



ENVIRONMENT PROTECTION NOTICE No. 10222/1

Issued under the *Environmental Management and Pollution Control Act 1994*

Issued to: **TASMANIAN PORTS CORPORATION PTY LTD trading as TasPorts**
ACN 114 161 938
48 FORMBY ROAD
DEVONPORT TAS 7310

Environmentally Relevant Activity: **The operation of dumping of dredge spoils within waters within limits of the state (ACTIVITY TYPE: Dumping or sinking of boats, aircraft, platforms or other man-made structures in waters within the limits of the State or placement of artificial reefs in waters within the limits of the State)**
PORT OF DEVONPORT, PORT OF DEVONPORT
DEVONPORT EAST TAS 7310

GROUNDINGS

I, Wes Ford, Delegate for the Board of the Environment Protection Authority, being satisfied in accordance with section 44(1A) of the *Environmental Management and Pollution Control Act 1994* (EMPCA) that in relation to the above-mentioned environmentally relevant activity that serious or material environmental harm or environmental nuisance is being, or is likely to be, caused hereby issue this environment protection notice to the above-mentioned person as the person responsible for the activity.

PARTICULARS

The particulars of the grounds upon which this notice is issued are:

- 1 The above activity, being an environmentally relevant activity which does not require a land use permit, was required to be referred to the EPA under Section 27 of the EMPCA for environmental impact assessment. Having completed its assessment, the Board of the EPA has caused the Director to issue this environment protection notice containing conditions and restrictions which the Board requires to apply to the activity.

DEFINITIONS

Unless the contrary appears, words and expressions used in this Notice have the meaning given to them in Schedule 1 of this Notice and in the EMPCA. If there is any inconsistency between a definition in the EMPCA and a definition in this Notice, the EMPCA prevails to the extent of the inconsistency.

REQUIREMENTS

The person responsible for the activity must comply with the conditions as set out in Schedule 2 of this Notice.

INFORMATION

Attention is drawn to **Schedule 3**, which contains important additional information.

PENALTIES

If a person bound by an environment protection notice contravenes a requirement of the notice, that person is guilty of an offence and is liable on summary conviction to a penalty not exceeding 1000 penalty units in the case of a body corporate or 500 penalty units in any other case (at the time of issuance of this Notice one penalty unit is equal to \$173.00).

NOTICE TAKES EFFECT

This notice takes effect on the date on which it is served upon you.

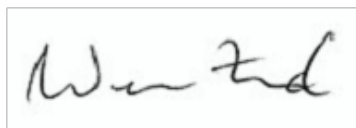
APPEAL RIGHTS

You may appeal to the Appeal Tribunal against this notice, or against any requirement contained in this notice, within fourteen days from the date on which the notice is served. The Appeal Tribunal contact details are:

Registry
Tasmanian Civil & Administrative Tribunal
GPO Box 1311
Hobart TAS 7001

Phone: 1800 657 500
Email: resourceplanning@tascat.tas.gov.au

Signed:



DELEGATE FOR THE BOARD OF THE ENVIRONMENT PROTECTION
AUTHORITY

Date:

6 May 2022

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Schedule 1: Definitions

Aboriginal Relic has the meaning described in section 2(3) of the *Aboriginal Heritage Act 1975*.

Activity means any environmentally relevant activity (as defined in Section 3 of EMPCA) to which this document relates, and includes more than one such activity.

Construction means activities associated with the construction phase of the activity, including but not limited to, activities associated with the clearance of vegetation, site works to create a level site, rock breaking, installation of fences and other infrastructure whether on land or in water.

Controlled Waste has the meaning described in Section 3(1) of EMPCA.

Director means the Director, Environment Protection Authority holding office under Section 18 of EMPCA and includes a delegate or person authorised in writing by the Director to exercise a power or function on the Director's behalf.

EIS means the *Devonport East Terminal 3 (T3) Dredging and Reclaim Project Environmental Impact Statement* prepared for TasPorts in Decemeber 2021 by ERA Planning and Environment.

EMPCA means the *Environmental Management and Pollution Control Act 1994*.

Environmental Harm and **Material Environmental Harm** and **Serious Environmental Harm** each have the meanings ascribed to them in Section 5 of EMPCA.

Environmental Nuisance and **Pollutant** each have the meanings ascribed to them in Section 3 of EMPCA.

Environmentally Hazardous Material means any substance or mixture of substances of a nature or held in quantities which present a reasonably foreseeable risk of causing serious or material environmental harm if released to the environment and includes fuels, oils, waste and chemicals but excludes sewage.

Information Bulletin 105 Classification and Management of Contaminated Soil for Disposal, Version 3 2018

Person Responsible is any person who is or was responsible for the environmentally relevant activity to which this document relates and includes the officers, employees, contractors, joint venture partners and agents of that person, and includes a body corporate.

Rating background level has the meaning described in the NSW EPA Noise Policy for Industry 2017.

Sediment Plume Modelling Review Report means *TasPorts Quaylink EIS - Review of Sediment Plume Modelling* prepared for TasPorts on 14 April 2022 by BMT Commercial Australia Pty Ltd.

Stormwater means water traversing the surface of The Land as a result of rainfall.

Tasmanian Noise Measurement Procedures Manual means the document titled *Noise Measurement Procedures Manual*, by the Department of Environment, Parks, Heritage and the Arts, dated July 2008, and any amendment to or substitution of this document.

The Land means the land on which the activity to which this document relates may be carried out, and includes: buildings and other structures permanently fixed to the land, any part of the land covered with water, and any water covering the land. The Land falls within the area defined by:

- 1 Title references: 144260/1 and 134138/1; and
- 2 as further delineated at Attachment 1.

Schedule 2: Conditions

General

G1 Access to and awareness of conditions and associated documents

A copy of these conditions and any associated documents referred to in these conditions must be held in a location that is known to and accessible to the person responsible for the activity. The person responsible for the activity must ensure that all persons who are responsible for undertaking work on The Land, including contractors and sub-contractors, are familiar with these conditions to the extent relevant to their work.

G2 Incident response

If an incident causing or threatening environmental nuisance, serious environmental harm or material environmental harm from pollution occurs in the course of the activity, then the person responsible for the activity must immediately take all reasonable and practicable action to minimise any adverse environmental effects from the incident.

G3 No changes without approval

1 The following changes, if they may cause or increase the emission of a pollutant which may cause material or serious environmental harm or environmental nuisance, must only take place in relation to the activity if such changes have been approved in writing by the EPA Board following its assessment of an application for a permit under the *Land Use Planning and Approvals Act 1993*, or approved in writing by the Director:

- 1.1** a change to a process used in the course of carrying out the activity; or
- 1.2** the construction, installation, alteration or removal of any structure or equipment used in the course of carrying out the activity; or
- 1.3** a change in the quantity or characteristics of materials used in the course of carrying out the activity.

G4 Change of responsibility

If the person responsible for the activity intends to cease to be responsible for the activity, that person must notify the Director in writing of the full particulars of any person succeeding him or her as the person responsible for the activity, before such cessation.

G5 Change of ownership

If the owner of The Land upon which the activity is carried out changes or is to change, then, as soon as reasonably practicable but no later than 30 days after becoming aware of the change or intended change in the ownership of The Land, the person responsible must notify the Director in writing of the change or intended change of ownership.

G6 Complaints register

1 A public complaints register must be maintained. The public complaints register must, as a minimum, record the following detail in relation to each complaint received in which it is alleged that environmental harm (including an environmental nuisance) has been caused by the activity:

- 1.1** the date and time at which the complaint was received;
- 1.2** contact details for the complainant (where provided);
- 1.3** the subject matter of the complaint;
- 1.4** any investigations undertaken with regard to the complaint; and
- 1.5** the manner in which the complaint was resolved, including any mitigation measures implemented.

- 2 Complaint records must be maintained for a period of at least 3 years.

G7 Notification prior to commencement

The Director must be notified in writing of the commencement of operations at least 14 days before that occurs.

Atmospheric

A1 Control of dust emissions during construction

- 1 Construction activities must be managed using such measures as are necessary to prevent dust emissions causing environmental nuisance. Such measures may include but are not limited to:
 - 1.1 using a dust suppression method such as watering dust generating surfaces; and
 - 1.2 ceasing construction activities in windy weather when dust may be blown in the direction of residences.

A2 Dust emissions from traffic areas

Dust emissions from areas of The Land used by vehicles must be limited or controlled by dampening or by other effective measures.

A3 Covering of vehicles

Vehicles carrying loads containing material which may blow or spill must be equipped with effective control measures to prevent the escape of the materials from the vehicles when they leave The Land or travel on public roads. Effective control measures may include tarpaulins or load dampening.

A4 Odour management

The person responsible must institute such odour management measures as are necessary to prevent odours causing environmental nuisance beyond the boundary of The Land.

Construction

CN1 Construction Environmental Management Plan

- 1 At least 1 month prior to the commencement of construction activities, or by a date otherwise specified in writing by the Director, a Construction Environmental Management Plan ('Construction EMP') must be submitted to the Director for approval.
- 2 The Construction EMP must contain a detailed description of the proposed timing and sequence of the major construction activities and of the proposed management measures to be implemented to avoid or minimise the environmental impacts during the construction phase. The Construction EMP must include, but not necessarily be limited to, management measures in relation to the following:
 - 2.1 prevention of impacts upon surface water and waterways;
 - 2.2 erosion and sediment control;
 - 2.3 water quality monitoring based on a validated 3D sediment plume model consistent with recommendations made in the Sediment Plume Modelling Review Report;
 - 2.4 adaptive management for turbidity and water quality within the Mersey River;
 - 2.5 noise control, including mitigation of aquatic noise impacts;
 - 2.6 dust and odour control;
 - 2.7 management of environmentally hazardous materials;
 - 2.8 cultural (Aboriginal and non-aboriginal) heritage considerations;

- 2.9 flora and fauna management including the use of a mammal observer during dredging;
 - 2.10 weed, pest and disease management;
 - 2.11 general waste
 - 2.12 visual inspection of materials in the materials management area for signs of acidity and monitoring of water within the materials management area for pH;
 - 2.13 quality control arrangements including supervision by appropriately qualified and experienced persons, detailed construction specifications for key items of environmental management infrastructure, documented site procedures, quality control testing and the keeping of appropriate records.
- 3 Construction must not commence until the Construction EMP has been approved by the Director.
 - 4 Unless otherwise specified in writing by the Director, construction activities must be carried out in accordance with an approved Construction EMP.

CN2 Waste Materials Management Plan

- 1 At least 1 month prior to the commencement of construction activities, or by a date otherwise specified in writing by the Director, a waste materials management plan must be submitted to the Director for approval. This requirement will be deemed to be satisfied only when the Director indicates in writing that the submitted document adequately addresses the requirements of this condition to the Director's satisfaction.
- 2 The plan must be consistent with Sections 6.2 and 6.3 of the EIS.
- 3 The plan must be prepared in accordance with any reasonable guidelines provided by the Director.
- 4 Without limitation, the plan must include details of the following:
 - 4.1 adequate provision for storage and treatment of effluent from dredge spoil dewatering;
 - 4.2 visual inspections and sampling for pH;
 - 4.3 contingency measures to be implemented if acidic conditions develop in stockpiled material;
 - 4.4 specifications for material suitable for use in the reclamation area including arsenic, chromium, manganese, mercury, nickel tributyl tin and pH levels;
 - 4.5 quality control measures for materials to be used for land reclamation including sampling and reporting;
 - 4.6 procedures for removal of excess dredge spoil from the site;
 - 4.7 a table containing all of the major commitments made in the plan;
 - 4.8 an implementation timetable for key aspects of the plan; and
 - 4.9 a reporting program to regularly advise the Director of the results of the plan.
- 5 The person responsible must not implement the Plan until the Director has approved the Plan. Once approved the person responsible must act in accordance with the approved plan.
- 6 In the event that the Director, by notice in writing to the person responsible, either approves a minor variation to the approved plan or approves a new plan in substitution for the plan originally approved, the person responsible must implement and act in accordance with the varied plan or the new plan, as the case may be. The varied plan must not be implemented until it is approved.

CN3 Vehicle wash facilities

Facilities must be provided for cleaning vehicles to remove waste and mud.

Controlled Waste

CW1 Management of spoil material

- 1** Unless otherwise approved in writing by the Director, spoil material recovered from dredging operations must be:
 - 1.1** stored in a suitably prepared and bunded area; and
 - 1.2** sampled for what is reasonably expected to be present consistent with the sampling requirements of Information Bulletin 105.

Effluent Disposal

E1 Perimeter drains or bunds

- 1** Perimeter cut-off drains, or bunds, must be constructed at strategic locations on The Land to prevent surface run-off from entering the area used or disturbed in carrying out the activity. All reasonable measures must be implemented to ensure that sediment transported along these drains, or bunds, remains on The Land. Such measures may include provision of strategically located sediment fences, appropriately sized and maintained sediment settling ponds, vegetated swales, detention basins and other measures designed and operated in accordance with the principles of Water Sensitive Urban Design.
- 2** Drains, or bunds, must have sufficient capacity to contain run-off that could reasonably be expected to arise during a 1 in 20 year rainfall event. Maintenance activities must be undertaken regularly to ensure that this capacity does not diminish.

E2 Retention of sediment

During construction activities all reasonable measures must be implemented to ensure that solids entrained in stormwater traversing the construction site are retained on The Land. Such measures may include provision of strategically located sediment fences, and appropriately sized and maintained sediment settling ponds.

E3 Maintenance of settling ponds

Sediment settling ponds must be periodically cleaned out to ensure that the pond design capacity is maintained. Sediment removed during this cleaning must be securely deposited such that sediment will not be transported off The Land by surface run-off.

E4 Stormwater

- 1** Polluted stormwater that will be discharged from The Land must be collected and treated prior to discharge to the extent necessary to prevent serious or material environmental harm, or environmental nuisance.
- 2** Notwithstanding the above, all stormwater that is discharged from The Land must not carry pollutants such as sediment, oil and grease in quantities or concentrations that are likely to degrade the visual quality of any receiving waters outside The Land.
- 3** All reasonable measures must be implemented to ensure that solids entrained in stormwater are retained on The Land. Such measures may include appropriately sized and maintained sediment settling ponds or detention basins.

E5 Effluent release to the Mersey River

Unless otherwise approved in writing by the Director effluent from the materials management area must have a pH of 6.5 or above prior of such effluent being released to the Mersey River.

Flora And Fauna

FF1 Protection of Australian grayling (*Prototroctes maraena*)

Unless otherwise approved in writing by the Director, dredging works must not be undertaken between mid September and mid November.

Hazardous Substances

H1 Storage and handling of hazardous materials

- 1 Unless otherwise approved in writing by the Director, environmentally hazardous materials held on The Land must be:
 - 1.1 stored within impervious bunded areas, spill trays or other containment systems; and
 - 1.2 managed to prevent unauthorised discharge, emission or deposition of pollutants:
 - 1.2.1 to soils within the boundary of The Land in a manner that is likely to cause serious or material environmental harm;
 - 1.2.2 to groundwater;
 - 1.2.3 to waterways; or
 - 1.2.4 beyond the boundary of The Land.

H2 Handling of hazardous materials - mobile

- 1 Where mobile containment of environmentally hazardous materials is utilised for the fuelling or servicing of mobile or fixed plant on The Land, all reasonable measures must be implemented to prevent unauthorised discharge, emission or deposition of pollutants:
 - 1.1 to soils within the boundary of The Land in a manner that is likely to cause serious or material environmental harm;
 - 1.2 to groundwater;
 - 1.3 to waterways; or
 - 1.4 beyond the boundary of The Land.
- 2 Reasonable measures may include spill kits, spill trays/bunds or absorbent pads, and automatic cut-offs on any pumping equipment.

H3 Spill kits

Spill kits appropriate for the types and volumes of materials handled on The Land must be kept in appropriate locations and maintained in a functional condition to assist with the containment of spilt environmentally hazardous materials.

Monitoring

M1 Samples and measurements for monitoring purposes

- 1 Any sample or measurement required under these conditions must be taken and processed in accordance with the following:
 - 1.1 sampling and measuring must be undertaken by a person with training, experience, and knowledge of the appropriate procedure;
 - 1.2 the integrity of samples must be maintained prior to delivery to a testing facility;
 - 1.3 sample analysis must be conducted by a testing facility accredited by the National Association of Testing Authorities (NATA), or a testing facility approved in writing by the Director, for the specified test;

- 1.4 details of methods employed in taking samples and measurements and results of sample analysis, and measurements must be retained for at least three (3) years after the date of collection; and
- 1.5 sampling and measurement equipment must be maintained and operated in accordance with manufacturer's specifications and records of maintenance must be retained for at least three (3) years.

M2 Monitoring Reports

- 1 Unless otherwise approved in writing by the Director, weekly monitoring reports including results from noise logger/s installed to measure noise at all identified noise sensitive receptors must be submitted to the Director for review.
- 2 Weekly monitoring reports must identify any recorded exceedances of noise management levels, the source of any recorded exceedance and discuss corrective measures to attenuate noise emissions.

Noise Control

N1 Hours of construction

- 1 Unless otherwise approved in writing by the Director, standard and non-standard hours are defined as follows:
 - 1.1 Standard hours - 0700 hours to 1800 hours on weekdays and 0900 to 1700 hours on Saturdays.
 - 1.2 Non-standard hours - all other hours outside of standard hours, and public holidays observed Statewide (Easter Tuesday excepted).

N2 Noise emission management levels

- 1 Within 60 days of commencement of works the person responsible must submit for approval a methodology to determine rating background levels during standard hours and non-standard hours for sensitive receptors using continuous noise loggers.
- 2 Unless otherwise approved in writing by the Director, the person responsible must implement management actions to ensure that noise, when measured at any noise sensitive receptor and expressed as the equivalent continuous A-weighted sound pressure level, do not exceed the noise management levels calculated based on the following formula:
 - 2.1 Rating background level + 10 dB for standard hours
 - 2.2 Rating background level + 5 dB for non-standard hours
- 3 Measured noise levels must be adjusted for impulsiveness, modulation and low frequency in accordance with the *Tasmanian Noise Measurement Procedures Manual*.
- 4 Unless otherwise approved in writing by the Director impulsive noise sources such as the use of power saws, grinding, rock drilling, jack hammering, impact piling or any other similar activities that have potential to cause sleep disturbance must be not used during the hours 1900 - 0700.

N3 Noise Management Plan

- 1 A Noise Management Plan must be submitted to the Director for approval within 30 days of any works proposed to be carried out during non-standard hours.
- 2 Unless otherwise approved in writing by the Director, construction noise during non-standard hours must be managed in accordance with the Noise Management Plan.
- 3 The Noise Management Plan must include the following:
 - 3.1 A list of equipment and activities associated with carrying out the activity.

- 3.2 Identification of noise sensitive receptors.
- 3.3 Sound power levels, duration and hours of operation for each activity that is likely to cause noise impacts at sensitive receptors.
- 3.4 Appropriate noise management levels for noise sensitive receptors.
- 3.5 Management actions to ensure that noise emissions during non-standard hours when measured outside a habitable room of any noise sensitive receptor do not exceed LAmax 60 dB(A).
- 3.6 Prediction of noise levels at sensitive receptors during works.
- 3.7 Where there is insufficient knowledge available to predict noise impact on noise sensitive receptors, monitoring and assessment must be undertaken to determine this.
- 3.8 Identification of activities likely to cause noise nuisance at sensitive receptors.
- 3.9 Identification of appropriate noise monitoring locations.
- 3.10 Mitigation measures planned to be deployed and able to be deployed where noise levels are expected to exceed noise management levels.
- 3.11 A detailed community engagement plan including procedures for notification of noise generating activities, and for receiving and responding to complaints regarding noise disturbance.

N4 Continuous noise logger(s)

- 1 Prior to commencing the activity, the responsible person must submit to the Director details of continuous noise logger(s) for measurement of noise at sensitive receptors including, but not limited to:
 - 1.1 Location(s);
 - 1.2 Type of logger;
 - 1.3 Measurement parameters;
 - 1.4 Calibration records
 - 1.5 Methods for obtaining and storing data and reporting data to the Director; and
 - 1.6 Timeframe for establishment and commencement of reporting.

Water Quality

WQ1 Dredge Management Plan

- 1 At least 1 month prior to the commencement of dredging works, or by a date otherwise specified in writing by the Director, a Dredge Management Plan must be submitted to the Director for approval. This requirement will be deemed to be satisfied only when the Director indicates in writing that the submitted document adequately addresses the requirements of this condition to the Director's satisfaction.
- 2 Without limitation, the plan must include details of the following:
 - 2.1 a detailed description of dredge methodology;
 - 2.2 adaptive management measures and a monitoring program based on a validated 3D sediment plume model consistent with recommendations made in the Sediment Plume Modelling Review Report;
 - 2.3 assessment of plume impacts and adaptive management measures based on the validated model and dredge methodology;
 - 2.4 turbidity reference/ threshold levels including levels for both acute and chronic effects;
 - 2.5 upstream and downstream realtime turbidity monitors;

- 2.6** adaptive methods to manage impacts from dredging works linked to monitoring triggers;
 - 2.7** a table containing all of the major commitments made in the plan;
 - 2.8** an implementation timetable for key aspects of the plan; and
 - 2.9** a reporting program to regularly advise the Director of the results of the plan.
- 3** The person responsible must not implement the Plan until the Director has approved the Plan. Once approved the person responsible must act in accordance with the approved plan.
- 4** In the event that the Director, by notice in writing to the person responsible, either approves a minor variation to the approved plan or approves a new plan in substitution for the plan originally approved, the person responsible must implement and act in accordance with the varied plan or the new plan, as the case may be. The varied plan must not be implemented until it is approved.

Schedule 3: Information

Legal Obligations

LO1 EMPCA

The activity must be conducted in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994* and Regulations thereunder. The conditions of this document must not be construed as an exemption from any of those requirements.

LO2 Controlled waste transport

Transport of controlled wastes to and from The Land must be undertaken only by persons authorised to do so under EMPCA or subordinate legislation.

LO3 Waste management regulations

Disposal of any dredge spoil including clean fill must be managed in accordance with an approved management method or otherwise under a relevant authority as defined in the *Environmental Management and Pollution Control (Waste Management) Regulations 2020*.

LO4 Storage and handling of dangerous goods, explosives and dangerous substances

1 The storage, handling and transport of dangerous goods, explosives and dangerous substances must comply with the requirements of relevant State Acts and any regulations thereunder, including:

1.1 *Work Health and Safety Act 2012* and subordinate regulations;

1.2 *Explosives Act 2012* and subordinate regulations; and

1.3 *Dangerous Goods (Road and Rail Transport) Act 2010* and subordinate regulations.

LO5 Aboriginal relics requirements

1 Aboriginal relics, objects, sites, places and human remains regardless of whether they are located on public or private land, are protected under the *Aboriginal Heritage Act 1975*.

2 Unanticipated discoveries of Aboriginal heritage must be reported to Aboriginal Heritage Tasmania on **1300 487 045** as soon as possible.

Other Information

OI1 Waste management hierarchy

1 Wastes should be managed in accordance with the following hierarchy of waste management:

1.1 waste should be minimised, that is, the generation of waste must be reduced to the maximum extent that is reasonable and practicable, having regard to best practice environmental management;

1.2 waste should be re-used or recycled to the maximum extent that is practicable; and

1.3 waste that cannot be re-used or recycled must be disposed of at a waste depot site or treatment facility that has been approved in writing by the relevant planning authority or the Director to receive such waste, or otherwise in a manner approved in writing by the Director.

Attachment 1: EPN 10222 Attachment 1 The Land

