



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

6 July 2017

Re: Pipeline – DA17144

Dear Mr Metcalf,

Please find below Environment Tasmania's representation with regards to Pipeline – DA17144.

Sincerely,

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

Laura Kelly.
Strategy Director,
Environment Tasmania.

Concerns regarding the Marine Solutions report and possible endangered species impacts

- The Marine Solutions Report states that no threatened or protected marine species or communities were observed during field investigations. However, field investigations were conducted in **November-December 2016**. According to research by the Tasmanian Government's Marine Conservation Program on the seasonal occurrence of the Southern Right Whale in the area, most whales are observed between **June and August**.
- It is inappropriate to conduct field surveys for a migratory species outside of its seasonal occurrence. Southern Right Whales are EPBC-listed endangered species and Environment Tasmania submits that an impacts assessment needs to be completed based on field surveys for the species during its seasonal occurrence.
- The Marine Solutions Report states that "Although threatened marine mammals are known to occur in the area, the rarity of occurrence and coastal nature of the proposed activity means there is unlikely to be any interaction." This statement is not a correct reflection of Southern Right Whale behaviour and fails to incorporate the goals of the Commonwealth Government's Recovery Plan for the Southern Right Whale.
- The Southern Right Whale calves in coastal locations. According to the Tasmanian Government's Marine Conservation Program, "Tasmania's sheltered bays and estuaries historically provided important calving habitat for this species."
- Former whaling stations are regarded as the best indicator of the historical density of the species in its natural habitat. There were whaling stations at Orford and Maria Island. There are records of a Southern Right Whale calving 50 metres off Orford in 2013.
- The Marine Solutions statement that occurrences are 'rare' disregards the Commonwealth's Species Management Plan objective, which is expansion of Southern Right Whales into their former habitat.
- A review of the 2005–2010 Recovery Plan states that this goal was not achieved and that "occupancy of coastal habitats remains severely restricted in comparison to the areas occupied historically, particularly in south-east Australia."
- Habitat modification, vessel disturbance and noise interference, of the type proposed in this development application, are listed as reasons for failure to meet Management Plan objectives for the species.
- No consideration is offered within the proposal of the impacts of ongoing vessel movements and noise disturbance associated with pipeline maintenance and removal of biofouling.
- Environment Tasmania believes installation of an undersea pipeline for industrial aquaculture uses is not an appropriate development in calving habitat for a federally protected, endangered species. Environmental Management zoning of these areas with no allowance for industrial activities is the most obvious and appropriate zoning, reflecting conservation obligations under Commonwealth legislation as well as community and tourism uses.
- In a worst case scenario in which this development is approved, minimum standards need to be imposed that prevent construction during whale migration season.
- Conditions should require construction works are to occur under the supervision of a qualified marine mammal observer; and that all works on the pipeline cease upon the spotting of any marine mammals.

Categorisation of use

- Tassal’s application asserts at section 5.3 that the categorisation of the proposed use should be “Utilities” because the pipeline infrastructure is on a different “site” to the marine farming operation. This is an incorrect categorisation of the use for the following reasons.
- Under cl.8.2.2 of the *Glamorgan Spring Bay Interim Planning Scheme 2015* (the **Scheme**), “A use or development that is directly associated with and a subservient part of another use on the same site must be categorised into the same use class as that other use.” Under the Scheme “site” is defined as “the lot or lots on which a use or development is located or proposed to be located”. Further, “lot is defined as “a piece or parcel of land in respect of which there is only one title other than a lot within the meaning of the *Strata Titles Act 1998*.” Therefore, the “site” of the proposed pipeline includes all of the land on which the pipeline occurs, including the area of land within the marine farming lease.
- Clearly, the sole purpose of the proposed pipeline is to provide freshwater to the aquaculture operation within the marine farming lease. This is a different situation to other infrastructure which could be properly characterised as “Utilities” such as sewage or water mains and electrical sub-stations and powerlines, which service multiple end users.
- Therefore, the development must be properly categorised as being directly associated with and subservient to this “Resource Development” use and assessed accordingly.
- Environment Tasmania notes that a “Resource Development” use is not a permitted use with the F3.0 Louisville Road Specific Area Plan (which provides for the Solis development). This means that, according to cl.F3.2.3 the application must:
 - (a) be consistent with any Desired Future Character Statements for the specific area plan;
 - (b) be in the context of the purpose of the Specific Area Plan, only a minor departure from the precinct and area specific provisions.
- As the development is within “open space and reserves” precinct in the plan, it must demonstrate compliance with the following Desired Future Character statement:

Future development of the Open Space and Reserves Precinct is to:

- (a) provide for unimpeded public access through the site; and
- (b) use local provenance species in landscaping.

- Construction of a large scale pipeline for the purposes of industrial aquaculture is not a use that is conducive with the desired characteristics of the Open Space and Reserve Precinct, which is better supported by preserving conservation values, unimpeded public access and amenity values for tourism uses.

Pipeline a “building”

- Tassal’s application asserts that the pipeline is not a building so does not require assessment against some of the provisions of the Scheme. This is not correct. Under s.3 of LUPAA, “building” as including “(a) a structure and part of a building or structure”. Clearly the pipeline is a structure and therefore falls into the category of a building and should be assessed as such.
- As the pipeline does comply with cl.26.4.4 A2 of the Scheme, it requires assessment against P2. Likewise, the pipeline should be assessed against cl. 29.4.2 P2 of the Scheme.
- Environment Tasmania submits that Council should not approve the application until infrastructure is properly classed and assessed under the required clauses of the Scheme, and these assessments are made available for public consultation.

No assessment of the impacts of excavation on natural values

- Tassal’s application states that it complies with cl.29.4.3 A3. Nevertheless, it also states that it complies with P3.
- But for the visual observations of the author of the Marine Solutions report, there has been no fulsome assessment of the ecological natural values of the area requiring excavation (the Marine Solutions report only addresses the subtidal area).
- Environment Tasmania submits it is not possible for Council to be satisfied that there is no adverse impact on the area’s natural values without an assessment of the natural values of the area.
- Council should not approve the application until such an assessment has been conducted and reports have been made available for public consultation.

Impacts of the pipeline on the seafloor

- It is difficult to ascertain the length of the submerged section of the pipeline from Tassal’s application. According to the drawing entitled “Bathing Water Arrangement Location Plan” attached to the application, the pipe will be approximately 7 Km in length. The application states that the pipeline will require concrete pedestals to be laid at least every 6 meters. The dimensions of these concrete pedestals are not stated. For a 7km section of pipe, it is estimated that there will be upwards of 1,166 pedestals placed on the sea floor, 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 have not 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;	<p>There is no clear evidence of how the proposed pipeline will avoid or mitigate impacts on the natural values of the coast, other than a general assurance the excavated areas will be returned to ground level.</p> <p>If, following presentation of this evidence, the pipeline is approved, we recommend that conditions be imposed to ensure that upon the expiry of the use of the pipeline, the applicant is to ensure that it is fully removed from the ocean and all areas affected by it are fully remediated.</p>
(b) mitigate and manage adverse erosion, sedimentation and runoff impacts on natural values;	<p>There is no specific information in the application about what measure will be implemented during construction to manage erosion, sedimentation and run-off during construction. If the pipeline is approved, we recommend that there should be permit conditions requiring no visible sediment plumes outside of works areas and/or ANZECC 2000 thresholds for Total Suspended Solids to be imposed in works areas.</p>
(c) avoid or mitigate impacts on riparian or littoral vegetation;	See comment for (a) above.
(d) maintain natural streambank and streambed condition, (where it exists);	<p>No assessment of the impacts of the pipe and concrete footings on coastal and tidal flows, and associated sediment movements has been undertaken. At a minimum, such an assessment should be undertaken prior to the commencement of works and a condition imposed requiring natural coastal and seafloor condition to be maintained.</p>
(f) avoid significantly impeding natural flow and drainage;	See comment for (d) above.
(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.	<p>If the pipeline is approved, Environment Tasmania recommends a condition that all pipeline maintenance works be undertaken in accordance with this manual.</p>

Clause E11.7.2 P1	Comments
Buildings and works must satisfy all of the	

following:	
c) native vegetation is retained, replaced or re-established so that overall impact on native vegetation is negligible;	See comments above at cl. E11.7.1 P1(a) & (d)
(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;	<p>There appears to have been no assessment of the impacts of the pipe and concrete footings on coastal processes, and associated sediment movements. There also appears to be minimal consideration to the impacts of tidal flows and erosion to underground pipeline exit point.</p> <p>We recommend these assessments are undertaken and made publicly available prior to any approval. If approval is granted, conditions should be imposed as discussed in our comments responding to cl. E11.7.1 P1(a) & (d).</p>
(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 been considered in the application, however Environment Tasmania recommends that appropriate conditions be included on this development to ensure the removal of any biofouling on the pipeline does not adversely affect the oceanic water quality or other marine natural values.

Crown Consent Conditions

- Environment Tasmania would draw Council’s attention to the conditions on which the Department of Primary Industries, Parks, Water and the Environment has given for Crown Consent:

“Please note, this owner’s consent is provided to enable the public the opportunity to review and provide comment through a formal process. Where the council engages with the community through the Planning process. Crown Land Services (CLS) requires its position to be fully disclosed.

Any endorsement remains conditional on the proposal gaining strong local community support.” (Emphasis added)

- Council has been provided with ample evidence of the divisive nature of this proposal and Environment Tasmania is aware that numerous submissions in addition to our own will be made from concerned members of the community asking for an industrial pipeline not to be approved in an environmental management zone, crossing Open Space and Reserve land.

- Environment Tasmania recognizes that it is not a requirement of the planning approval process for Council to be sure that Crown Land Services will authorize the development. However, as DPIPWE has specifically expressed the importance of strong community support for Crown Consent and this has yet to be demonstrated, Environment Tasmania requests that Council formally acknowledges that level of community opposition to the project.