

Appendix K

EPA Conditions

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Government of Western Australia
Office of the Appeals Convenor
Environmental Protection Act 1986

Our ref: Bulletin 1071
Your ref:
Enquiries: Emma Bramwell
Telephone: (08) 6467 5190
Date: 22 July 2013

Brian Rourke
Managing Director
Tidal Energy Australia Pty Ltd
7 Bayview Vista
BALLAJURA WA 6066

Dear Mr Rourke

EPA BULLETIN 1071 – DERBY TIDAL POWER STATION PROJECT, SHIRE OF DERBY / WEST KIMBERLEY

Consistent with section 45(1) of the *Environmental Protection Act 1986* (the Act), the Minister for Environment has consulted with other decision making authorities and reached agreement that the above proposal may be implemented subject to the conditions set out in Statement 941 (enclosed).

The Minister has requested that I, on his behalf, provide you with a copy of this Statement pursuant to section 45(5)(a) of the Act. The Statement will be published under section 45(5)(b) as soon as practicable. The Statement does not remove the requirement for you to obtain other statutory approvals. Additionally, please note the duties of a proponent provided for in section 47 of the Act.

Please note that the Minister for Transport has provided the following advice in respect to the implementation of the proposal:

I provide my agreement for the project to proceed subject to the proponent liaising with [the Department of Transport] on tenure arrangements for any portio of the development that will impinge upon Reserve 51146 (Lot 450), which is also subject to a vesting under the Marine and Harbours Act.

In addition, please note that the Minister for Transport's Principle Policy Advisor has provided the following advice on behalf of the Commissioner of Main Roads WA:

Main Roads has advised that there is insufficient detail in the proposal to enable it to comment specifically. However, should the Derby Tidal Power Project proceed, there would be a requirement for Main Roads to further review the detailed proposal to discuss access arrangements to the State road network..

As proponent, you have the right to appeal the conditions in the Statement within fourteen days of the date of publication of the Statement. Should you waive your appeal right, I will then, on the Minister's behalf, give notice to decision making authorities that were precluded from making a decision on the proposal under section 41 of the Act that they may now exercise their powers with respect to the proposal (section 45(7) of the Act). This will be done as soon as possible after the publication of the Statement, at the conclusion of the appeal period or after you waive your right to appeal.

Yours sincerely

Kelly Faulkner
APPEALS CONVENOR



Hon Albert Jacob MLA
Minister for Environment; Heritage

Statement No: 941

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

Derby Tidal Power Station Project

Proposal: The proposal is to construct and operate a tidal power station across the mouth of Doctor's Creek, near Derby, for the generation of electricity.
The proposal also includes the construction of power lines to distribute power to major centres in the West Kimberley.

Proponent: Tidal Energy Australia Pty Ltd
Australian Company Number 067 829 145

Proponent Address: 7 Bayview Vista
BALLAJURA WA 6066

Assessment Number: 1073 and 1453

Report of the Environmental Protection Authority Number: 1071, 984 and 942

This Statement authorises the implementation of the Proposal described and documented in Columns 1 and 2 of Table 2 of Schedule 1. The implementation of the Proposal is subject to the following implementation conditions and procedures and Schedule 1 details definitions of terms and phrases used in the implementation conditions and procedures.

1 Proposal Implementation

1-1 When implementing the proposal, the proponent shall not exceed the authorised extent of the proposal as defined in Column 3 of Table 2 in Schedule 1, unless amendments to the proposal and the authorised extent of the Proposal has been approved under the EP Act.

Published on:

2 Contact Details

- 2-1 The proponent shall notify the CEO of any change of its name, physical address or postal address for the serving of notices or other correspondence within 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.

3 Time Limit for Proposal Implementation

- 3-1 The proponent shall not commence implementation of the proposal after the expiration of 5 years from the date of this statement, and any commencement, within this 5 year period, must be substantial.
- 3-2 Any commencement of implementation of the proposal, within 5 years from the date of this statement, must be demonstrated as substantial by providing the CEO with written evidence, on or before the expiration of 5 years from the date of this statement.

4 Compliance Reporting

- 4-1 The proponent shall prepare and maintain a compliance assessment plan to the satisfaction of the CEO.
- 4-2 The proponent shall submit to the CEO the compliance assessment plan required by Condition 4-1 at least six months prior to the first compliance assessment report required by Condition 4-6, or prior to implementation, whichever is sooner.

The compliance assessment plan shall indicate:

- (1) the frequency of compliance reporting;
 - (2) the approach and timing of compliance assessments;
 - (3) the retention of compliance assessments;
 - (4) the method of reporting of potential non-compliances and corrective actions taken;
 - (5) the table of contents of compliance assessment reports; and
 - (6) public availability of compliance assessment reports.
- 4-3 The proponent shall assess compliance with conditions in accordance with the compliance assessment plan required by Condition 4-1.
- 4-4 The proponent shall retain reports of all compliance assessments described in the compliance assessment plan required by Condition 4-1 and shall make those reports available when requested by the CEO.
- 4-5 The proponent shall advise the CEO of any potential non-compliance within seven days of that non-compliance being known.

4-6 Subject to Condition 4-7, the proponent shall submit to the CEO the first compliance assessment report 15 months from the date of issue of this Statement addressing the 12 month period from the date of issue of this Statement and then annually from the date of submission of the first compliance assessment report.

The compliance assessment report shall:

- (1) be endorsed by the proponent's Managing Director or a person delegated to sign on the Managing Director's behalf;
- (2) include a statement as to whether the proponent has complied with the conditions;
- (3) identify all potential non-compliances and describe corrective and preventative actions taken;
- (4) be made publicly available in accordance with the approved compliance assessment plan; and
- (5) indicate any proposed changes to the compliance assessment plan required by Condition 4-1.

4-7 Without limiting condition 4-6, during the construction of the proposal, the proponent shall submit a compliance report, which satisfies the requirements of conditions 4-6(1) to (5), every 6 month period from the date of commencement of construction up and until the date of commissioning of the proposal.

5 Public Availability of Data

5-1 Subject to Condition 5-2, within a reasonable time period approved by the CEO of the issue of this statement and for the remainder of the life of the proposal the proponent shall make publicly available, in a manner approved by the CEO, all validated environmental data (including sampling design, sampling methodologies, empirical data and derived information products (e.g. maps)) relevant to the assessment of this proposal and implementation of this Statement.

5-2 If any data referred to in Condition 5-1 contains particulars of:

- (1) a secret formula or process; or
- (2) confidential commercially sensitive information;

the proponent may submit a request for approval from the CEO to not make this data publically available. In making such a request the proponent shall provide the CEO with an explanation and reasons why the data should not be made publically available.

6 Infrastructure Plan and Power Station Operating Strategy

6-1 Prior to the construction of the proposal, unless otherwise approved by the CEO, the proponent shall prepare a final Infrastructure Plan which is to be approved by the CEO, on advice of the Department of Transport.

The final Infrastructure Plan shall include the details, locations, height, and extent of the proposal elements as listed in Schedule 1 including the areas to be excavated, dredged and to receive disposal of dredged material.

- 6-2 Prior to the construction of the proposal, unless otherwise approved by the CEO, the proponent shall prepare a Power Station Operating Strategy which is to be approved by the CEO.

The Operating Strategy shall describe the manner and procedures in which the basins will be managed for power generation and the effect the procedures will have on the new tidal regime in the basins of Doctor's Creek.

- 6-3 The Operating Strategy in Condition 6-2 shall include:

- (1) the new tidal ranges and submergence curves in the high and low basins as a result of operating the proposal;
- (2) modelled tidal flows under a range of scenarios;
- (3) using contemporary bathymetry and elevation data, delineate on a plan the new intertidal zones for both basins; and
- (4) procedures which minimises ongoing dust generation.

- 6-4 The Proponent shall provide the CEO with the approved Infrastructure Plan required in Condition 6-1 and spatial data locating all the infrastructure elements, including areas to be dredged and to receive dredge material, in a Geographical Information System (GIS) compatible format specified by the CEO.

- 6-5 The Proponent shall construct the proposal elements listed in Schedule 1 consistent with the approved Infrastructure Plan.

- 6-6 The Proponent shall provide the CEO with the approved Power Station Operating Strategy required in Condition 6-2 including the spatial data locating the new intertidal zones for both basins in Condition 6-3, in a Geographical Information System (GIS) compatible format specified by the CEO.

- 6-7 The proponent shall operate the proposal consistent with the approved Power Station Operating Strategy, and its approved revisions.

- 6-8 Within 14 months following the commencement of operations, the proponent shall review the approved Power Station Operating Strategy and submit a report to the CEO on the findings of the trials, surveys and monitoring required by Conditions 9-6, 9-12 and 10-6 that are relevant to the Operating Strategy, and include recommendations for revising the approved Operating Strategy in Condition 6-9.

- 6-9 The proponent shall submit a revised Power Station Operating Strategy for the approval of the CEO which incorporates the findings of the review required in Condition 6-8, within the first 16 months following the commencement of operations.

7 State of the Mangrove Habitat Surveys

- 7-1 At least six months prior to the commencement of any construction works, unless otherwise approved by the CEO, the proponent shall prepare a Scope of Works for surveys of the mangrove habitats, as detailed in condition 7-3 for the approval of the CEO.
- 7-2 The surveys of the mangrove habitats are to be conducted in accordance with the approved Scope of Works at the times as indicated below, unless otherwise approved by the CEO, so as to establish the following:
- (1) the baseline state of the mangrove habitats prior to the commencement of any construction works that may impact on mangrove habitats; and
 - (2) the first and second operations phase state of the mangrove habitats.
- 7-3 The Scope of Works for surveys of the mangrove habitats required in condition 7-1 shall include the following, with regard to when the survey is conducted:
- (1) Procedures and methods for the collection of quantitative environmental data for:
 - (a) soil salinity along permanent transects;
 - (b) hydrodynamic conditions including direction and velocity of water currents;
 - (c) the physical characteristics of sediments suspended in the water column and deposited on the benthos;
 - (d) the natural and development-influenced rates, and spatial and temporal patterns of net sediment deposition and erosion;
 - (e) the spatial extent, distribution, community composition, natural variability including seasonality and health of mangrove communities; and
 - (f) the preparation of mangrove habitat maps.
 - (2) establishment of permanent transects with appropriate replication to account for diversity of mangrove communities and statistical robustness;
 - (3) timing for the implementation and completion of the surveys having regard to the types and sequence of surveys referred to in condition 7-2;
 - (4) procedures for the use of survey data to assess compliance with relevant environmental protection outcomes in condition 9-4; and
 - (5) timing and frequency of reporting to the CEO.
- 7-4 Prior to the commencement of construction and in accordance with the approved Scope of Works required under condition 7-1, the Proponent shall undertake the baseline state of the mangrove habitats survey.

- 7-5 At the time specified by the approved Scope of Works and in accordance with the approved Scope of Works, the Proponent shall undertake the surveys for the first operations phase state of the mangrove habitats.
- 7-6 Within 5 years following completion of construction in accordance with the approved Scope of Works, the Proponent shall undertake a second operational phase state of the mangrove habitats survey to determine compliance with the environmental protection outcomes set in condition 9-4.
- 7-7 The Proponent shall report the findings of the baseline state of the mangrove habitats survey required by condition 7-4 to the CEO within three months of having completed that survey.
- 7-8 The Proponent shall report the findings of subsequent state of the mangrove habitats surveys required by conditions 7-4, 7-5 and 7-6 and include in each report an appraisal of compliance with environmental protection outcomes set in condition 9-4 having regard to any relevant approved revised environmental protection outcome, to the CEO within three months of having completed each survey.
- 7-9 Prior to commencing operations, the proponent shall submit for the approval of the CEO a revised Scope of Works in condition 7-3 which includes an operations phase program of ongoing surveys of the state of mangrove habitats based on the findings submitted for condition 7-8.

8 Sedimentation

- 8-1 The proponent shall, at least six months prior to the commencement of construction works, undertake detailed hydrodynamic and sedimentation modelling of the pre-development short-term and long-term effects of the proposal on sedimentation and erosion patterns, having regard to the effects of cyclonic conditions, in areas:
 - surrounding the proposal (near the entrance to Doctor's Creek and in King Sound); and
 - in Doctor's Creek (including the new high and low basins).
 The hydrodynamic and sedimentation modelling will include the relevant quantitative sedimentation and hydrodynamic data in condition 7-3.
- 8-2 Based on the results of the hydrodynamic and sedimentation modelling in Condition 8-1 identify the areas:
 - (1) which support mangrove communities and are at risk of significant erosion and smothering through sedimentation from the effects of proposal; and
 - (2) where new sedimentary patterns and accumulations from the proposal would assist in areas which would support mangrove colonisation.

7-1 The Proponent shall provide the CEO with the approved areas required in Condition 8-2(1) and (2) and spatial data locating the areas, in a Geographical Information System (GIS) compatible format specified by the CEO.

9 Mangrove habitats

9-1 Prior to the commencement of construction, the proponent shall identify the:

- (1) Zone of High Impact - the area where direct and indirect impacts from the proposal on mangrove communities are predicted to be irreversible. The term irreversible is defined as 'lacking a capacity to return or recover to a state resembling that prior to being impacted within a timeframe of five years or less';
- (2) Zone of Moderate Impact – the area within which predicted impacts on mangrove communities are sub-lethal, and/or the impacts are recoverable within a period of five years following completion of the construction of the proposal; and
- (3) Zone of Mangrove Establishment – the area where, because of the new tidal regime, sedimentation areas and proposal infrastructure, will be available for and be colonised by mangrove communities,

and submit the zones for approval of the CEO.

9-2 The CEO may, having regard to a report submitted by the proponent, approve revised Zones of High and Moderate Impact to have effect for the purpose of condition 9-1.

9-3 The Proponent shall provide the CEO with a map of the approved zones in condition 9-1, and any revised zones approved in Condition 9-2, and spatial data locating the zones, in a Geographical Information System (GIS) compatible format specified by the CEO.

9-4 The proponent shall ensure the construction and operation of the proposal achieves the following environmental protection outcomes:

- (1) no irreversible loss of, or serious damage to, mangrove habitats outside the Zone of High Impact; and
- (2) the establishment of self-sustaining¹ mangrove communities which stabilise the creeks and provide suitable habitat for native fauna in the Zone of Mangrove Establishment, within 10 years from the date of the completion of construction.

¹ self-sustaining means permanent and stable mangrove communities which grow and persist without human management or intervention beyond that which would be required to maintain comparable undisturbed mangrove communities.

9-5 To demonstrate the environmental protection outcome in condition 9-4(1) has been met, the proponent shall prepare a monitoring plan for mangrove health and sedimentation for the approval of the CEO, prior to the commencement of construction.

The monitoring plan shall include:

- (1) mangrove health and net sedimentation monitoring locations at:
 - (a) Zone of Moderate Impact monitoring sites – at locations where mangrove communities are found and which are outside and as close as practicable to the Zone of High Impact; and
 - (b) Reference monitoring sites – at locations which are similar to each impact monitoring site in all respects including mangrove associations and which do not have the potential to be affected by the implementation of the proposal or any other activities that may affect mangrove health,
 - (2) the use of permanent relocatable quadrats and transects for repeat measures of mangrove health having regard for baseline mangrove habitat surveys required in condition 7-4;
 - (3) the methodology for subsequent surveys for mangrove health and net sedimentation at the impact and reference monitoring sites referred to in condition 9-5(1);
 - (4) the frequency for monitoring mangrove health and net sedimentation;
 - (5) indicators of mangrove health, and management trigger levels for indicators of mangrove health; and
 - (6) management trigger levels for sedimentation and erosion.
- 9-6 The proponent shall implement the monitoring plan required by condition 9-5 prior to the commencement of construction until such time as the CEO determines that monitoring actions may cease.
- 9-7 Prior to the commencement of construction, the proponent shall submit a report on the results of baseline surveys of mangrove health and net sedimentation from the potential impact and reference monitoring sites required by condition 9-6.
- 9-8 In the event that monitoring required by condition 9-6 indicates a trigger level has been reached:
- (1) the proponent shall report such findings to CEO within 14 days of the trigger level being reached being identified;
 - (2) the proponent shall provide evidence which allows determination of the circumstance which caused the trigger levels to be reached;
 - (3) if determined by the CEO to be attributable to the proposal, the proponent shall submit any actions to be taken to address the net increase in sedimentation or decline in mangrove health within 14 days of the determination being made to the CEO; and
 - (4) the proponent shall implement actions to address the net increase in sedimentation or decline in mangrove health upon approval of the CEO and shall continue implementing the approved actions until such time as the CEO determines that the approved actions may cease.

9-9 The proponent shall submit bi-annually, or at a frequency defined to the satisfaction of the CEO, the results of monitoring required by condition 9-6 to the CEO, until such time as the CEO determines that reporting may cease.

Zone of Mangrove Establishment

9-10 In order to optimise the successful establishment of mangroves in the Zone of Mangrove Establishment in condition 9-1(3) and meet the environmental protection outcome in condition 9-4(2), the proponent shall prepare a Mangrove Research and Establishment Program to be approved by the CEO prior to the commencement of construction. The Program shall:

- (1) identify research trials and investigations into mangrove recruitment and colonisation in Doctor's Creek;
- (2) identify strategies and measures to be undertaken during the management of the proposal (including in the Power Station Operating Strategy required by condition 6-2 and its approved revisions);
- (3) include an implementation program for the research trials in condition 9-10(1) and strategies and measures identified in condition 9-10(2); and
- (4) include an ongoing monitoring program for mangrove colonisation in the Zone of Mangrove Establishment to determine compliance with the environmental protection outcome in condition 9-4.

9-11 In relation to condition 9-10(1), the proponent shall undertake research trials and investigations in the following areas:

- (1) The conditions required for mangrove propagule recruitment in newly available areas including an understanding of flowering and fruiting times of target mangrove species.
- (2) Present and future soil conditions after the construction of the barrages, including soil properties such as moisture, texture and chemistry.
- (3) Strategies for the protection of juvenile plants from effects that reduce viability, eg. Contamination, siltation, wind and tidal erosion, excessive temperature evaporation and insolation.
- (4) Establish the relationship between elevation, soil salinity, soil hydrology and occurrence of mangrove communities.
- (5) Opportunities for earthworks in the creeks to increase the areas suitable for and linear extent of mangroves habitats.

9-12 The proponent shall commence implementation of the Mangrove Research and Establishment Program prior to the commencement of construction.

9-13 The proponent shall report on the outcomes of the research and investigations, monitoring and implementation of strategies required by condition 9-10 as part of the compliance assessment report required by condition 4-6.

10 Marine Environmental Quality

Construction

10-1 Prior to the construction of the proposal, the proponent shall submit for the approval of the CEO, a Construction Marine Environmental Quality Management and Monitoring Plan to maintain the quality of waters, sediment and/or biota in Doctors Creek and King Sound so that the environmental values are protected during the construction of the proposal.

The management and monitoring plan shall include:

- (1) a threat assessment from marine construction activities and baseline sediment and water quality data for indicators relevant to identified threats over a number of tidal cycles and seasons;
- (2) protocols and procedures for monitoring and evaluating the quality of water and sediment in marine waters surrounding the proposal during construction;
- (3) environmental quality indicators and associated trigger levels based on the guidelines and recommended approaches in the Australian and New Zealand Guideline for Fresh and Marine Water Quality (ANZECC and ARMCANZ, 2000) and the State Water Quality Management Strategy Document No. 6 for assessing performance against the environmental quality objectives;
- (4) the reporting procedures, including the format, timing, and frequency for the reporting of monitoring data against the relevant trigger levels and environmental quality objectives;
- (5) development of construction management measures and contingency actions to be implemented in the event that any trigger levels and environmental quality objectives referred to in Condition 10-1(3) are not met; and
- (6) location of impact and reference monitoring sites.

10-2 The proponent shall implement the approved Construction Marine Environmental Quality Management and Monitoring Plan required by condition 10-1 until such time as the CEO determines that monitoring and construction management actions may cease.

10-3 In the event that monitoring required by condition 10-2, indicates that the environmental quality objectives in condition 10-1(3) are not being met or are unlikely to be met, the proponent shall report the finding to the CEO within seven working days, along with a description of the management and contingency actions to be taken to meet the required level of environmental quality.

10-4 The proponent shall submit monitoring results required by condition 10-1(4) as part of its annual compliance assessment report required by condition 4-6.

Operations

- 10-5 Prior to the commissioning of the proposal, the proponent shall submit for the approval of the CEO, an Operations Marine Environmental Quality Management and Monitoring Plan to manage the ongoing impacts of the proposal on marine environmental quality in Doctors Creek and King Sound. The management and monitoring plan shall include:
- (1) a threat assessment from operational activities and baseline sediment and water quality data for indicators relevant to identified threats over a number of tidal cycles and seasons
 - (2) hydrodynamic modelling in Doctor's Creek to determine areas of potential water quality concern, including the potential accumulation of monosulfidic material;
 - (3) protocols and procedures for monitoring and evaluating the quality of water and sediment in marine waters in and surrounding the proposal during operations;
 - (4) environmental quality indicators and associated trigger levels based on the guidelines and recommended approaches in the Australian and New Zealand Guideline for Fresh and Marine Water Quality (ANZECC and ARMCANZ, 2000) and the State Water Quality Management Strategy Document No. 6 for assessing performance against the trigger levels;
 - (5) the reporting procedures, including the format, timing, and frequency for the reporting of monitoring data against the relevant trigger levels and environmental quality objectives;
 - (6) development of management measures and contingency actions to be implemented in the event that any trigger levels are not met;
 - (7) management measures shall include procedures to minimise the risk of monosulfidic material accumulation and measures to treat monosulfidic sediments before dredging and disposal; and
 - (8) location of impact and reference monitoring sites.
- 10-6 The proponent shall implement the approved Operations Marine Environmental Quality Management and Monitoring Plan required by condition 10-5 during the operation of the proposal.
- 10-7 In the event that monitoring required by condition 10-6, indicates that the trigger levels in condition 10-5(4) are not being met or are unlikely to be met, the proponent shall report the finding to the CEO within seven working days, along with a description of the management and contingency actions to be taken to meet the required level of environmental quality.
- 10-8 The proponent shall submit monitoring results required by condition 10-6 as part of its annual compliance assessment report required by condition 4-6.

11 Groundwater Quality

11-1 The proponent shall ensure that groundwater quality in Derby is not adversely affected by the construction and operation of the proposal.

11-2 To ensure the requirement of condition 11-1 is met, the proponent shall, prior to undertaking construction activities for the proposal, submit for approval of the CEO a Groundwater Monitoring and Management Plan.

The Groundwater Monitoring and Management Plan shall include:

- (1) baseline groundwater quality including the location of the pre-development freshwater / saltwater interface;
- (2) the identification of trigger levels for groundwater levels and salinity;
- (3) monitoring of water levels and salinity in aquifers to detect changes in the freshwater / saltwater interface; and
- (4) contingency actions in the event the requirements of condition 11-1 are not met or unlikely to be met.

11-3 The proponent shall implement the Groundwater Monitoring and Management Plan required by condition 11-2 until such time as the CEO determines that monitoring and construction actions may cease

11-4 In the event that monitoring required by condition 11-3 indicates that the requirements of condition 11-1 is not being met:

- (1) the proponent shall report such findings to the CEO within 21 days of the potential non-achievement being detected;
- (2) the proponent shall provide evidence which allows the determination of the cause of the non-achievement of condition 11-1; and
- (3) if determined by the CEO to be a result of the activities undertaken in implementing the proposal the proponent shall submit actions to be undertaken to remediate any significant changes to groundwater quality and the provision of alternative potable water supply within 21 days.

11-5 The proponent shall implement remedial actions required by condition 11-4 as necessary to allow the pre-existing groundwater quality to be restored to the satisfaction of the CEO.

11-6 The proponent shall submit monitoring results required by condition 11-3 as part of its annual compliance assessment report required by condition 4-6.

12 Fauna

12-1 Prior to the construction of the proposal the proponent shall submit for approval of the CEO operational strategies and a plan for the installation of marine fauna exclusion devices to prevent the passage of marine fauna through the turbines.

- 12-2 The proponent shall implement the approved operational strategies and plan during the construction and operation of the proposal.
- 12-3 Within 3 months following the completion of construction, the proponent shall provide the CEO with a performance report on the approved Plan required in condition 12-1 which contains evidence showing the installation of the marine fauna exclusion devices required by condition 12-2.
- 12-4 Prior to the commencement of construction the proponent shall prepare a Fauna Management Plan to be approved by the CEO. The plan shall include:
- (1) the methodology of baseline and ongoing vertebrate fauna surveys;
 - (2) identification of significant and migratory fauna populations and their distributions;
 - (3) measures to protect fauna from the effects of vegetation clearing, noise, vibration, light overspill, infrastructure, including any trenching associated with the burial of pipelines and any other impacts;
 - (4) identification of suitable means of ensuring the appropriate protection of fauna in the new basins; and
 - (5) monitoring and reporting the success of the agreed means of appropriate protection employed, including the recording and reporting death and injury of any fauna protected under the *Wildlife Conservation Act 1950*.
- 12-5 The proponent shall implement the approved Plan required by condition 12-4.
- 12-6 The proponent shall submit monitoring results required by condition 12-5 as part of its annual compliance assessment report required by condition 4-6.

13 Power Transmission Infrastructure

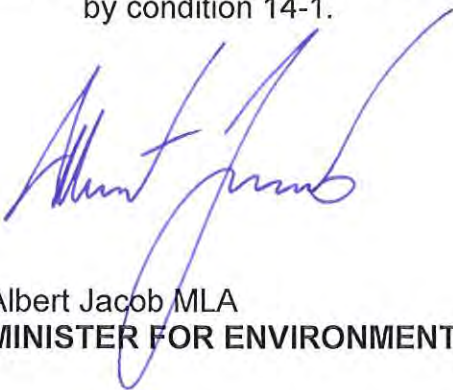
- 13-1 Prior to the construction of the power transmission infrastructure element of the proposal, the proponent shall undertake detailed flora and vegetation surveys in the proposed transmission infrastructure corridor, in accordance with Environmental Protection Authority *Guidance Statement 51 Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment in Western Australia* to identify the locations of any populations of rare or threatened communities or species, or species of restricted regional distribution.
- 13-2 The proponent shall record and provide the MGA coordinates and population details for each occurrence of rare or threatened communities or species, or species of restricted regional distribution to the CEO and the Chief Executive Officer of the DEC in the power transmission infrastructure corridor, within three months of completion of the surveys required by condition 13-1.
- 13-3 Prior to the construction of the power transmission infrastructure, unless otherwise approved by the CEO, the proponent shall prepare a final Power Transmission Infrastructure Plan which is to be approved by the CEO.

The final Plan shall include the details and route of the power transmission alignment, width of the construction corridor, and any supporting infrastructure and demonstrate to the satisfaction of the CEO, that the transmission infrastructure has been located to avoid, where practicable, any populations of rare or threatened communities or species, or species of restricted regional distribution identified in condition 13-2.

- 13-4 The Proponent shall provide the CEO with the approved Power Transmission Infrastructure Plan required in condition 13-3 and spatial data locating the construction corridor and the transmission infrastructure, in a Geographical Information System (GIS) compatible format specified by the CEO.
- 13-5 The Proponent shall construct the power transmission infrastructure listed in Schedule 1 consistent with the approved Power Transmission Infrastructure Plan in condition 13-3.

14 Geomorphological Processes

- 14-1 Prior to construction of the proposal, the proponent shall prepare a Geo-heritage Monitoring Program for approval of the CEO which documents the following:
- (1) changes to the inundation patterns occurring in East and West Doctors Creek;
 - (2) the long-term changes to the erosional processes occurring in the creeks; and
 - (3) identification of a site or a number of sites in King Sound that may possess similar type-site which can be used to continue geologic/ecologic research in tidal flats, semi-arid deltaic areas.
- 14-2 The proponent shall implement the Geo-heritage Monitoring Program required by condition 14-1.



Albert Jacob MLA
MINISTER FOR ENVIRONMENT; HERITAGE

22 JUL 2013

Table 1: Summary of the Proposal

Proposal Title	Derby Tidal Power Station Project
Short Description	<p>The proposal is to construct and operate a tidal power station at the mouth of Doctor's Creek, near Derby, for the generation of electricity. This involves the construction of barrages across the mouth of Doctor's Creek with gates installed at the confluence of the barrages and King Sound to control the flow of water between the eastern and western branches of Doctor's Creek and King Sound. The western branch will be the high basin and the eastern branch will be the low basin. The flow of water between the high basin, low basin and King Sound through the gated structure will drive the turbines.</p> <p>Levee banks will be constructed to separate the high and low basins, and will also serve as the main access road from Derby to the tidal power station. The proposal also includes the construction of power lines to distribute power to major centres in the West Kimberley.</p>

Table 2: Location and authorised extent of physical and operational elements

Column 1	Column 2	Column 3
Element	Location	Authorised Extent
Power Station and production	Located on outer tidal sandbank on a site reclaimed from King Sound and protected by sand embankments. See figure 2.	40 MW.
Levees	See figure 1.	Up to 20 km in length.
Barrages	See figure 1.	Up to 10 km in length.
Power Transmission Infrastructure - 132 kV lines.	To be determined in condition 13-3.	Up to 250 km in length.
Dredging	Dredging of tidal sand banks near the mouth of Doctor's Creek.	Up to 6 Mm ³ of sand and sediments.
Direct and indirect loss of mangrove communities	To be determined in the Zone of High Impact (see Condition 9-2).	Up to 1500 ha.

Table 3: Abbreviations

Abbreviation	Term
kV	Kilovolts
MW	Megawatts
Km	kilometres
Mm ³	Million cubic metres
ha	hectares

Figures (attached)

Figure 1 Location of the Derby Tidal Power Station Project

Figure 2 Main elements of the Derby Tidal Power Station Project

Figure 1: Location of the Derby Tidal Power Station Project

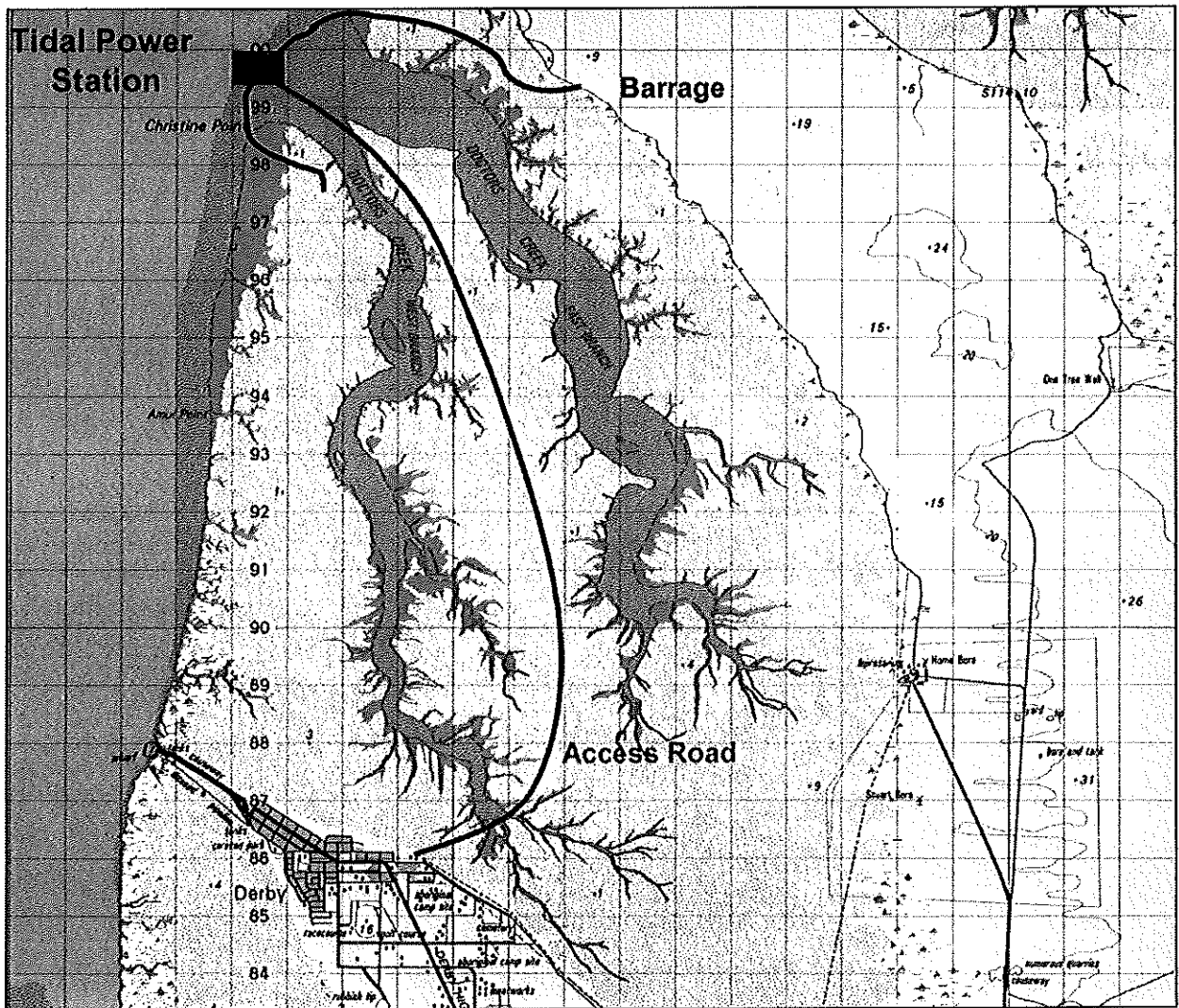


Figure 2: Main elements of the Derby Tidal Power Station Project

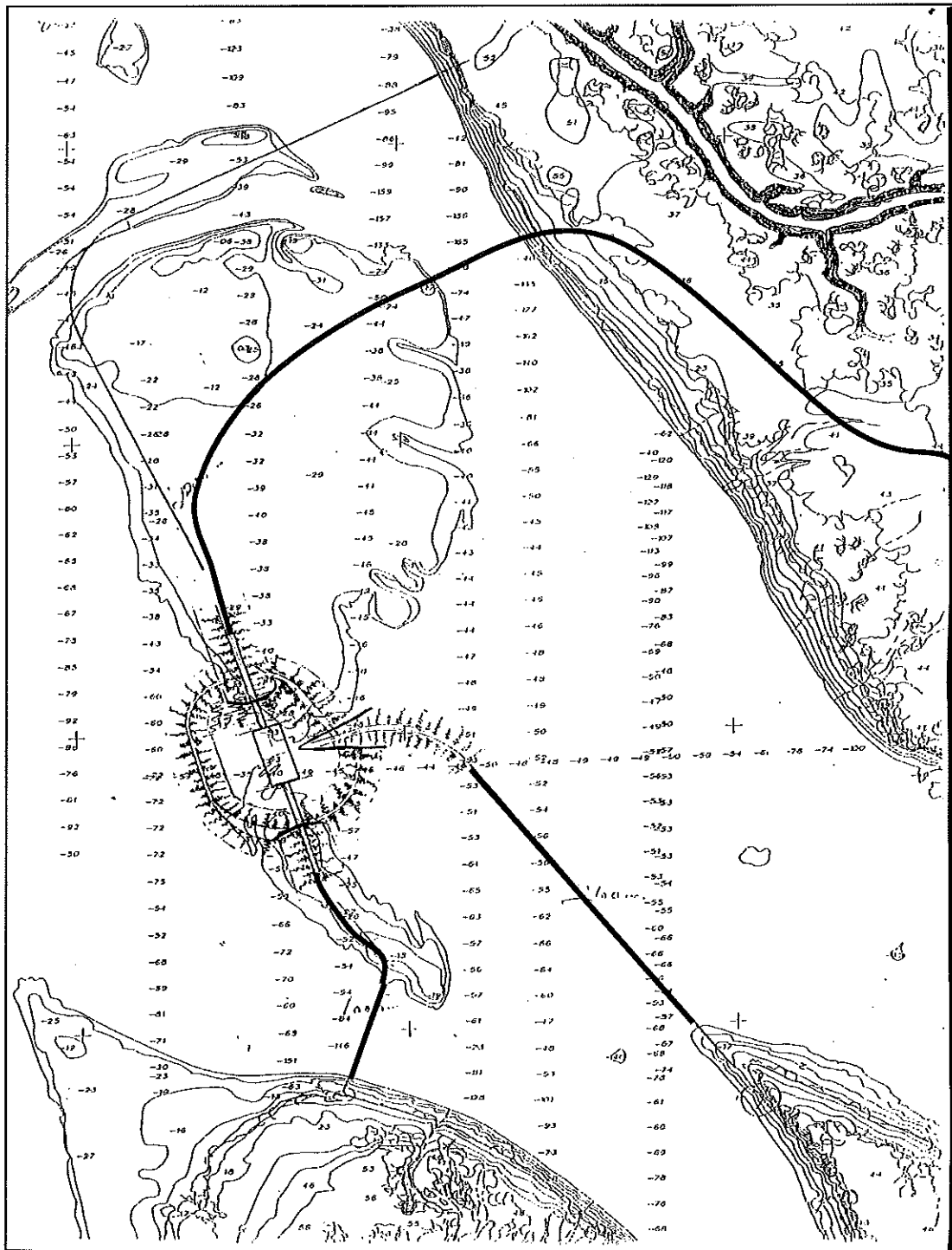


Table 3: Definitions

Term or Phrase	Definition
CEO	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 his delegate.
EPA	Environmental Protection Authority
EP Act	<i>Environmental Protection Act 1986</i>

Notes

The following notes are provided for information and do not form a part of the implementation conditions of the Statement:

- The proponent for the time being nominated by the Minister for Environment under section 38(6) of the *Environmental Protection Act 1986* is responsible for the implementation of the proposal unless and until that nomination has been revoked and another person is nominated.
- If the person nominated by the Minister, ceases to have responsibility for the proposal, that person is required to provide written notice to the Environmental Protection Authority of its intention to relinquish responsibility for the proposal and the name of the person to whom responsibility for the proposal will pass or has passed. The Minister for Environment may revoke a nomination made under section 38(6) of the *Environmental Protection Act 1986* and nominate another person.
- To initiate a change of proponent, the nominated proponent and proposed proponent are required to complete and submit *Post Assessment Form 1 – Application to Change Nominated Proponent*.
- The General Manager of the Office of the Environmental Protection Authority was the Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the *Environmental Protection Act 1986* at the time the Statement was signed by the Minister for Environment.

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