

Public record pursuant to s. 39 of the *Environmental Protection Act 1986*

Proposal title: Kennedy Bay Public Jetty

Proposal description: The proposal is for constructing and operating a recreational jetty in Port Kennedy, located in south Warnbro Sound with the City of Rockingham, Western Australia. The proposal will provide:

- an elevated main deck
- low-level short-stay vessel berth
- central jetty 'node' to include a diving platform, terracing, stairs, swimming platform, ladders
- demarcated swimming area.

Proposal location: Port Kennedy, City of Rockingham, Western Australia

CMS number: APP-0025750

Date referral received: 22-10-2024

Date more information received: 21-02-2025

Referrer: Western Australia Beach and Golf Resort Pty Ltd

Proponent: Western Australia Beach and Golf Resort Pty Ltd

Potential significant effects: There are potential impacts on marine fauna from underwater noise, vessel strike, entanglement and artificial light; benthic communities and habitats and marine environmental quality from piling and construction activities; flora and vegetation from clearing; and social surroundings associated with construction and operation.

Preliminary key environmental factors: benthic communities and habitats, marine environmental quality and marine fauna.

Public comment on referral information:

Do not assess:	0
Assess: a) Referral information	0
b) Environmental review - no public review	1
c) Public environmental review	1
<i>Total submissions:</i>	2

Decision: s. 38G(1) – Not assess.

Summary of reasons pursuant to s. 38G(1)(c)

The EPA has decided not to assess the proposal because:

- The EPA considers the likely environmental effects of the proposal are not so significant or unmitigated as to warrant formal assessment under Part IV of the EP Act.
- The EPA's decision has been made based on the proponent implementing the proposal in accordance with:
 - the proposal content document
 - the marine fauna observer procedures set out in Appendix F to the referral supporting document
 - the marine construction management framework set out in Appendix G to the referral supporting document

- the marine operational environmental management framework set out in Appendix H to the referral supporting document.

Any changes to elements of the referred proposal during its implementation which are likely to result in significant environmental effects may result in a new referral being required for that different proposal.

Construction elements

- The proposal has been located so that direct impacts to benthic communities and habitat (BCH) from piling is within areas of macroalgae and sand/silt substrate. No seagrass will be impacted.
- The EPA considered the sediment assessment which indicated that any release of sediment into the water column during construction is not likely to increase contaminants or toxicants to levels higher than baseline.
- Implementation of marine fauna management and exclusion zones; dedicated marine fauna observers; and pre- and soft-start and shutdown procedures as specified in the proponent's referral will minimise effects from underwater noise.
- In addition, the timing of construction of the proposal has considered important ecological windows of key marine fauna species, including that no piling works will be undertaken during June to mid-October to avoid:
 - peak Australian sealion abundance
 - peak little penguin guarding
 - peak whitebait spawning period
 - humpback whale migration
 - southern right whale calving period.
- Potential impacts to BCH, marine environmental quality and marine fauna are likely to be localised, temporary and minor, noting the small extent of the footprint and limited intensity of the construction activities.

Operational elements

- The EPA acknowledges that little penguins are at risk of collision with recreational vessels within Warnbro Sound and that the proposal may attract recreational vessels to remain within the south Warnbro Sound area. However, noting that the proposal does not include additional boat launching facilities, or vessel moorings, it is not likely that the proposal will result in material increase in recreational vessel traffic within the vicinity of the proposal area.
- The EPA considered cumulative impacts of the proposal with other activities within Warnbro Sound and the City of Rockingham area. Noting the small and limited scale of impacts likely from the proposal, it is unlikely to contribute significantly to cumulative impacts in the area.
- The EPA does not consider that the proposal impacts will combine or interact in a holistic way which requires assessment by the EPA.

Public advice

The EPA publishes the following public advice for the benefit of other decision-making authorities to ensure that their statutory decision-making processes achieve and assure environmental outcomes consistent with the EPA's environmental factor objectives:

- The proponent's marine fauna observer procedures, marine construction environmental management, and specifications about construction activities and timing are material to ensuring the proposal is not likely to have a significant impact on the environment.

The EPA publishes the following public advice about the state of the environment in the proposal area for the benefit of future proponents and the community:

- Recent population estimates of little penguins from Penguin Island during September to November 2023 by Dr Belinda Cannell indicated that there are 114 individuals utilising the area for foraging, which is a significant decline (94%) since the highest estimate in 2008. The study highlighted that population declines may be attributed to various factors, including reduced food availability, increasing terrestrial temperatures, impact to nest site access, recreational vessel strike injury, and predation. This has led to changes in little penguin breeding behaviour and success, and changes to the mortality rate of fledglings and adults.
- In light of the above, the EPA notes the prevalence of the existing pressures from recreational vessels on little penguins within Shoalwater Island Marine Park and surrounds, particularly through summer and spring. Whilst the referred proposal is not likely to materially increase recreational vessel traffic within the vicinity of the proposal area, the EPA recommends practical strategies be applied in the general use zone of the Shoalwater Island Marine to respond to any potential increased pressures from vessels using the proposal. This may include DBCA considering whether to apply vessel speed limits to additional areas, as an example of a strategy currently provided for in the Shoalwater Island Marine Park Management Plan.
- Given the location of the proposal and in light of strategies set out in the Shoalwater Island Marine Park Management Plan in relation to the little penguin, the EPA supports the proponent and DBCA collaborating with a view to amending the Shoalwater Island Marine Park boundary to include the Port Kennedy exclusion area in the marine park.

Material information considered by the EPA in this decision

The EPA has considered the following material information in making its decision:

- Referral (22 October 2024)
- Referral Supporting Document (O2 Marine, 1 November 2024) and appendices
 - Appendix A: Hydrobiology 2022, Baseline Marine Environmental Assessment, Ref: P21027
 - Appendix B: Del Botanics Environmental Consulting 2024, Flora and Vegetation Survey
 - Appendix C: Marine Fauna Desktop Report (O2 marine 2024)
 - Appendix E: ANV Consultants 2024, Underwater Piling Noise Modelling, Ref: 755.23062-R01-v1.0

- Appendix D: Boating Guide South Metropolitan (DoT 2023)
- Appendix F: O2 Marine 2024, Marine Fauna Observer Procedures, Ref: 24ENV322 / R240333
- Appendix G: O2 Marine 2024, Marine Construction Environmental Management, Ref: 24ENV322 / R240333
- Appendix H: O2 Marine 2024, Marine Operation Environmental Management, Ref: 24ENV322 / R240333
- Additional information to referral supporting document (Coterra 2025)
- Population estimate of the little penguin colony on Penguin Island during September to November 2023 (Cannell 2024)
- Information from agencies regarding their statutory decision-making processes
- EP Act s.3, s.4, and Part IV, Admin Procedures, EPA factor and technical guidance

Appeals: There are no rights of appeal under the EP Act in respect of this decision.



Darren Walsh

Chair

Delegate of the Environmental Protection Authority

Date: 13 May 2025