

Environmental Protection Act 1986

Section 41A(3)

NOTICE OF DECISION TO CONSENT TO MINOR OR PRELIMINARY WORKS

PERSON TO WHOM THIS NOTICE IS GIVEN:

- (a) Proponent: Onslow Iron Pty Ltd
- (b) Relevant Decision-Making Authorities, see Attachment 1

PROPOSAL TO WHICH THIS NOTICE RELATES:

Ashburton Infrastructure Project
Assessment No. 2320

Pursuant to section 41A(3) of the *Environmental Protection Act 1986* (EP Act), the Environmental Protection Authority consents to the proponent undertaking the minor or preliminary works detailed in Schedule 1 subject to the following conditions and implementation of:

1. Minor and preliminary Minor or Preliminary Works Application – Marine Environment – Supporting Documentation Rev2 (14 October 2022); and
2. Sea Dumping Permit, *Environmental Protection Act (Sea Dumping) (1981)* (Cmth) (10 August 2022, SD2022-4018).

EFFECT OF THIS NOTICE:

1. The prohibition provided by sections 41(2), 41(3) and 41A(1) of the EP Act do not apply to implementing the minor or preliminary works consented to in this Notice.
2. It is an offence under s41A(1) of the EP Act, with a maximum penalty of \$125,000 for a body corporate and \$62,500 for an individual, to do anything to implement the proposal other than the minor or preliminary works consented to in this Notice.
3. Relevant decision-making authorities may make decisions that would cause or allow the doing of the minor or preliminary works listed in Schedule 1 of this Notice.

RIGHTS OF APPEAL:

There are no rights of appeal under the EP Act in respect of this consent.

A handwritten signature in blue ink, appearing to read 'MAT TONTS', with a stylized flourish extending to the right.

Professor Matthew Tonts
Delegate of the Environmental Protection Authority
CHAIR

31 October 2022

Schedule 1

Authorised Minor or Preliminary Implementation Work (s)

Authorised Work(s)	Location	Authorised extent
<p>The following works are authorised in their entirety:</p> <ol style="list-style-type: none"> 1. Dredging for the development of the Transshipment Vessel (TSV) Berthing Pocket; 2. Building of a Temporary Causeway; 3. The disposal of dredge spoil within the existing Spoil Ground C; and 4. Piling within the temporary causeway and berthing pocket. <p>up until such time as the later of one of the following occurs:</p> <ol style="list-style-type: none"> a. notice issued under s 45(13) of the EP Act; or b. statement issued under s45(8) of the EP Act is final (that is, after period in which to lodge an appeal under s 100(3) has expired, or appeal decision under s109(3), in respect of an appeal lodged under s 100(3), is published). <p>and</p> <ol style="list-style-type: none"> 5. rehabilitation of the area/s identified in Figure 1 in accordance with current EPA rehabilitation guidance, or if an implementation statement is issued for the Proposal, in accordance with any implementation conditions relating to rehabilitation. 	<p>Figure 1</p>	<p>The works as shown on figure 1 must occur in accordance with the following Authorised extent:</p> <ul style="list-style-type: none"> • Dredging and disposal of spoil shall occur up to 1 May 2023; • Dredging shall not exceed 150 000m³; • The dredge spoil shall not exceed 165 000 m³ and can only be disposed within existing Spoil Ground C; • Piling within the temporary causeway and berthing pocket shall occur up to 31 July 2023; and • Direct disturbance shall include up to 3 ha within the Marine Early Works Development Envelope.

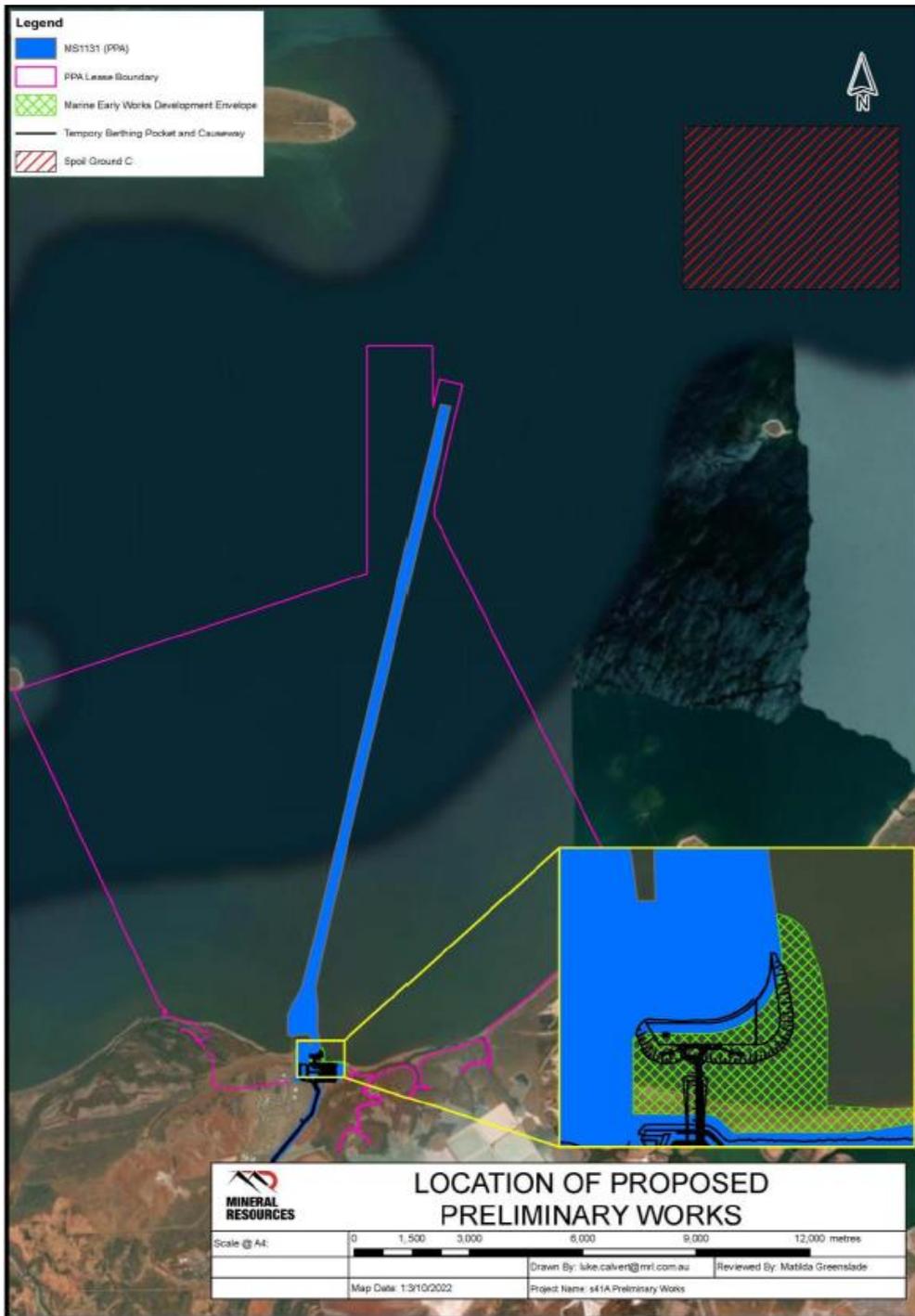


Figure 1 Location of the Minor or Preliminary Works

Attachment 1

Relevant Decision Making Authorities

Minister for Environment

Minister for Water

Minister for Aboriginal Affairs

Minister for Mines and Petroleum

Department of Biodiversity, Conservation and Attractions

Department of Mines, Industry Regulation and Safety

Department of Water and Environmental Regulation

Department of Transport

Department of Health

Shire of Ashburton

Summary of reasons for decision – request to undertake minor or preliminary works under s. 41A(3) of the *Environmental Protection Act 1986*

Proposal:	Ashburton Infrastructure Project
Ref No:	DWERDT672228
Date request to amend referred proposal under s.41A (3) received:	14 October 2022
Proponent:	Onslow Iron Pty Ltd
Level of Assessment:	Assessment on referral information
Referral received:	26 October 2021
Referred proposal:	

The Proposal includes a 125 km haul road, West from Bungaroo South to Onslow Road, ore handling, jetty, wharf, ship loading and support facilities at the Port of Ashburton and an offshore transshipment area with five offshore anchorages within State Waters. The proposal has a total development envelope of 20,821 hectares (ha) and a disturbance of up to 1,564 ha.

Description of the minor or preliminary works sought:

The Preliminary Works relate to proposed marine facilities, which comprise:

- Dredging for the development of the Transshipment Vessel (TSV) Berthing Pocket in the Marine Early Works Development Envelope (DE);
- Building of a Temporary Causeway within the DE;
- The disposal of dredge spoil to the existing Spoil Ground C; and
- Piling within the Temporary Causeway and Berthing Pocket.

Decision

Application to undertake minor or preliminary works in Attachment 1 is approved.

For the reasons outlined below, I, as a delegate of the EPA, have determined to consent to the minor or preliminary works outlined in Schedule 1 attached to this Statement of Reasons.

Environmental factors relevant to amendment(s):

The preliminary environmental factors relevant to the amendment are:

- Marine Environmental Quality;
- Benthic Communities and Habitats (BCH); and
- Marine Fauna.

Materials considered in making this decision

In considering whether to consent to the minor or preliminary works I have considered the following:

1. Is the work associated with the implementation of the proposal?

The preliminary works relate to the dredging of the TSV Berth Pocket, piling and the construction of a temporary causeway, which forms part of the preliminary works for development of the port facilities associated with the Proposal.

2. Is the work minor or preliminary? Does it constitute substantial implementation of the proposal?

There are no permanent construction activities associated with the preliminary works that cannot be removed. The predicted impacts to marine environmental quality and BCH from dredging, piling and the temporary causeway are reversible, through removal and decommissioning and use of natural processes such as sedimentation and tidal movement. The disturbance of 3ha represents approximately 0.2% of the proposals total disturbance as referred.

3. Are potential environmental impacts likely to be caused by the work unlikely to be significant?

The preliminary works are required to support the development of marine based facilities. The preliminary works are:

Small scale

The dredging program is approximately 0.4% the volume of the Wheatstone Development capital dredging program that occurred at Ashburton Port. The dredging is approximately half the size of the regular maintenance dredging program for one event and 1.5% of the total maintenance dredge program required for the life of the Wheatstone Development.

Short in duration

The dredging program may occur over a maximum period of 90 days prior to completion. This represents 2.5% of the expected time for the proposal total implementation.

Disposal location

The disposal of dredged spoil will occur in Spoil Ground C which was approved for up to 40 million cubic metres of dredged spoil during implementation of the Wheatstone Development. The disposal of dredged spoil in this location was approved under the *Environment Protection Act (Sea Dumping) 1981* through a sea dumping permit on 10 August 2022.

4. Can the impact can be reversed? what decommissioning or rehabilitation work will be carried out should the proposal not be approved for implementation?

The causeway will be subject to rehabilitation should the proposal proceed or not proceed. The causeway will not impact mangroves or species of significance. The dredged substratum will naturally replenish through the action of sedimentation and tidal dynamics should the proposal not proceed. The piles can be removed 1 metre below the seabed and would then be covered by sedimentation and tidal dynamics.

5. Is there an environmental justification for the work?

The primary reason for the proponent requesting the minor and preliminary works is the environmental timing of the works. The Department of Water and Environmental Regulation has requested that the proponent state explicitly that dredging works will avoid the sensitive marina fauna migratory period (from May to November) and the piling occurs before August to avoid the critical time of the Green Sawfish pupping season. As a result, the proponent is aiming to avoid this critical time period for Green Sawfish (pupping) and Humpback Whales (migration with calves).

6. Are the works and their effects of a scale or significance that would compromise the EPA's assessment or the Minister's future decisions?

The dredging, piling and temporary causeway works are of a small scale, short duration and reversible in nature. The disposal of dredged spoil occurs in a location already approved and this location was subject to disposal of dredged spoil from the Wheatstone Development so is previously disturbed. The works have been requested to avoid the critical time period for the Green Sawfish and Humpback Whales. As a result, the impacts associated with the works are unlikely to be significant and are reversible should the EPA recommend and the Minister determine, that the proposal in its entirety cannot be implemented.

In addition to the above, a peer review commissioned by the proponent (BMT 2022) noted that:

'the proposed works are not likely to have a significant effect on the relevant environmental factors (marine environmental quality, benthic communities and habitats, marine fauna) and would be reversible through decommissioning and rehabilitation.'



Prof. Matthew Tonts
Delegate of the Environmental Protection Authority
CHAIR

31 October 2022

Schedule 1

Authorised Minor or Preliminary Implementation Works

Authorised Work(s)	Location	Authorised extent
<p>The following works are authorised in their entirety:</p> <ol style="list-style-type: none"> 1. Dredging for the development of the Transshipment Vessel (TSV) Berthing Pocket; 2. Building of a Temporary Causeway; 3. The disposal of dredge spoil to Spoil Ground C; and 4. Piling within the temporary causeway and berthing pocket. <p>up until such time as the later of one of the following occurs:</p> <ol style="list-style-type: none"> a. notice issued under s 45(13) of the EP Act; or b. statement issued under s45(8) of the EP Act is final (that is, after period in which to lodge an appeal under s 100(3) has expired, or appeal decision under s109(3), in respect of an appeal lodged under s 100(3), is published). <p>and</p> <ol style="list-style-type: none"> 5. rehabilitation of the area/s identified in Figure 1 in accordance with current EPA rehabilitation guidance, or if an implementation statement is issued for the Proposal, in accordance with any implementation conditions relating to rehabilitation. 	<p>Figure 1</p>	<p>The works as shown on figure 1 must occur in accordance with the following Authorised extent:</p> <ul style="list-style-type: none"> • Dredging and disposal of spoil shall occur up to 1 May 2023; • Dredging shall not exceed 150 000m³; • The dredge spoil shall not exceed 165 000 m³ and can only be disposed within existing Spoil Ground C; • Piling within the temporary causeway and berthing pocket shall occur up to 31 July 2023; and • Direct disturbance shall include up to 3 ha within the Marine Early Works DE.

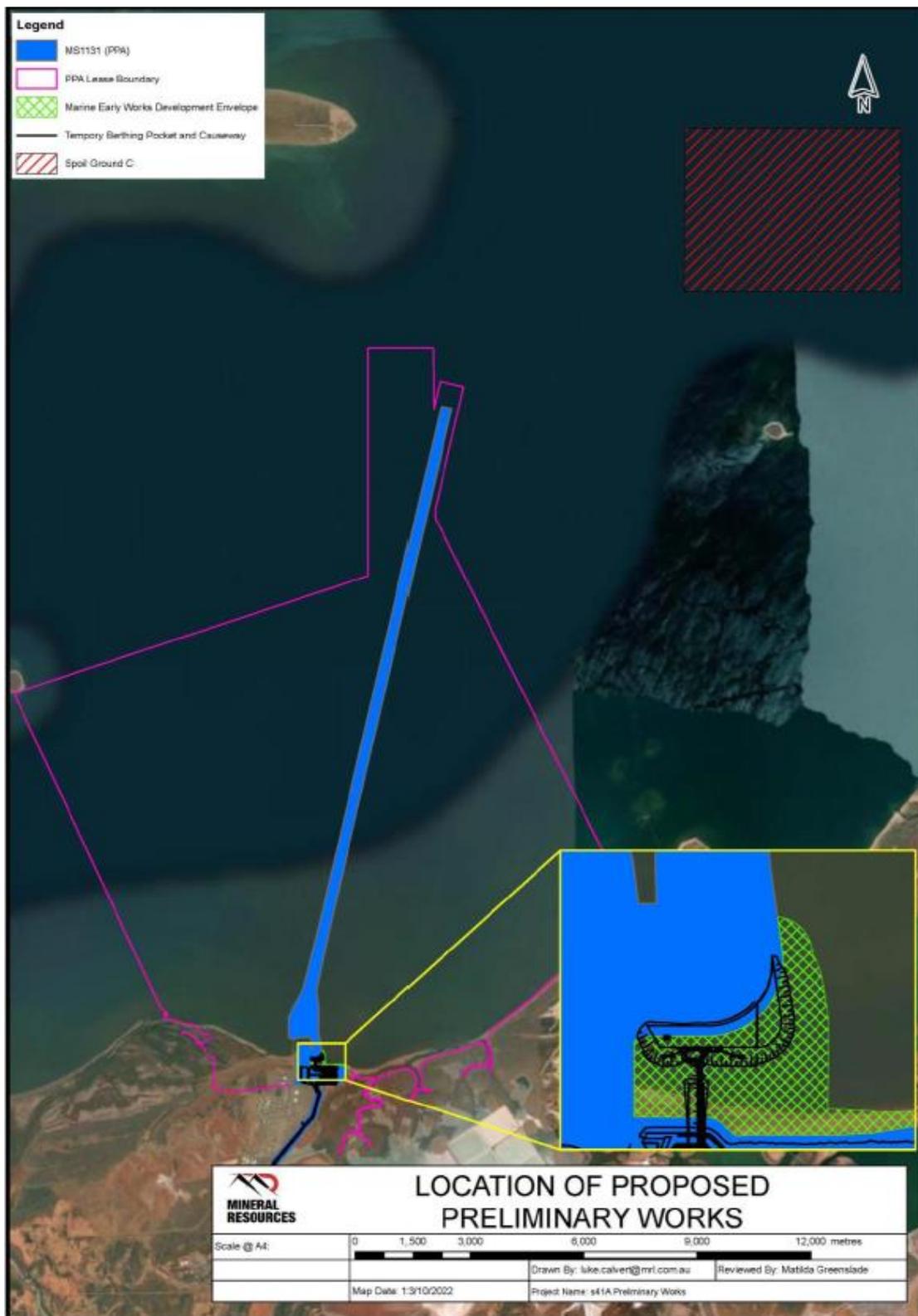


Figure 1: Location of the Minor or Preliminary Works