TOWNSVILLE OCEAN TERMINAL

ENVIRONMENTAL IMPACT STATEMENT SUBMISSION RESPONSE

RESPONSE TO DEPARTMENT OF INFRASTRUCTURE AND PLANNING

August 2008

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DEPARTMENT OF INFRASTRUCTURE AND PLANNING

Note: This submission response document has been prepared by means of duplicating the individual submission received and inserting response clauses where relevant.

As the statutory planning arm of the Department our review has focussed on the Future Development Area (FDA) Scheme included as Appendix 25 of the EIS document. It is our understanding that the version of the FDA Scheme included in the EIS is a draft only and has been amended a number of times subsequent to the commencement of the public notification of the EIS. In response to this, and in recognition of the fact that an additional future approval is required specifically for the FDA Scheme under Schedule 2, Clause 66 of the *Breakwater Island Casino Agreement Act 1984* (BICAA) we have provided only high level comments in relation to the FDA Scheme at this stage.

In accordance with Clause 69 of the BICAA the FDA Scheme takes the effect of a Preliminary Approval overriding the planning scheme; the planning scheme being Townsville's City Plan 2005. As such it is understood that the FDA Scheme must be prepared in accordance with the *Integrated Planning Act 1997* (IPA). In this context our preliminary review identifies concerns relating primarily to content, workability and consistency of the FDA Scheme and whether or not it meets its obligations under the *Integrated Planning Act 1997* (IPA). It is our intention to provide a comprehensive and detailed review of the FDA Scheme when it is submitted for approval under the BICAA. Please advise if this expectation is incorrect ill-informed.

RESPONSE

While the provisions of the 2006 BICA legislation make it clear that the FDA Scheme, pursuant to s.69 of the BICA, takes effect as a Preliminary Approval under the Integrated Planning Act (IPA), effectively overriding the planning scheme, there is no requirement for the FDA Scheme to comply with the IPA in regard to preparation and content of a scheme.

Nevertheless, it is intended that following the resolution of the SEIS and the issue of the Coordinator-General's report, the FDA Scheme will be reviewed with input again from DIP, TCC and other relevant agencies prior to a formal application being made to the Minister, ie., the Treasurer. It is probable that workshops will be convened by the State in September.

The following are the major content, workability and consistency issues identified after a preliminary review of the FDA Scheme:

1.1 There are no Desired Environmental Outcomes (DEOs) included in the FDA Scheme. DEOs are a key element of a planning scheme and express what is sought to be achieved by the planning scheme. DEOs cover a broad range of issues such as community needs, economic activity and nature conservation. As the FDA Scheme takes the effect of a preliminary approval overriding a planning scheme (s. 3.1.6 of the *Integrated Planning Act 1997* [IPA]) it should be drafted in accordance with the planning scheme provisions of the IPA.

RESPONSE

As mentioned previously, there is no requirement for the BICA to have DEO's.

1.2 Section 3.4 of the FDA Scheme refers to a twenty (20) year currency period under the BICAA. Planning schemes typically have a planning horizon of 15 – 20 years however they are required to be reviewed every eight (8) years under the IPA. It is suggested that a similar currency period should be adopted for the FDA Scheme.

RESPONSE

There are specific provisions in the BICA to deal with the Amendment of the FDA Scheme over time.

1.3 The FDA Scheme constitutes a preliminary approval under the IPA for a mixed use development, comprising an ocean terminal, residential, retail, commercial and marina development however there is limited detail in the FDA Scheme that relates to the ocean terminal (TOT).

RESPONSE

The details of the Ocean Terminal facility are listed in the Development Agreement between the Proponent and the State.

1.4 The TOT facility is self-assessable in the TOT Precinct. The only applicable codes are the FDA Scheme Code and the Port Protection Code (PPC): the mandatory requirements of the FDA Scheme Code are largely non-applicable to the TOT, and the PPC is applicable only to residential development. There is no specific land use code and even typical codes such as the Landscaping Code, Parking and Access Code and Works Code are not applicable in this instance.

RESPONSE

The nature of the Townsville Ocean Terminal facility is described in detail in the Development Agreement and in a very comprehensive specification agreed with the Department of Infrastructure and Planning and it is considered therefore that it does not require redefining in the FDA Scheme.

1.5 The Overall Outcomes of the FDA Scheme Code do not refer to the TOT. In fact the overall outcomes refer to the creation of a *highly urbane residential environment*.

RESPONSE

The main emphasis of the FDA Scheme is the residential development rather than the Townsville Ocean Terminal. This is because the TOT is defined in specific detail in the specification and drawings approved by the State under the Development Agreement. On completion, the facility will be handed over to the State.

1.6 There are no meaningful Precinct Development Outcomes for the TOT precinct and no parking requirement for the TOT. The only information offered in relation to what is envisaged for the TOT is included in the definition of a 'TOT Facility' (s. 6.14 of the FDA Scheme).

RESPONSE

Refer to the response at 1.3, 1.4 and 1.5 above.

1.7 The second Precinct Development Outcome for the TOT Precinct states that 'use of this Precinct may be subject to the provisions of the Port of Townsville Land Use Plan pursuant to the Transport Infrastructure Act 1994 as Strategic Port Land'. It is unclear what this statement means and how it fits into the development assessment process set up under the FDA Scheme.

RESPONSE

If ownership of the facilities pass to the Port Authority (as has been foreshadowed) then this land and facility would become Strategic Port Land and its ongoing management would come under the Transport Infrastructure Act.

1.8 The FDA Scheme includes a number of unique land use definitions, in particular *Marina Facilities*, *Entertainment Centre* and *TOT Facility*. These definitions are layered definitions, including within the definition numerous other land uses which might ordinarily be separately defined. For example *Marina Facilities* is defined as '*administrative offices, boat brokerage and charter facilities, chandlery, boat storage, tackle and bait shop, small sale convenience shop, fuelling provisions and associated facilities and car parking*'; a variety of different uses which may individually require distinct development controls. For example the car parking requirement for Marina Facilities, identified in Table 8 of section 11, is a flat rate of one (1) car park for each four (4) marina berths - is this sufficient to serve the variety of car parking demands created by the numerous land uses grouped under the heading of *Marina Facilities*? This layering of definitions also causes potential problems with levels of assessment.

RESPONSE

The comments of DIP are noted.

The definitions evolved following discussions with key Government Agencies and the carparking requirements for the marina at 1:4 berths is considered appropriate. It is important to note that the land available for marina facilities is small and under the Masterplan it is dedicated for access to the berths, parking (at the 1:4 ratio) and some small administration and retail facilities. It is possible that this detail can be discussed in the forthcoming workshops.

1.9 A number of the mandatory solutions for the Mandatory Requirements of the FDA Scheme Code and the probable solutions for the Port Protection Code are not measurable, and with the application of s.7.3 of the FDA Scheme, could lead to developments being upgraded to code or impact assessment as a result of compliance uncertainty. An example is specific outcome SO1 and probable solution PS1.3 of the Port Protection Code. PS1.3 refers to a requirement that glass doors are of 'acoustic quality': this is not measurable. If the note at the end of the probable solutions for SO1 is intended to provide the measurable solution it should be more clearly referenced to 'acoustic quality'. Mandatory Solution MS5 of the FDA Scheme Code requires '*pedestrian, bicycle and public open space to achieve the intent of the public access routes'*: the phrase 'achieve the intent' is not measurable.

RESPONSE

Noted - this can be considered during the workshops to finalise the FDA Scheme.

1.10 Levels of assessment – Marina Facilities are self-assessable in the Marina Facilities Precinct. Marina Facilities includes a variety of land uses within its definition and yet it is self-assessable against only the FDA Scheme Code and the Port Protection Code. There appear to be no relevant provisions within either of these codes for the development of Marina Facilities. It is noted that in the Multiple Dwelling Precinct, Marina Facilities are subject to the Minor Centres Code, Landscaping Code, Parking and Access Code, and Works Code in addition to the FDA Scheme Code and Port Protection Code. It is suggested that this same suite of codes should be applied to a Marina Facility in the Marina Facilities Precinct. Indeed it seems odd that in this precinct a code assessable Caretaker's Residence has more applicable codes than the self-assessable Marina Facility.

RESPONSE

Noted - this can be considered during the workshops to finalise the FDA Scheme.

1.11 As mentioned previously it is understood that the FDA Scheme will be approved separately to the EIS, in accordance with schedule 2, s. 66 of the BICAA. There is no public notification required under that section of the BICAA which raises the question as to whether any further public input will be sought for the FDA Scheme given that the version included in the EIS which is currently out for public comment is already outdated?

RESPONSE

There is no requirement under s.66 of the BICA for public notification prior to adoption of the FDA Scheme.

1.12 Finally, it is important to consider the project in relation to the purpose of the *Integrated Planning Act 1997* which is to seek to achieve ecological sustainability, and whether or not the project advances the purpose of the Act. This preliminary review has identified initial concerns related to the proximity of historically incompatible land uses (port activities and residential), the potentially negative impact on the surrounding traffic network, and the coordination of infrastructure provision; all of which may be contrary to the considerations for advancing the purpose of the Act contained in s. 1.2.3 of the Act. Therefore, should a supplementary EIS be prepared in relation to this project it is strongly recommended that it be required to clearly outline how the project advances the purpose of the IPA, with particular attention to s. 1.2.3 of IPA. Moreover any amended FDA Scheme should address the high level content and workability concerns identified above.

RESPONSE

As mentioned previously the drafting of the FDA Scheme is not subject to the provisions of the IPA.