



David Metcalf
General Manager
Glamorgan Spring Bay Council
(admin@freycinet.tas.gov.au)

27 November 2016

Re: Raw (i.e., untreated) water pipeline – DA17132

Dear Mr Metcalf,

Please find below Environment Tasmania's representation with regards to Raw (i.e., untreated) water pipeline – DA17132 .

Respectfully,

A handwritten signature in blue ink that reads "Laura Kelly".

Laura Kelly,
Strategy Director, Environment Tasmania.

Jurisdictional issues

It is a requirement of s52(1B) of the *Land Use Planning and Approvals Act 1993* for development applications that deal with Crown land to be signed by appropriate delegates of the Minister (s)/ council general manager(s) that manage said land, and to be accompanied by letters of authority to submit the application.

In this case, the proposed development covers land that is apparently managed by DPIPW, Council and the Department of State Growth. However, the development application appears to have been signed only by the General Manager of GSBC and a DPIPW delegate. Technically, the failure of the appropriate delegate in the Department of State Growth to also sign the application, voids the application.

Notifications of development

While Certificates of Title for two private properties have been included (160 Brockley Road, Buckland and Lot 1, Alma Rd, Orford) the Certificates of Title to all private properties that appear to be impacted by the pipeline have not been included in application documents posted to GSBC's website. Clause 8.1.2 (b) of the *GSB Interim Planning Scheme 2015 (the Scheme)* requires certificates of title to be provided with the application. In the absence of these details it has been difficult for stakeholders to verify whether the owners of all private properties have been notified of the developments.

Characterisation of use as "Minor Utilities"

It is arguable that the pipeline is not a "minor utility" as defined in the Scheme. This is an application for a sizeable industrial pipeline and description of the utility as minor may misrepresent the scale of the development to the local community, undermining clear public consultation.

Waterway and Coastal Protection Code issues

In GSBC's LUPAA submission it states the Waterway and Coastal Protection Code "does not apply to the submerged section of the pipeline." There is no reason given for this statement, and Environment Tasmania has legal advice suggesting it is not correct.

The Code applies to development within Waterway and Coastal Protection Areas as shown on Scheme maps. The Prosser River is clearly within the Waterway and Coastal Protection Area. The development is not exempt under cl.11.4.1 of the Scheme and it clearly involves the potential disturbance of the bed and banks of a watercourse.

It is difficult to ascertain the length of the submerged section of the pipeline from the drawings and the Marine Solutions Report of May 2017. However the North Barker "Flora and Fauna Habitat Assessment – Prosser Plains Raw Water Scheme" dated 18 April 2017, states that the submerged section of the pipe will be nearly 2 km in length. According to drawing number C13 by JMC Engineers, entitled "Pipe Trench Details, Pipeline Long Sheet 2 of 2 of the Prosser Plains Raw Water Scheme", the submerged section of pipe will require concrete pedestals to be laid at least every 6 meters. The dimensions of these concrete pedestals are not stated. For a 2km section of pipe, it is estimated that there will be upwards of 330 pedestals placed on the river bed, yet no specific assessment of the impacts of these on the benthic environment appears to have been undertaken by Marine Solutions.

Particular Scheme provisions that may not have been appropriately addressed are set out below:

Clause E11.7.1 P1	Comments
Building and works within a Waterway and Coastal Protection Area must satisfy all of the following:	
(a) avoid or mitigate impact on natural values;	
(b) mitigate and manage adverse erosion, sedimentation and runoff impacts on natural	There is no specific information about how

values;	the “sediment curtains” will be implemented during construction. Recommend specific and enforceable conditions be imposed requiring no visible sediment plumes outside of works areas and/or impositions of ANZECC 2000 thresholds for TSS.
(c) avoid or mitigate impacts on riparian or littoral vegetation;	It is arguable that the application has not demonstrated how impacts on the sea grass beds in the Prosser River mouth have been mitigated or avoided.
(d) maintain natural streambank and streambed condition, (where it exists);	There appears to be no assessment of the impacts of the pipe and concrete footings on stream and tidal flows, and associated sediment movements.
(e) maintain in-stream natural habitat, such as fallen logs, bank overhangs, rocks and trailing vegetation;	
(f) avoid significantly impeding natural flow and drainage;	See comment for (d) above.
(g) maintain fish passage (where applicable);	The Australian Grayling species management profile and the National Recovery Plan both recommend the maintenance of stream flows (or even the removal of barriers). In this case, the pipe will ensure reduced flows, and will be another reason not to remove the weir, a barrier to migration.
(h) avoid landfilling of wetlands;	
(i) works are undertaken generally in accordance with 'Wetlands and Waterways Works Manual' (DPIWE, 2003) and “Tasmanian Coastal Works Manual” (DPIPWE, Page and Thorp, 2010), and the unnecessary use of machinery within watercourses or wetlands is avoided.	Environment Tasmania recommends a condition that all pipeline maintenance works be undertaken with this manual as well.

Clause E11.7.2 P1	Comments
Buildings and works must satisfy all of the following:	
(a) need for a coastal location is demonstrated;	
(b) new facilities are grouped with existing facilities, where reasonably practical;	
(c) native vegetation is retained, replaced or re-established so that overall impact on native vegetation is negligible;	It is arguable that the application has not demonstrated how impacts on the sea grass beds in the Prosser River mouth have been

	mitigated or avoided, or that the overall impact on the littoral vegetation is negligible.
(d) building design responds to the particular size, shape, contours or slope of the land and minimises the extent of cut and fill;	
(e) impacts to coastal processes, including sand movement and wave action, are minimised and any potential impacts are mitigated so that there are no significant long-term impacts;	There appears to be no assessment of the impacts of the pipe and concrete footings on stream and tidal flows, and associated sediment movements. There also appears to be minimal consideration to the impacts of tidal flows and erosion to underground pipeline entry and exits.
(f) waste, including waste from cleaning and repairs of vessels and other maritime equipment and facilities, is managed in accordance with current best practice so that significant impact on natural values is avoided.	The biofouling of the pipeline has not been considered in the application. Environment Tasmania recommends that appropriate conditions be included on this development.

Misleading descriptions of impacts on community use of the Lower Prosser

The Planning Application Submission on page 17 states: "The pipeline is unlikely to impact on recreational use of the Prosser River for fishing, boating, kayaking or other uses given the depth of the Prosser River."

This contrasts significantly with the statement in the Marine Solutions report on Natural Values, which states on page 13:

"There are a number of stakeholders who utilize the lower Prosser River and surrounds. The river is classified as a High Use Area. Numerous residential properties and private jetties are located along the river and it is a popular site for recreational and commercial fishers to launch their boats.....Any development within the Prosser should aim to reduce the disturbance to this high-use and culturally important area."

Environment Tasmania understands that the Lower Prosser area in question is a High Use Area, reflecting its current status as an 'Environmental Management' zone. Comments by local community members who have been asked to move boat moorings, confirms this. Misleading and conflicting statements within the documents made available on the council's website have undermined the public consultation process. Environment Tasmania requests that the documents be amended to give a clear description of current community uses and that the public consultation period is extended to allow community comment based on an accurate description of both the impacts of the development and community uses.

Pipeline construction within this High Use Environmental Management Zone is discretionary. Environment Tasmania asserts that this industrial use conflicts with the purpose of the current zoning and community use, and that the proponent should be offer an alternative proposal that does not conflict with current zoning.

Clearing of Critically Endangered Swift Parrot Habitat

The 2.3 hectares of E.Globulus along the pipeline route is within SPIBA (swift parrot important breeding area). The applicant states that clearing of E.Globulus “is unlikely” and will “be avoided”. Given that the bird is Critically Endangered and one step from extinction, with just 2000 left, Environment Tasmania does not believe clearing of key habitat for a Critically Endangered Species is conducive with the areas “environmental management” zoning. We seek as a specific condition of the development that no E.Globulus can be cleared.

Interference with threatened Australian Grayling migration

There appears to be no assessment of the impacts of the pipe and concrete footings on stream and tidal flows, and associated sediment movements. There also appears to be minimal consideration to the impacts of tidal flows and erosion to underground pipeline entry and exits. Prior to approval, an assessment of the impacts of the pipe and concrete footings on tidal flow is required.

Following this, Environment Tasmania will be better equipped to advise as to compliance with requirements relating to threatened species. At a minimum, it is evident that specific conditions should include limiting construction to those months outside of the breeding season for the Australian Grayling. No construction should take place during spawning (late spring/early summer) and migration of larvae to sea, or during the return of juveniles from sea, approximately 4-6 months later.

Interference with EPBC protected migratory marine mammals

The Marine Solutions Report notes that “marine mammal species are more likely to be in the area during winter; therefore it would be prudent to consider timing construction outside winter months.” Environment Tasmania seeks a specific condition requiring construction to take place outside of whale migration season from June to September.