

## Perth Waterfront Development

### Statement of Reasons

16 January 2012

The Environmental Protection Authority (EPA) has received a referral for development of the Swan River foreshore on the edge of the Perth Central Business District (CBD) into a new waterfront precinct, known as the Perth Waterfront Project (PWP). Although the proposal raises a number of environmental issues, the EPA considers that the potential impacts are not so significant as to warrant formal environmental impact assessment and the subsequent setting of formal conditions by the Minister for Environment under the *Environmental Protection Act 1986* (EP Act). This is because the potential impacts of the proposal have been considered by the relevant agencies and appropriate management plans have been prepared such that the EPA's objectives can be met. Furthermore, these management plans can be given effect through other legislation and regulatory processes. The EPA will however provide public advice to the Department of Planning (as the lead agency) and the Swan River Trust (SRT), as the primary environmental regulator, about the environmental management of the proposal.

#### *Proposal and potential impacts*

A key element of the PWP includes the construction of an inlet designed to reconnect the CBD with the Swan River. The development includes a mix of civic, commercial, residential, retail, ferry terminal and cultural areas surrounding the inlet. It also includes an island within the inlet, and ferry and boat access into the inlet via a new dredged channel from the river. Construction activities associated with the development include sheet piling, bulk earthworks, reclamation, jetty demolition and extension works, relocation of fuel and sillage facilities and contamination remediation. Further information about the proposal can be found at <http://www.mra.wa.gov.au/Projects/Perth-Waterfront/Publications/>.

The key environmental issues associated with the development are considered to be:

- potential impacts of dredging and dewatering on the environmental quality of the Swan River, particularly from turbid plumes and toxicants in water and sediments;
- the onshore and offshore disturbance and excavation of isolated pockets of contaminated soils and sediments;
- the onshore and offshore disturbance and dewatering in areas containing potential acid sulfate soils (PASS); and
- temporary displacement of marine fauna, including dolphins, during construction.

Dredging of the inlet channel will generate temporary visible plumes, which according to the proponent's dredge plume modelling could extend as far as 500 metres from the development site from time to time, depending on the prevailing currents and tides. During winter the plumes may extend up to 700 metres downstream of the Narrows Bridge. However the extent, severity and duration of the plume is unlikely to cause impacts to seagrass communities provided appropriate dredging techniques and management are implemented by the proponent (i.e. use of a cutter suction dredge).

Investigations have identified isolated pockets of contamination where metals and Polycyclic Aromatic Hydrocarbons (PAH) are above the adopted health and ecological screening criteria, while localised fuel related hydrocarbon impacts were identified in soils at the fuel storage area in the vicinity of the Barrack Street jetty. The independent Contaminated Sites Auditor's report has stated that provided the construction and remediation phase of the works is managed appropriately (i.e. implementation of endorsed site management plan), the Project Site should be confirmed as suitable for the mix of commercial, high density residential and open space use proposed by the PWP.

The proposed remediation activities, including handling of dredge sediments containing asbestos, would generate dust and hence pose a risk to human health. However, the risks are considered to be manageable given dredge sediments are to be handled in a damp and wet state. An independent review of the proposed dust management has been conducted by the Contaminated Sites Auditor who concluded that overall, proposed dust control measures and monitoring were considered reasonable.

In addition to construction related impacts, there are also potential ongoing impacts from the creation of the inlet on the water quality of the Swan River. The water quality in the inlet will largely be a function of the flushing and mixing rates of the waterbody (which is largely determined by inlet siting and design), the quality of the external river waters and the magnitude of direct nutrient inputs. The proponent has predicted that the proposed inlet will be flushed on a frequent basis and hence there is unlikely to be a significant impact to water quality.

Further information on the potential impacts from dredging, site remediation and management of water quality in the inlet can be found in the Dredge Management Plan, Site Management Plan and Waterways Management Plan respectively, which are available at [www.mra.wa.gov.au](http://www.mra.wa.gov.au).

#### *Assessment and regulation*

The Department of Planning (DoP), as the lead agency for the proposal, commissioned a suite of environmental surveys and investigations in order to evaluate the environmental impacts of the development and demonstrate that the unavoidable and residual impacts are environmentally acceptable. In doing so, the DoP has prepared environmental management plans for key issues such as dredging, dewatering and site remediation that will require active management during construction. Reports and management plans that have been prepared for the PWP along with comments received from the relevant agencies can be found at [www.mra.wa.gov.au](http://www.mra.wa.gov.au). Based on the findings of the investigations and the work and consultation undertaken to date with the relevant State government agencies, the DoP is of the view that the proposal does not require formal assessment by the EPA.

The EPA has reviewed the DoP's referral documentation, reporting of investigations and environmental management plans, and considers that the proponent has adequately addressed the key environmental issues/factors that were previously identified in consultation with the EPA (further discussed below under Background and History). This is supported by the advice received from the relevant agencies including the Office of the EPA,

the SRT, the Department of Environment and Conservation (DEC), the Department of Health (DoH), and the Department of Water (DoW) through their review of the reports and management plans. Final agency advice on the management plans will be publicly available.

In determining whether the proposal is likely to have a significant effect on the environment the EPA has applied the 10 principles of the significance test as set out in clause 7 of the *Environmental Impact Assessment Administrative Procedures 2010*. The EPA has considered the high values and sensitivity of the Swan River environs and the extent of the potential impacts from the proposal (principles (a) and (b)), however a key consideration was the extent to which other decision-making processes meet the EPA's objectives (principle (j)) and in this particular circumstance, have the ability to approve, ensure compliance with, and enforce the environmental management plans.

As such the EPA notes that the following legislation will apply to this proposal:

- Metropolitan Region Scheme (MRS);
- *Planning and Development Act 2005*;
- *Metropolitan Redevelopment Act 2011*;
- *Contaminated Sites Act 2003*;
- EP Act;
- *Swan and Canning Rivers Management Act 2006*; and
- Swan and Canning Rivers Management Regulations 2007.

Under the MRS, the Western Australian Planning Commission (WAPC) is required to make a determination on the development application in a manner consistent with the advice of the SRT. The environmental management plans prepared for the proposal will be given effect through the conditions on the development application. In addition, the SRT has been delegated powers under the *Planning and Development Act 2005* to monitor compliance with the approved environmental management plans, particularly for activities that have the potential to affect the water quality of the Swan River.

In relation to site contamination, the proponent's sampling methodologies, investigation reports and management strategies have been subject to review by an independent Contaminated Sites Auditor, in accordance with the requirements of the *Contaminated Sites Act 2003*. Following remediation works and development, as per the Site Management Plan, the contamination status of the lots in the PWP area will be reviewed in order to determine an appropriate classification under the *Contaminated Sites Act 2003*.

While the significant environmental issues can be regulated and managed under the abovementioned legislation, the EPA will provide publicly available advice to these agencies in relation to the following matters:

- ongoing management of water and sediment quality in the Inlet;
- the need for ongoing stakeholder and community information dissemination and consultation during the implementation of the proposal; and
- the need for best practice dust management during the construction of the proposal.

### *Background and history*

Although the proposal was formally referred on the 5 December 2011, the EPA began its involvement with the PWP in August 2009, when it considered the Environmental Assessment Report (EAR) for the project. This report also served as the environmental scoping document for the proposal, identifying the likely main environmental impacts and the environmental investigations required for the project. The EPA advised in 2009 that the scope of works outlined in the EAR provided a suitable basis for the required environmental studies, and sampling and monitoring surveys to inform the development and management of the PWP.

The issues in the EAR were evaluated and investigated by the proponent in consultation with the other government agencies, prior to formal referral to the EPA.

In 2010, the WAPC initiated an amendment to the MRS to consolidate the existing reserves into a single Public Purpose Special Use Reserve (MRS Amendment 1203/41). The Amendment provided the opportunity for full public consultation on the planning intent for the PWP. The EPA determined in December 2010 that the MRS Amendment did not require assessment under the EP Act. Advice provided at this time identified a number of environmental factors for which insufficient information was available to inform the EPA's decision-making but acknowledged that these issues will continue to be investigated as per the endorsed EAR. This was particularly the case for the construction of the inlet and the potential impacts on the Swan River, as details about some aspects of the project were not available. As a result, the WAPC committed to referring the development application for the construction of the inlet and associated marine works (this proposal) to the EPA for a decision under Section 38 of the EP Act.

In line with this, the proposal was referred to the EPA on 5 December 2011 concurrent with the lodgement of the development application under the MRS.

### *Conclusion*

The OEPA has reviewed the various management plans and consulted with relevant departments and has advised the EPA that the environmental issues associated with the construction and operation of the proposal are manageable provided that the final management plans can be given effect and implemented in accordance with the requirements of both the SRT and the DEC.

The EPA has also met with each of the agencies to confirm that the management plans are satisfactory and can be given effect through the *Planning and Development Act 2005* and independently monitored by the SRT. Any further necessary amendments and refinements to the Management Plans are best addressed through the SRT's consideration of the proposal and the final management plans under the MRS. SRT has committed to consult with other agencies concerning any changes to management plans and their implementation.

### *Appeals*

The EPA's decision to not assess the proposal is open to appeal. There is a 14-day appeal period, closing 30 January 2012, during which, on payment of the \$10 appeal fee, an

appellant may ask the Minister to consider directing the EPA to reconsider this decision or conduct a formal assessment. Information about appeals is available through the Appeals Convenor's website, [www.appealsconvenor.wa.gov.au](http://www.appealsconvenor.wa.gov.au).