Slobobax Pty Ltd Freight Handling Complex. Interim advice from DPI Fisheries for the Planning Focus Meeting.

Thank you for your email inviting NSW Department of Primary Industries (Fisheries section) to attend a Planning Focus Meeting for the above proposal. Please accept my apology for not being able to attend the meeting. The following comments have been prepared for consideration at the PFM. Further information for preparation of an EIS can be supplied from the relevant branches of the Department of Primary Industries if required.

The Department of Primary Industries Fisheries section is responsible for managing fish (including aquatic invertebrates), and fish habitat throughout NSW. The Department's goals include protecting aquatic habitat and promoting rehabilitation of degraded aquatic environments. This includes protecting rare and threatened species and maintaining aquatic biodiversity. Fisheries also aims to provide quality recreational and sustainable and viable commercial fishing opportunities.

Cognisant of this charter, DPI Fisheries requires the assessment process for the proposal examine and demonstrate how impacts on aquatic biodiversity can be addressed to ensure compliance with habitat provisions in the *Fisheries Management Act 1994* and the Fisheries policies that underpin them.

Specific issues that need to be considered are:

Threatened species

Assessment of the proposed development should investigate via an eight part test whether a species impact statement is necessary for threatened fish species in the area. There should also be an indication of whether the proposal conflicts or could impact on actions to be undertaken in the draft recovery plan.

Buffer zones

NSW Fisheries policy from NSW Fisheries *Policy and Guidelines Aquatic Habitat Management and Fish Conservation 1999* 1.2.e requires:

Terrestrial areas adjoining freshwater, estuarine or coastal habitats be carefully managed in order to minimise land use impacts on these aquatic habitats. As a precautionary approach, foreshore buffer zones at least 50 metres wide should be established and maintained, with their natural features and vegetation preserved. Such buffer zones may need to be fenced or marked by signs. The width of these buffer zones may need to be increased to 100 metres or more where they are adjacent to ecologically sensitive areas."

It is also highlighted that the Wentworth Group of Scientists (2003) argue that best available science suggests that an important environmental standard for healthy catchments is:

Conserving and restoring riparian vegetation 50 m to 100 m either side of major rivers and wetlands; 20 m to 50 m either side of creeks and 10 m to 20 m either side of streams

There should also be consideration of:

- How damage to fish habitats such as instream macrophytes will be minimised;
- Opportunities for compensatory habitat

Bridges, crossings, culverts etc

The planning, design, construction and maintenance of waterway crossings are required to minimise the impacts on fish passage and general aquatic wildlife. Reference to the guideline: Fairfull, S and Witheridge, G (2003). *Fish Passage requirements for Waterway Crossings*. NSW Fisheries, Cronulla, 16 pp is advised. This document can be downloaded from the publications section of www.dpi.nsw.gov.au

Approvals from DPI Fisheries may be required for works that involve:

- Dredging and reclamation activities
(s. 198 to 203 of the *Fisheries Management Act 1994*);
- Activities that block the free passage of fish
(s. 218 to 220 of the *Fisheries Management Act 1994*)

and

- Activities that may impact on threatened species or their habitat
(Part 7A of the *Fisheries Management Act 1994*).

Ameliorative measures

The assessment must consider how the proposal has been or may be modified and managed to conserve fisheries habitat on the subject site and in the study area.

In discussing alternatives to the proposal, and the measures proposed to mitigate any effects of the proposal, consideration must be given to developing long term management strategies to protect areas within the study area which are of particular importance for fish species. This may include proposals to restore or improve habitat.

Any proposed pre-construction monitoring plans or on-going monitoring of the effectiveness of the mitigation measures must be outlined in detail, including the objectives of the monitoring program, method of monitoring, reporting framework, duration and frequency.

It should be noted that Department of Primary Industries has no regulatory or statutory role to review a draft EIS unless it is accompanied by or requested as part of a permit application under

Part 7A of the *Fisheries Management Act*, 1994. However, Department of Primary Industries is available to provide advice to consent and determining authorities regarding Fisheries' opinion as to whether the requirements have been met if requested, pending the availability of resources and other statutory priorities. In the event of a request for concurrence or consultation of the Director of the Department of Primary Industries, a copy (preferably digital) of the EIS should be provided to Department of Primary Industries in order for the request to be processed.

Finally, please find included as an attachment DPI Fisheries' minimum information requirements for environmental assessment. Please ensure that these requirements are addressed in the environmental studies. This will facilitate effective assessment of the proposal and reduce delays. Should you require any further information on these requirements please contact me on (02) 68454439 or 0408 663338.

Yours sincerely



Sam Davis
Fisheries Conservation Manager, Central and Far West
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General Requirements

The EIS must include the information outlined below:

- A topographic map of the locality at a scale of 1:25 000 (or other appropriate scale) should be provided. This map should detail the location of all component parts of the proposal, size of the area affected, any areas locally significant for threatened species (such as aquatic reserves), and areas of high human activity (such as townships, regional centres and major roads).
- A recent aerial photograph (preferably colour) of the locality (or reproduction of such a photograph) should be provided, if possible. This aerial photograph should clearly show the subject site and indicate the scale of the photograph.
- All waterbodies and waterways within the proposed area of development are to be identified.
- Written description of aquatic vegetation, snags, gravel beds and any other protected, threatened or dominant habitats should be presented.
- Area, density and species composition of riparian and instream vegetation should be included and mapped.
- Identification of recognised recreational and commercial fishing grounds, aquaculture ventures and/or other waterway users.
- Any other presented maps or plans
- Written description and plan of proposal and study area
- Details of the location of all component parts of the proposal, including any auxiliary infrastructure, timetable for the life of the proposal with details of various phases
- Aspects of the management of the proposal, both during the operation and after completion, which relate to impact minimisation eg Environment Management Plans
- Locations and types of landuses present
- Land tenure details for all land parcels

- For each freshwater body identified on the plan, the plan should include, either by annotation or by an accompanying table, information such as flow characteristics, including any seasonal variations, and details of stream hydrology and morphology.

Dredging and reclamation activity

The following details must also be included in the EIS:

- Purpose of works
- Method of dredging to be used
- Duration of dredging works
- Time of dredging works
- Dimension of area to be dredged
- Depth of dredging activities
- Nature of sediment to be dredged, including Acid Sulphate Soil
- Method of marking area subject to works
- Environmental safeguards to be used during and after works
- Measures for minimising harm to fish habitat under the proposal
- Spoil type and source location for reclamation activities
- Method of disposal of dredge material
- Location and duration of spoil stockpiling, if planned
- Volume of material to be extracted or placed as fill
- Rehabilitation of affected areas

It is the responsibility of the proponent to obtain a permit to dredge or reclaim from Department of Primary Industries. Some exemptions apply.

Obstruction of fish passage (requires a permit from NSWFW under Section 7, Division 8, Section 219 of the *Fisheries Management Act*, 1994)

The following details that may have an impact on fish passage should be included in the EIS:

- Type of activity e.g. works in a stream that change flow or morphological characteristics
- Length of time fish passage is to be restricted
- Timing of proposed restriction
- Remediation works

It is the responsibility of the proponent to obtain a permit to obstruct fish passage from Department of Primary Industries. There are no exemptions from this activity.

Initial assessment

A list of threatened species, endangered populations and endangered ecological communities must be provided. In determining these species, consideration must be given to the habitat types present within the study area, recent records of threatened species in the locality and the known distributions of these species. An 8 Part Test must be conducted for all threatened species.

In describing the locality in the vicinity of the proposal, discussion must be provided in regard to the previous land and water uses and the effect of these on the proposed site. Relevant historical events may include land clearing, agricultural activities, water abstraction/diversion, dredging, de-snagging, reclamation, siltation, commercial and recreational activities.

A description of habitat including components such as stream morphology, in-stream and riparian vegetation, water quality and flow characteristics, bed morphology, vegetation (both aquatic and adjacent terrestrial), water quality and flow characteristics must be given. The condition of the habitat within the area must be described and discussed, including the presence

and prevalence of introduced species. A description of the habitat requirements of threatened species likely to occur in the study area must be provided.

In defining the proposal area, discussion must be provided in regard to possible indirect effects of the proposal on species/habitats in the area surrounding the subject site; for example, through altered hydrological regimes, soil erosion or pollution. The study area must extend downstream and/or upstream as far as is necessary to take all potential impacts into account.

Please Note: Persons undertaking aquatic surveys may be required to hold or obtain appropriate permits or licences under relevant legislation. For example:

Fisheries Management Act 1994

- Permit to take fish for research or other authorised purposes (Section 37)
- Licence to harm threatened (aquatic) species, and/or damage the habitat of a threatened species (Section 220ZW).

Animal Research Act 1985:

- Animal Research Authority to undertake fauna surveys.

It is recommended that, prior to any field survey activities taking place, those persons proposing to undertake those activities give consideration to their obligation to obtain appropriate permits or licences which may be required in the specific context of the proposed survey activities.

Assessment of likely impacts

The EIS must:

- describe and discuss significant habitat areas within the study area;
- outline the habitat requirements of threatened species likely to occur in the study area;
- indicate the location, nature and extent of habitat removal or modification which may result from the proposed action;
- discuss the potential impact of the modification or removal of habitat;
- identify and discuss any potential for the proposal to introduce barriers to the movement of fish species; and
- describe and discuss any other potential impacts of the proposal on fish species or their habitat.

For all species likely to have their lifecycle patterns disrupted by the proposal to the extent that individuals will cease to occupy any location within the subject site, the EIS must describe and discuss other locally occurring populations of such species. The relative significance of this location for these species in the general locality must be discussed in terms of the extent, security and viability of remaining habitat in the locality.

Additional information

Definitions under the *Fisheries Management Act 1994*.

The definitions or sections of the *Fisheries Management Act 1994* given below are relevant to the EIS requirements:

Fish means any part of marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead). Fish include oysters and other aquatic molluscs, crustaceans, echinoderms and other aquatic polychaetes.

Waters/Water Land refers to all waters including flowing streams, irregularly flowing streams, gullies, rivers, lakes, wetlands and other forms of natural or man made water bodies on both private and public land and is land that can be submerged by water either permanently or intermittently.

Dredging work means:

- a) any work that involves excavating water land or
- b) any work that involves the removal of material from water land that is prescribed by the regulations

Reclamation work means any work that involves:

- a) using any material (such as sand, soil, silt, gravel, concrete, oyster shells, tyres, timber or rocks) to fill in or reclaim water land or
- b) depositing any such material on water land for the purpose of constructing anything over water land (such as a bridge), or
- c) draining water from water land from the purpose of its reclamation.

Fish passage

A barrier to fish passage is an obstacle that prevents fish from moving either upstream or downstream and includes dams, weirs, floodgates, roads, bridges, causeways and culverts. These structures can form an obstruction to fish passage in the following ways:

- physical barrier: blocking free passage of fish, such as a dam, weir or raised causeway
- Hydraulic barrier: barrier created by high flows or turbulence (created by restricting flow eg pipes)
- Behavioural barrier: fish may avoid moving through dark tunnels such as a pipe under a road crossing.

Part 7, division 8, section 219 of the *Fisheries Management Act, 1994* Passage of fish not to be blocked

(1) A person who:

- (a) sets a net, netting or other material, or
- (b) constructs or alters a dam, floodgate, causeway or weir, or
- (c) otherwise creates an obstruction,

across or within a bay, inlet, river or creek, or across or around a flat, so that

- (d) fish will or could be blocked or left stranded, or
- (e) immature fish will or could be destroyed, or
- (f) the free passage of fish will or could be obstructed,
is guilty of an offence.