



# Report and recommendations of the Environmental Protection Authority



**Oakajee Deepwater Port -  
inquiry under s46 of the  
*Environmental Protection Act 1986* -  
change to implementation conditions -  
extension of timeframe for substantial  
commencement**

**Minister for State Development**

Report 1460

December 2012



MINISTER FOR ENVIRONMENT

**OAKAJEE DEEPWATER PORT – INQUIRY UNDER SECTION 46 OF THE ENVIRONMENTAL PROTECTION ACT 1986 – CHANGE TO IMPLEMENTATION CONDITIONS - EXTENSION OF TIMEFRAME FOR SUBSTANTIAL COMMENCEMENT (ASSESSMENT NO. 1950)**

The Minister for Environment has requested (4 November 2012) under section 46 of the *Environmental Protection Act 1986* (EP Act) that the Environmental Protection Authority (EPA) inquire into and report on the matter of changing the implementation conditions relating to the Oakajee Deepwater Port proposal.

The following is the EPA's Report and Recommendations (No. 1460) to the Minister pursuant to section 46(6) of the EP Act.

**The Proposal**

The Oakajee Deepwater Port proposal was assessed by the EPA at the level of Public Environmental Review (PER). The assessment was undertaken on the conceptual design of the proposed port, and considered an in-shore port option at any of three locations ('north', 'central' and 'south' sectors) within the Oakajee study area. The assessment did not identify any environmental factor where, with appropriate management, the EPA's objective in relation to that factor could not be achieved. The proposal was approved for implementation subject to the implementation conditions of Ministerial Statement 469 (25 February 1998).

In 2009 a change to the proposal was approved under section 45C of the *Environmental Protection Act 1986*; the proposed breakwater length was extended by approximately 300 metres (to 1.9 kilometres off-shore), and the maximum dredge depths of the berth and channel were increased. The proposed port location was also confirmed within the northern sector.

The proponent of the Oakajee Deepwater Port proposal is the Minister for State Development.

### **Timeframe for substantial commencement**

Condition 9 of Statement 469 required the proponent to substantially commence the proposal within five years of the date of the Statement (i.e. before 25 February 2003), unless an application to extend that timeframe was made to the Minister for Environment. Provided the application was made before the expiration of the original timeframe, and it was demonstrated that the environmental parameters of the proposal had not changed significantly, Condition 9 allowed for the Minister to extend the timeframe for substantial commencement by up to five years.

The proponent made an application in accordance with Condition 9, and the Minister extended the timeframe for substantial commencement by five years, to 25 February 2008.

In December 2007 the proponent requested a further extension of the timeframe for substantial commencement. As the extension of five years permitted by Condition 9 had already been granted, the Minister for Environment requested under section 46 of the EP Act that the EPA inquire into and report on the matter of changing the implementation conditions relating to the proposal.

The EPA concluded it would be acceptable to allow an extension of 24 months (Bulletin 1284). The Minister for Environment issued Statement 774 replacing Condition 9 of Statement 469, and extending the timeframe for substantial commencement to 25 February 2010.

By 2009 the proposal had not yet substantially commenced, and the proponent requested the timeframe for substantial commencement be extended by a further three years. The Minister again requested under section 46 of the EP Act that the EPA inquire into and report on the matter of changing the implementation conditions relating to the proposal.

The EPA concluded it was acceptable to allow the requested three year extension (Report 1341), and the Minister issued Statement 815 extending the timeframe for substantial commencement to 25 February 2013.

### **Proposed change to conditions**

The Oakajee Deepwater Port proposal has not yet substantially commenced. The proponent has requested an extension of five years, to allow for the recent changes to project timelines.

### **Assessment of the proposed change to conditions**

In its original assessment of the proposal the EPA considered the following environmental factors:

- rare and priority flora and vegetation communities;
- rare and endangered fauna;
- seagrass and benthic primary producer habitat;
- macroalgae (beach cast seaweed);
- marine fauna;
- introduced marine organisms;
- shoreline stability;
- marine water and sediment quality;
- dust;
- noise and vibration;
- public health and safety;
- heritage;
- recreation; and
- fishing.

The conditions of Ministerial Statement 469 require the development and implementation of a range of environmental management plans to address the relevant environmental factors, and manage and mitigate the potential impacts of the proposal. Environmental investigations have been carried out since the EPA's assessment to increase the knowledge of the proposal area, and to inform the development of the environmental management plans. In developing the management plans the possibility of other relevant environmental factors arising since the EPA's assessment has also been considered.

The following environmental management plans have recently been developed to the satisfaction of the EPA, on advice of relevant agencies:

- Marine Flora and Fauna Management Plan;
- Underwater Noise Management Plan;
- Introduced Marine Organisms Management Plan;
- Water Quality Monitoring and Management Plan;
- Dredge Breakwater Construction and Land Reclamation Management Plan;
- Oils Spill Contingency Management Plan;
- Recreation and Fishing Access Management Plan;
- Windsurfing and Wave Studies;
- Heritage Management Plan;
- Breach-cast Wrack Management Plan;
- Shoreline Stability Management Plan;
- Construction Environment Management Plan;
- Sediment Quality Monitoring and Management Plan.

The EPA considers the environmental factors relevant to the proposal have not significantly changed since the initial assessment. The EPA is satisfied that the suite of environmental management plans required by Ministerial Statement 469 will address the relevant environmental factors, and manage and mitigate the potential impacts of the proposal.

### **EPA Conclusion(s) and Recommendations**

Having inquired into the matter, the EPA recommends to the Minister for Environment that:

- the timeframe for substantial commencement of the Oakajee Deepwater Port proposal be extended by five years, to 25 February 2018;
- after complying with section 46(8) of the EP Act, the Minister issues a Statement of decision to amend the conditions of Ministerial Statement 469 in the manner provided for in the attached recommended Statement.

RECOMMENDED ENVIRONMENTAL CONDITIONS

**STATEMENT TO AMEND CONDITIONS APPLYING TO A PROPOSAL  
(PURSUANT TO THE PROVISIONS OF SECTION 46 OF THE  
*ENVIRONMENTAL PROTECTION ACT 1986*)**

OAKAJEE DEEPWATER PORT, OAKAJEE, SHIRE OF CHAPMAN VALLEY

**Proposal:** The construction of a deepwater port as described in Statement No. 469.

**Proponent:** Minister for State Development

**Proponent Address:** 197 St Georges Terrace, PERTH WA 6000

**Assessment Number:** 1950

**Previous Assessment Numbers:** 1074, 1722, 1813

**Report of the Environmental Protection Authority: 1460**

**Previous Reports of the Environmental Protection Authority:** 849, 866, 1284, 1341

**Previous Ministerial Statement Numbers:** 469, 774, 815

The implementation of the proposal to which the above reports of the Environmental Protection Authority relate is subject to the conditions and procedures contained in Statement 469, as amended by the following:

**1. Condition 9 of Statement 469 is deleted, and replaced with:**

9-1 The proponent shall not commence implementation of the proposal after 25 February 2018.

9-2 Any commencement of implementation of the proposal before 25 February 2018 must be demonstrated as substantial by providing the Chief Executive Officer of the Office of the Environmental Protection Authority with written evidence, on or before 25 February 2018.

## **2. General Amendments**

This statement supersedes Statements 774 and 815.

**HON BILL MARMION MLA  
MINISTER FOR ENVIRONMENT; WATER**