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Published on: 12 August 2024

Statement No. 1231

**STATEMENT TO AMEND AN APPROVED PROPOSAL AND CONDITIONS  
INCLUDING CONSOLIDATION OF APPROVED PROPOSALS WITHOUT INQUIRY  
OR ASSESSMENT  
(*Environmental Protection Act 1986*)**

**LUMSDEN POINT GENERAL CARGO FACILITY**

**Proposal:** The proposal is to undertake dredging and construction to develop and operate a general cargo facility at Lumsden Point, located in Port Hedland.

**Proponent:** Pilbara Ports Authority  
Australian Business Number 94 987 448 870

**Proponent address:** The Esplanade  
Port Hedland WA 6721

**Previous Assessment Numbers:** 1803 and 1987

**Previous Report Numbers:** 1337 and 1503

**Preceding Statements Relating to this Proposal:** 812 and 967

**Introduction:** Dredging at Nelson Point, BHP Billiton RGP6 Project, approved proposal was agreed to be implemented under Ministerial Statement 812 (4 November 2009). The Lumsden Point General Cargo Facility approved proposal was agreed to be implemented under Ministerial Statement 967 (12 May 2014).

Pursuant to section 45C(1)(c) of the *Environmental Protection Act 1986*, an amendment to the approved proposals the subject of Ministerial Statements 812 and 967, and to the implementation conditions relating to the approved proposals, including the consolidation of the approved proposals into one proposal pursuant to section 45D(1)(b), is now approved.

The Lumsden Point General Cargo Facility described in the 'Proposal Content Document' dated **14 June 2024**, may now be implemented and is subject to the following implementation conditions and procedures.

Ministerial Statements 812 and 967 are superseded by this Ministerial Statement.

**Conditions and procedures**

**Part A: Proposal extent**

**Part B: Environmental outcomes, prescriptions and objectives**

**Part C: Environmental management plans and monitoring**

**Part D: Compliance and other conditions**

## PART A: PROPOSAL EXTENT

### Limitations and Extent of Proposal

A1-1 The proponent must ensure that the proposal is implemented in such a manner that the following limitations or maximum extents/capacities/ranges are not exceeded:

Proposal element	Location	Maximum extent
Physical elements		
Development envelope	Figure 1 and Schedule 1.	No more than 375.4 ha
<b>Ground disturbance:</b> for: <ul style="list-style-type: none"> <li>- land-backed wharf (general cargo wharf)</li> <li>- causeway (heavy duty access corridor)</li> <li>- berths</li> <li>- temporary pipeline corridor; and</li> <li>- discharge channels</li> </ul>	Located within the development envelope as shown in Figure 1 and Schedule 1.	No more than 58.4 ha, of which no more than 10.6 ha is mangrove disturbance
Construction elements		
Dredging for: <ul style="list-style-type: none"> <li>- Berth Pockets</li> <li>- Shipping Channel and turning basin</li> </ul>	As shown in Figure 1 and Schedule 1.	Up to 2.4 million m <sup>3</sup> of material
Onshore placement of dredged material to support land reclamation for future port development	Located within the development envelope as shown in Figure 1 and Schedule 1.	General Cargo Wharf (Land Backed Wharf) area and Dredge Material Management Area (DMMA) C
Timing elements		
Construction Phase		Dredging & Construction: <ul style="list-style-type: none"> <li>- To be completed by 2029</li> </ul>
Project life		The land backed wharf and causeway will be constructed with a design life of 50 years.

## PART B – ENVIRONMENTAL OUTCOMES, PRESCRIPTIONS AND OBJECTIVES

### B1 Benthic Communities and Habitats

B1-1 The proponent must ensure the implementation of the proposal achieves the following environmental outcome:

- (1) no **adverse impacts** to mangrove communities outside of the development envelope.

B1-2 The proponent must implement the environmental management plan Lumsden Point General Cargo Facility Construction and Dredge Management Plan – Phase Two (Revision G – 17 July 2024) with the purpose of ensuring the benthic communities and habitats environmental outcome in condition B1-1 is achieved, monitored and substantiated.

### B2 Marine Environmental Quality

B2-1 The proponent must ensure that during **dewatering discharge** the proposal achieves the following environmental outcomes:

- (1) no **adverse impacts** on the **marine environmental values** of Ecosystem Health; and
- (2) for the **marine environmental values** of Ecosystem Health the following level of ecological protection is to be achieved:
  - (a) **High level of ecological protection** at South East Creek and South Creek.

B2-2 The levels of ecological protection identified in condition B2-1(2) are to be consistent with the method for deriving **Environmental Quality Guidelines** and **Environmental Quality Standards** for the corresponding level of ecological protection.

B2-3 The proponent must implement the environmental management plan Lumsden Point General Cargo Facility Construction and Dredge Management Plan – Phase Two (Revision G – 17 July 2024) with the purpose of ensuring the marine environmental quality environmental outcomes in condition B2-1 are achieved, monitored and substantiated.

### B3 Social Surroundings (Amenity) and Rehabilitation

B3-1 The proponent must ensure that during dredging and construction the proposal achieves the following environmental outcome:

- (1) the Dredge Material Management Areas are safe, stable, not prone to erosion and do not cause **pollution** or **environmental harm**.

- B3-2 The proponent shall rehabilitate the Dredge Material Management Areas shown in Figure 1 if dredge material is not utilised within 5 years following the completion of dredging.
- B3-3 The proponent shall ensure the rehabilitated areas required by condition B3--2 achieve the following environmental outcomes within two years of rehabilitation commencing:
- (1) native vegetation appropriate for the local and regional area is established over eighty (80) per cent of the areas subject to rehabilitation;
  - (2) no more than ten (10) per cent of the rehabilitated areas are infested by weeds; and
  - (3) rehabilitated areas are safe, stable, not prone to erosion and do not cause **pollution** or **environmental harm**.
- B3-4 The proponent must implement appropriate dust control measures in order to achieve the following environmental outcome:
- (1) ensure the Dredge Material Management Areas are not significantly contributing to the **Port Hedland air guideline value** at the **Wedgefield monitoring site**.

## PART C – ENVIRONMENTAL MANAGEMENT PLANS AND MONITORING

### C1 Environmental Management Plans: Conditions Relating to Approval, Implementation, Review and Publication

C1-1 Upon being required to implement an environmental management plan under Part B, the proponent must:

- (1) implement the most recent version of the **confirmed** environmental management plan; and
- (2) continue to implement the **confirmed** environmental management plans referred to in condition C1-1(1), other than for any period which the **CEO** confirms by notice in writing that it has been demonstrated that the relevant requirements for the environmental management plan have been met, or are able to be met under another statutory decision-making process, in which case the implementation of the environmental management plan is no longer required for that period.

C1-2 The proponent:

- (1) may review and revise a **confirmed** environmental management plan provided it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan;
- (2) must review and revise a **confirmed** environmental management plan and ensure it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan, as and when directed by the **CEO**; and
- (3) must revise and submit to the **CEO** the **confirmed** Environmental Management Plan if there is a material risk that the outcomes or objectives it is required to achieve will not be complied with, including but not limited to as a result of a change to the proposal.

C1-3 Despite condition C1-1, but subject to conditions C1-4 and C1-5, the proponent may implement minor revisions to an environmental management plan if the revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes, or objectives which the environmental management plan is required to achieve.

C1-4 If the proponent is to implement minor revisions to an environmental management plan under condition C1-3, the proponent must provide the **CEO** with the following at least twenty (20) business days before it implements the revisions:

- (1) the revised environmental management plan clearly showing the minor revisions;
- (2) an explanation of and justification for the minor revisions; and
- (3) an explanation of why the minor revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes, or objectives which the environmental management plan is required to achieve.

C1-5 The proponent must cease to implement any revisions which the **CEO** notifies the proponent (at any time) in writing may not be implemented.

C1-6 **Confirmed** environmental management plans, and any revised environmental management plans under condition C1-4(1), must be made publicly available and provided to the **CEO** in electronic form suitable for on-line publication by the Department of Water and Environmental Regulation within twenty (20) business days of being implemented, or being required to be implemented (whichever is earlier).

## **C2 Conditions Related to Monitoring**

C2-1 The proponent must undertake monitoring capable of:

- (1) substantiating whether the proposal limitations and extents in Part A are exceeded; and
- (2) **detecting** and substantiating whether the environmental outcomes identified in Part B are achieved (excluding any environmental outcomes in Part B where an environmental management plan is expressly required to monitor achievement of that outcome).

C2-2 The proponent must submit as part of the Compliance Assessment Report required by condition D2, a compliance monitoring report that:

- (1) outlines the monitoring that was undertaken during the implementation of the proposal;
- (2) identifies why the monitoring was capable of substantiating whether the proposal limitation and extents in Part A are exceeded;
- (3) for any environmental outcomes to which condition C2-1(2) applies, identifies why the monitoring was scientifically robust and capable of **detecting** whether the environmental outcomes in Part B are met;
- (4) outlines the results of the monitoring;
- (5) reports whether the proposal limitations and extents in Part A were exceeded and (for any environmental outcomes to which condition C2-

1(2) applies) whether the environmental outcomes in Part B were achieved, based on analysis of the results of the monitoring; and

- (6) reports any actions taken by the proponent to remediate any potential non-compliance.

### **C3 Environmental Management Plans: Conditions Relating to Monitoring and Adaptive Management for Outcome Based Conditions**

C3-1 The environmental management plan required to be revised under condition C1-2 must contain provisions which enable the substantiation of whether the relevant outcomes of condition B1-1 and B2-1 are met, and must include:

- (1) **Environmental Quality Standards and Environmental Quality Guidelines** to protect the **marine environmental values** and levels of ecological protection, including the methodology used to derive site specific **Environmental Quality Standards and Environmental Quality Guidelines**;
- (2) Monitoring parameters, sites, control/reference sites, methodology, timing, and frequencies which will be used to measure **Environmental Quality Standards and Environmental Quality Guidelines**, and methodology for determining alternate monitoring sites as a contingency if proposed sites are not suitable in the future.
- (3) baseline data;
- (4) data collection and analysis methodologies;
- (5) adaptive management methodology;
- (6) **contingency measures** which will be implemented if **Environmental Quality Guidelines** or **Environmental Quality Standards** are not met; and
- (7) reporting requirements.

C3-2 Without limiting condition C2-1, failure to achieve an environmental outcome, regardless of whether **contingency measures** have been or are being implemented, represents a non-compliance with these conditions.



## PART D – COMPLIANCE, TIME LIMITS, AUDITS AND OTHER CONDITIONS

### D1 Non-compliance Reporting

**D1-1** If the proponent becomes aware of a potential non-compliance, the proponent must:

- (1) report this to the **CEO** within seven (7) days;
- (2) implement **contingency measures**;
- (3) investigate the cause;
- (4) investigate environmental impacts;
- (5) advise rectification measures to be implemented;
- (6) advise any other measures to be implemented to ensure no further impact; and
- (7) provide a report to the **CEO** within twenty-one (21) days of being aware of the potential non-compliance, detailing the measures required in conditions D1-1(1) to D1-1(6) above.

**D1-2** Failure to comply with the requirements of a condition, or with the content of an environmental management plan required under a condition, constitutes a non-compliance with these conditions, regardless of whether the **contingency measures**, rectification or other measures in condition D1-1 above have been or are being implemented.

### D2 Compliance Reporting

**D2-1** The proponent must provide an annual Compliance Assessment Report to the **CEO** for the purpose of determining whether the implementation conditions are being complied with.

**D2-2** The proponent shall submit to the **CEO** the Compliance Assessment Report by 23 March each year, or as otherwise agreed in writing by the CEO.

**D2-3** Each annual Compliance Assessment Report must be endorsed by the proponent's Chief Executive Officer, or a person approved by proponent's Chief Executive Officer to be delegated to sign on the Chief Executive Officer's behalf.

**D2-4** Each annual Compliance Assessment Report must:

- (1) state whether each condition of this Statement has been complied with, including:
  - (a) exceedance of any proposal limits and extents;

- (b) achievement of environmental outcomes;
  - (c) achievement of environmental objectives;
  - (d) requirements to implement the content of environmental management plans;
  - (e) monitoring requirements;
  - (f) implement **contingency measures**;
  - (g) requirements to implement adaptive management; and
  - (h) reporting requirements;
- (2) include the results of any monitoring (inclusive of any raw data) that has been required under Part C in order to demonstrate that the limits in Part A, and any outcomes or any objectives are being met;
  - (3) provide evidence to substantiate statements of compliance, or details of where there has been a non-compliance;
  - (4) include the corrective, remedial and preventative actions taken in response to any potential non-compliance;
  - (5) be provided in a form suitable for publication on the proponent's website and online by the Department of Water and Environmental Regulation;
  - (6) be prepared and published consistent with the latest version of the Compliance Assessment Plan required by condition D2-5 which the **CEO** has confirmed by notice in writing satisfies the relevant requirements of Part C and Part D.

D2-5 The proponent must prepare a Compliance Assessment Plan which is submitted to the **CEO** at least six (6) months prior to the first Compliance Assessment Report required by condition D2-2, or prior to implementation of the proposal, whichever is sooner.

D2-6 The Compliance Assessment Plan must include:

- (1) what, when and how information will be collected and recorded to assess compliance;
- (2) the methods which will be used to assess compliance;
- (3) the methods which will be used to validate the adequacy of the compliance assessment to determine whether the implementation conditions are being complied with;

- (4) the retention of compliance assessments;
- (5) the table of contents of Compliance Assessment Reports, including audit tables; and
- (6) how and when Compliance Assessment Reports will be made publicly available, including usually being published on the proponent's website within sixty (60) days of being provided to the **CEO**.

### **D3 Contact Details**

- D3-1 The proponent must notify the **CEO** of any change of its name, physical address or postal address for the serving of notices or other correspondence within twenty-eight (28) days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

### **D4 Public Availability of Data**

- D4-1 Subject to condition D4-2, within a reasonable time period approved by the **CEO** upon the issue of this Statement and for the remainder of the life of the proposal, the proponent must make publicly available, in a manner approved by the **CEO**, all validated environmental data collected before and after the date of this Statement relevant to the proposal (including sampling design, sampling methodologies, monitoring and other empirical data and derived information products (e.g. maps)), environmental management plans and reports relevant to the assessment of this proposal and implementation of this Statement.

#### **D4-2 If:**

- (1) any data referred to in condition D4-1 contains trade secrets; or
- (2) any data referred to in condition D4-1 contains particulars of confidential information (other than trade secrets) that has commercial value to a person that would be, or could reasonably be expected to be, destroyed or diminished if the confidential information were published,

the proponent may submit a request for approval from the **CEO** to not make this data publicly available and the **CEO** may agree to such a request if the **CEO** is satisfied that the data meets the above criteria.

- D4-3 In making such a request the proponent must provide the **CEO** with an explanation and reasons why the data should not be made publicly available.

**D5 Independent Audit**

- D5-1 The proponent must arrange for an independent audit of compliance with the conditions of this statement, including achievement of the environmental outcomes of this statement, as and when directed by the **CEO**.
- D5-2 The independent audit must be carried out by a person with appropriate qualifications who is nominated or approved by the **CEO** to undertake the audit under condition D6-1.
- D5-3 The proponent must submit the independent audit report with the Compliance Assessment Report required by condition D2, or at any time as and when directed in writing by the **CEO**. The audit report is to be supported by credible evidence to substantiate its findings.
- D5-4 The independent audit report required by condition D6-1 is to be made publicly available in the same timeframe, manner and form as a Compliance Assessment Report, or as otherwise directed by the **CEO**.

[signed on 12 August 2024]

**Lee MacIntosh**

**DEPUTY CHAIR**

**ENVIRONMENTAL PROTECTION AUTHORITY**

*For the Minister for Environment under Notice of Delegation under section 18 of the Environmental Protection Act 1986*

<b>Decision-making authorities to whom this notice is given under section 45C(6)(a)(ii)</b>
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Minister for Aboriginal Affairs Minister for State and Industry Development Minister for Transport
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Table 1: Abbreviations and definitions

Acronym or abbreviation	Definition or term
<b>Adverse impact</b>	<p>Negative change that is neither trivial nor negligible that could result in a reduction in health, diversity or abundance of the receptor/s being impacted, or a reduction in environmental value. Adverse impacts can arise from direct or indirect impacts, or other impacts from the proposal.</p> <p>In relation to marine environmental quality in the <b>high level of ecological protection</b> areas this means that:</p> <ul style="list-style-type: none"> <li>ecosystem processes (e.g. primary production, nutrient cycles) are maintained within the limits of natural variation (no detectable change)</li> <li>for the quality of water and sediment there can be small detectable changes beyond limits of natural variation, but no resultant effect on biota.</li> </ul> <p>In relation to benthic communities and habitats, this includes but is not limited to declining measures of the extent, health and/or condition of mangrove communities.</p>
<b>CEO</b>	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or the <b>CEO's</b> delegate.
<b>Confirmed</b>	<p>In relation to a plan required to be made and submitted to the <b>CEO</b>, means, at the relevant time, the plan that the <b>CEO</b> confirmed, by notice in writing, meets the requirements of the relevant condition.</p> <p>In relation to a plan required to be implemented without the need to be first submitted to the <b>CEO</b>, means that plan until it is revised, and then means, at the relevant time, the plan that the <b>CEO</b> confirmed, by notice in writing, meets the requirements of the relevant condition.</p>
<b>Contingency measures</b>	Planned actions for implementation if it is identified that an environmental outcome, environmental objective, <b>threshold criteria</b> , <b>Environmental Quality Standards</b> or <b>management target</b> are likely to be, or are being, exceeded. Contingency measures include changes to operations or reductions in <b>disturbance</b> or <b>adverse impacts</b> to reduce impacts and must be decisive actions that will quickly bring the impact to below any relevant threshold management target and to ensure that the environmental outcome and/or objective can be met.
<b>Detecting</b>	The smallest statistically discernible effect size that can be achieved with a monitoring strategy designed to achieve a statistical power value of at least 0.8 or an alternative value as determined by the <b>CEO</b> .

Acronym or abbreviation	Definition or term
<b>Dewatering discharge</b>	Means discharge of excess dredge dewater from dredge material management areas at the discharge point shown in Figure 1.
<b>Disturbance</b>	Means directly has or materially contributes to the disturbance effect on health, diversity or abundance of the receptor/s being impacted, or on an environmental value. Direct – causes or immediately has the disturbance effect Indirect – materially contributes to the disturbance effect
<b>Environmental Quality Guidelines</b>	Threshold numerical values or narrative statements which if met indicate there is a high degree of certainty that the associated environmental quality objective has been achieved.
<b>Environmental Quality Standards</b>	Threshold numerical values or narrative statements that indicate a level which if not met indicates there is a significant risk that the associated environmental quality objective has not been achieved and a management response is required.
<b>Environmental harm</b>	Has the same meaning provided by section 3A(2) of the <i>Environmental Protection Act 1986</i> .
<b>Ha</b>	Hectare
<b>High level of ecological protection</b>	As defined in the Technical Guidance Protecting the Quality of Western Australia's Marine Environment, as amended from time to time, and available at <a href="http://www.epa.wa.gov.au">www.epa.wa.gov.au</a> .
<b>m<sup>3</sup></b>	Cubic metres
<b>Marine environmental value</b>	Particular values or uses of the marine environment that are important for a healthy ecosystem or for public benefit, welfare, safety, or health and which require protection from the effects of pollution, waste discharges and deposits as defined in the Technical Guidance: Protecting the Quality of Western Australia's Marine Environment, as amended from time to time, and available at <a href="http://www.epa.wa.gov.au">www.epa.wa.gov.au</a> .
<b>Marine Water Quality Technical Guidance</b>	Technical Guidance for protecting the quality of Western Australia's marine environment, as amended from time to time, and available at <a href="http://www.epa.wa.gov.au">www.epa.wa.gov.au</a> .
<b>Pollution</b>	Has the same meaning provided by section 3A(1) of the <i>Environmental Protection Act 1986</i> .
<b>PM<sub>10</sub></b>	Particulate matter less than 10 micrometres in diameter.
<b>Port Hedland air guideline value</b>	The air guideline value for <b>PM<sub>10</sub></b> as stipulated in the Department of Water and Environmental Regulation's Port Hedland Regulatory Strategy available from <a href="http://WA.gov.au">WA.gov.au</a> .

Acronym or abbreviation	Definition or term
<b>Threshold criteria</b>	The indicators that have been selected to represent limits of impact beyond which the environmental outcome is not being met.
<b>Wedgefield monitoring site</b>	The air quality monitoring station referred to as Wedgefield within the Department of Water and Environmental Regulation's Port Hedland Air Quality Monitoring Network.

### Figures (attached)

Figure 1 Lumsden Point General Cargo Facility development envelope.





**Figure 1. Lumsden Point General Cargo Facility development envelope**



## **Schedule 1**

All co-ordinates are in metres, listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geocentric Datum of Australia 2020 (GDA2020).

Spatial data depicting the figures are held by the Department of Water and Environmental Regulation in Environment Online APP-0025216.