



EPA R&R No: 1412

MINISTER FOR ENVIRONMENT

CAPE LAMBERT PORT B DEVELOPMENT – PROPOSAL UNDER SECTION 46 OF THE ENVIRONMENTAL PROTECTION ACT 1986 TO CHANGE CONDITION 8-1 OF MINISTERIAL STATEMENT 840 (ASSESSMENT NO. 1884)

I refer to your letter of 11 April 2011 requesting the Environmental Protection Authority (EPA) to report to you on Pilbara Iron Pty Ltd's proposed changes to the environmental conditions for the Cape Lambert Port B Development.

The following is the EPA's Report and Recommendations No. 1412 to you pursuant to section 46(6) of the *Environmental Protection Act 1986* (the Act).

Introduction

The proponent, Pilbara Iron Pty Ltd, was granted approval (Ministerial Statement 840, 30 September 2010) to construct and operate a second port (Port B) at Cape Lambert to process and export up to 130 million tonnes per annum. The marine component of the Cape Lambert Port B Development proposal involves dredging and spoil disposal for the construction of berth pockets, turning basins, a departure channel and a Tug Harbour Extension.

The proponent has approval to dredge in designated areas as required in Figure 2 and Table 4 of Ministerial Statement 840. The proponent has revised the original design of the Tug Harbour Extension and this resulted in a different dredging footprint area, that is, the dredging footprint only changed in shape not size which would directly impact an additional 0.7 hectares (ha) of Benthic Primary Producer Habitat (BPPH) at Cape Lambert.

The proponent submitted an application to the EPA Chairman to amend the Tug Harbour Extension dredging footprint under section 45C of the *Environmental Protection Act 1986* (the Act). Given that Condition 8-1 of Ministerial Statement 840 limits the maximum direct loss of BPPH to not more than 0.7 ha, the proponent also wrote to you on 24 March 2011 to request that Condition 8-1 be changed so that it would be consistent with the amended Tug Harbour Extension dredging footprint, should it be approved.

The EPA concluded that the revised Tug Harbour Extension dredging footprint was considered unlikely to have a significant detrimental effect on the environment different from or additional to the original proposal. The revised Tug Harbour Extension dredging footprint area was approved on 12 May 2011 under section 45C of the Act by the Chairman of the EPA under delegation (Attachment 1 of Ministerial Statement 840).

In order to avoid approval inconsistencies, you issued an interim implementation condition on 19 May 2011 under section 46A of the Act to have effect until a Ministerial Statement is published under section 45(5) as applied by section 46(8) of the Act.

This report provides the EPA's recommendation to the Minister for Environment as to whether Condition 8-1 of Ministerial Statement 840 should be changed.

Discussion

Condition 8-1 of Ministerial Statement 840 limits the maximum direct loss of BPPH to not more than 0.7 ha. The proponent has requested that Condition 8-1 be changed to allow the construction of the revised Tug Harbour Extension approved under section 45C of the Act. The proposed change to Condition 8-1 is to increase the maximum direct loss of BPPH from 0.7 hectares (ha) to 1.4 ha, that is, an additional 0.7 ha.

The EPA assessed the proposed amendment to the Tug Harbour Extension dredging footprint and concluded that the detrimental effects of the revised dredging footprint area were not considered to be significantly additional to, or different from, the detrimental effects of the original proposal.

The EPA concludes that the proposed change to Condition 8-1 is considered to be acceptable given:

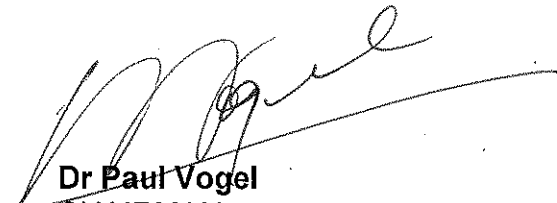
- the potential detrimental effects from the change are not considered to be significantly different from the original proposal;
- the relatively small additional direct loss of BPPH, that is, 0.7 ha; and
- the purpose of the original implementation condition has not changed as it still limits the maximum direct loss of BPPH.

The recommended condition set out below is the same issued by you under section 46A of the Act.

EPA Recommendation

That the existing Condition 8-1 of Ministerial Statement 840 be replaced with:

8-1 The proponent shall ensure that the implementation of the proposal does not cause a direct loss of Benthic Primary Producer Habitat in excess of 1.4 hectares. Benthic Primary Producer Habitat is shown on Figure 4a.



Dr Paul Vogel
CHAIRMAN

27 July 2011

