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State # 402

MINISTER FOR THE ENVIRONMENT WESTERN AUSTRALIA

**STATEMENT THAT A PROPOSAL MAY BE IMPLEMENTED
(PURSUANT TO THE PROVISIONS OF THE
ENVIRONMENTAL PROTECTION ACT 1986)**

PORT MANDURAH CANAL DEVELOPMENT - STAGE 2, HALLS HEAD, MANDURAH
(731)

ESPLANADE (MANDURAH) PTY LTD

This proposal may be implemented subject to the following conditions:

1 Proponent Commitments

The proponent has made a number of environmental management commitments in order to protect the environment.

- 1-1 In implementing the proposal, the proponent shall fulfil the commitments made in the Public Environmental Review and in response to public submissions, provided that the commitments and environmental management measures are not inconsistent with the conditions or procedures contained in this statement.

A consolidated list of environmental management commitments was published in Environmental Protection Authority Bulletin 790 (Appendix 4) and a copy is attached. Those commitments which will be audited by the Department of Environmental Protection are indicated by an asterisk.

2 Implementation

Changes to the proposal which are not substantial may be carried out with the approval of the Minister for the Environment.

- 2-1 Subject to these conditions, the manner of detailed implementation of the proposal shall conform in substance with that set out in any designs, specifications, plans or other technical material submitted by the proponent to the Environmental Protection Authority with the proposal.
- 2-2 Where, in the course of the detailed implementation referred to in condition 2-1, the proponent seeks to change the designs, specifications, plans or other technical material submitted to the Environmental Protection Authority in any way that the Minister for the Environment determines, on the advice of the Environmental Protection Authority, is not substantial, those changes may be effected.

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3 Proponent

These conditions legally apply to the nominated proponent.

- 3-1 No transfer of ownership, control or management of the project which would give rise to a need for the replacement of the proponent shall take place until the Minister for the Environment has advised the proponent that approval has been given for the nomination of a replacement proponent. Any request for the exercise of that power of the Minister shall be accompanied by a copy of this statement endorsed with an undertaking by the proposed replacement proponent to carry out the project in accordance with the conditions and procedures set out in the statement.

4 Time Limit on Approval

The environmental approval for the proposal is limited.

- 4-1 If the proponent has not substantially commenced the project within five years of the date of this statement, then the approval to implement the proposal as granted in this statement shall lapse and be void. The Minister for the Environment shall determine any question as to whether the project has been substantially commenced.

Any application to extend the period of five years referred to in this condition shall be made before the expiration of that period to the Minister for the Environment.

Where the proponent demonstrates to the requirements of the Minister for the Environment on advice of the Department of Environmental Protection that the environmental parameters of the proposal have not changed significantly, then the Minister may grant an extension not exceeding five years.

5 Compliance Auditing

To help determine environmental performance, periodic reports on progress in implementation of the proposal are required.

- 5-1 The proponent shall submit periodic Progress and Compliance Reports, in accordance with an audit programme prepared by the Department of Environmental Protection in consultation with the proponent.

Procedure

- 1 Unless otherwise specified, the Department of Environmental Protection is responsible for assessing compliance with the conditions contained in this statement and for issuing formal clearance of conditions.
- 2 Where compliance with any condition is in dispute, the matter will be determined by the Minister for the Environment.

Hon. Peter Foss, MLC
MINISTER FOR THE ENVIRONMENT

Proponent's Environmental Management Commitments

September 1995

Note: Those which will be audited by the Department of Environmental Protection are indicated by an asterisk (*).

**PORT MANDURAH CANAL DEVELOPMENT
STAGE 2, HALLS HEAD, MANDURAH (731)**

ESPLANADE (MANDURAH) PTY LTD

SUMMARY OF PROPONENT'S COMMITMENTS

The principal project design and environmental management commitments given by Esplanade (Mandurah) Pty Ltd in the Public Environmental Review and following consideration of public submissions upon the Public Environmental Review are as follows:

General

- *1. The Canal Estate will comply with the provisions of the State Planning Commission's Policy DC1.8, Procedures for Approval of Artificial Waterways and Canal Estates, to the satisfaction of DPUD on advice from DEP, PIMA, the Department of Transport and the City of Mandurah.

2. The design, construction and management of the Canal Estate will be in accordance with the requirements for "canal zoning" defined by the proposed City of Mandurah Town Planning Scheme No. 3, and with the City of Mandurah's Waterways Management Policy, to the satisfaction of the City of Mandurah.

Project Design

Project design commitments to be satisfied prior to the commencement of project construction include the following:

- *3. The project design will incorporate the provision and establishment of a Conservation and Foreshore Reserve meeting the objectives and specifications outlined in Section 4.2.1 of the PER, including a minimum Foreshore Reserve width of 50m and an additional 25m buffer zone, so as to provide for conservation management of all areas identified in the PER as having high or very high waterbird habitat and all areas of wet samphire with moderate waterbird habitat value. This commitment will be accomplished to the satisfaction of the EPA upon advice from DEP, CALM and PIMA.

- *4. The proposed Conservation and Foreshore Reserve will be buffered from the proposed development by a 50m wide boundary canal.

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- *5. The Stage 2A proposal will include an area of Public Open Space located in the south eastern corner of the project area, to augment the existing Foreshore Reserve and to be developed and managed for conservation interpretation and public appreciation of waterbird species and habitats. This commitment is to be accomplished to the satisfaction of the EPA upon advice from DEP, CALM and PIMA.
- *6. A Conservation and Foreshore Reserve Management Plan defining the detailed design and management prescriptions for the Reserve will be prepared by EMPL in consultation with DEP, CALM, ANCA and PIMA, to the satisfaction of the Minister for the Environment. The Plan will be consistent with the objectives proposed for the Reserve in this PER and will include arrangements whereby EMPL will construct and establish the Reserve facilities during construction of the Stage 2A Canal Estate then shall cede its property within the Reserve for ongoing management by CALM.
7. The Stage 2B proposal will include a Heritage Conservation Area of approximately 1.4ha to preserve the existing Sutton Homestead and ancillary farm buildings, to the satisfaction of the City of Mandurah.
8. The Stage 2B proposal will include an area of Public Open Space at the heritage graveyard site, to enable its appropriate conservation and management. This commitment is to be accomplished to the satisfaction of the City of Mandurah.
9. The Stage 2B proposal will include two areas of Public Open Space at the two identified Aboriginal heritage areas, to the satisfaction of the City of Mandurah upon advice from the Department of Aboriginal Affairs.
- *10. The Port Mandurah Stage 2 canals will be connected to both the Mandurah Inlet and the Stage 1 canals, to provide an integrated canal estate and to secure enhanced flushing of the waterways.

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- *11. The Stage 2 proposal will apply the same high standards of environmental design criteria as Stage 1, subject to minor modifications as described in the PER where experience has shown to be appropriate to secure improved environmental performance. This commitment will be implemented to the satisfaction of the DEP upon advice from the Department of Transport, PIMA and the City of Mandurah.
 - *12. EMPL will enter into an agreement with the City of Mandurah which clearly delineates responsibilities for the physical maintenance and waterways management of the Canal Estate and the entrance channel. This agreement is to be to the satisfaction of the Minister for the Environment on advice from the DEP.
 - *13. EMPL will prepare a water and sediment quality monitoring program for the canals to the satisfaction of the DEP on advice from PIMA.
 - *14. EMPL will prepare a waterbird monitoring program for the Conservation and Foreshore Reserve, to the satisfaction of the DEP on advice from CALM and PIMA.
 - *15. EMPL will undertake additional investigations and provide detailed design specifications to ensure that the through flow of water in the integrated Stage 1 and 2 canals will not result in unacceptable scouring of the canal batters. This will be accomplished to the satisfaction of the City of Mandurah upon advice from the Department of Transport.

Project Construction

Project construction commitments, to be satisfied prior to final subdivisional approval of the relevant stage of development, include the following:

- *16. EMPL will incorporate environmental conditions including those outlined in Section 7.3.1 into the Construction Contracts to provide for protection of the conservation areas, to the satisfaction of the DEP. In particular, EMPL will ensure that, during construction of Stage 2A, construction contractors do not encroach upon any areas of the Conservation and Foreshore Reserve which are recognised as important waterbird habitat.

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- *17. During construction of Stage 2A, EMPL will develop the Conservation and Foreshore Reserve and Conservation Interpretation Facility consistent with the objectives and scope of the Conservation and Foreshore Reserve Management Plan, and will enter into an agreement with CALM for vesting and ongoing management of the Reserve. This commitment will be accomplished to the satisfaction of the Minister for the Environment upon advice from DEP, CALM and PIMA.
- *18. Dust emissions from the project area during construction activities will be managed and monitored in compliance with the EPA's Guidelines for Assessment and Control of Dust and Windborne Material from Land Development Sites", to the satisfaction of the City of Mandurah.
19. Construction activities will be restricted to daylight hours. Appropriate techniques will be employed to suppress any noise nuisance to nearby residents, to the satisfaction of the City of Mandurah.
20. The effects of dewatering operations during project construction upon nearby domestic bores will be monitored by EMPL and, in the event that the bores become unsuitable for garden irrigation, EMPL will pay the affected bore owner to use scheme water for the period of effect. This commitment will be fulfilled to the satisfaction of the City of Mandurah. Should unplanned groundwater discharge zones be exposed during excavation, the Water Authority of Western Australia will be immediately notified.
- *21. The effects of dewatering operations upon trees on the upland areas of the Stage 2A site, those within the adjacent Castle Fun Park, and the trees of heritage significance, will be monitored by EMPL and watered if necessary to maintain their viability during the period of temporary water table drawdown. This commitment will be fulfilled to the satisfaction of the DEP.
22. The proposed canals will be excavated in a land-locked basin; with dredging being required only for opening the entrance channel to Mandurah Channel. The discharge of dewatering and dredge spoil water will incorporate large capacity stilling basins to allow settlement of suspended material prior to discharge to the estuary and will be in accordance with PIMA's requirements and published policies.

- *23. The proposed canals will be constructed to a high standard to the satisfaction of the City of Mandurah and EPA upon advice from PIMA and the Department of Transport.

Ongoing Management and Monitoring

Upon completion of each stage of the proposed development, EMPL will fulfill the following commitments:

24. The canal waterways will be ceded free of cost to the Crown, for vesting with the City of Mandurah.
25. EMPL will monitor the impact of the canals upon groundwater abstracted at nearby residential properties. In the event that the canals cause any reduction in the quality or quantity of groundwater available to local bore owners, then EMPL would pay the bore owner to modify the bore or would compensate him/her for changing to scheme water, to the satisfaction of the City of Mandurah. If any significant change in groundwater levels or quality is detected by the monitoring program, then EMPL would immediately notify the Water Authority of Western Australia, to the Water Authority's satisfaction.
- *26. For the initial five years following construction then subject to the agreement with the City of Mandurah, EMPL will annually monitor the depths of the canals and the entrance channel to ensure the maintenance of adequate flushing and safe navigable depths, to the satisfaction of the EPA and Department of Transport. If and when required by the Department of Transport or PIMA, EMPL (or the City of Mandurah subject to agreement) will submit plans for dredging and disposal of dredged material to PIMA for approval prior to their implementation.
- *27. For the initial five years following construction of Stage 2A then subject to the agreement with the City of Mandurah, EMPL will annually monitor the shoreline and nearshore shoal in the vicinity of the Stage 2 entrance channel, to the satisfaction of the DEP on advice from CALM and PIMA. In the unlikely event that sediment erosion or accretion associated with the development causes significant adverse impact upon the Conservation and Foreshore Reserve, then the Waterways Manager will prepare and implement a management response to the satisfaction of EPA upon advice from CALM and PIMA.

- *28. For the initial five years following construction and then subject to agreement with the City of Mandurah, EMPL will implement the water and sediment quality monitoring program for the canals, to the satisfaction of the DEP upon advice from the Department of Transport and PIMA.