

TOWNSVILLE OCEAN TERMINAL

ENVIRONMENTAL IMPACT STATEMENT SUBMISSION RESPONSE

RESPONSE TO P & E LAW FIRM RESIDENTS AND BODY CORPORATE

August 2008

This page has been left intentionally blank.

P&E LAW FIRM - RESIDENTS AND BODY CORPORATE

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

1.1 EXECUTIVE SUMMARY – BODIES CORPORATE CONCERNS ABOUT THE TOT EIS

Recommendation:

In the circumstances, any approval for the TOT Project must require the Proponent to transport fill materials directly to the site by sea barge – and not allow for an access via a temporary bridge across the Ross Creek, with its unacceptable impacts to the amenity presently enjoyed by residents of the Bodies Corporate at No. 1 and No. 7 The Strand.

As a result of the deficiencies in the process of public consultation and content in the EIS for the TOT, it is necessary that the Proponent undertake a Supplementary EIS process to identify, examine and facilitate meaningful public consultation with respect to the impacts associated with the transport of construction materials to the site.

RESPONSE

The Proponent has undertaken a multi-criteria assessment (MCA) of haulage route options as part of this Supplementary EIS process. It is presented in the Flanagan Consulting Group (FCG) report at Appendix A8 in Volume 2. In addition to the temporary bridge option the Proponent has consider another method of transportation to the site.

As an alternative, a barge option to carry trucks across Ross Creek has been considered by the project Proponent, which would effectively avoid any concerns about the impact of a temporary bridge structure on creek access.

This alternative to the temporary bridge across Ross Creek involves barging the trucks back and forth across the creek to the site. Discussions with the Port and the Regional Harbour Master have confirmed that this option is possible and two barge landing ramp locations have been identified with them and design work has been undertaken to show that the options are viable. The barging option has an advantage over the bridge in that noise on the Strand and Sir Leslie Thiess Drive is minimised.

1.2 INSUFFICIENT CONSULTATION ON 'LAST MINUTE' BRIDGING OPTIONS DURING CHRISTMAS PERIOD

Recommendation:

The Proponent be required to barge the substantial volumes of fill materials required directly to the site without using a temporary construction bridge over the Ross Creek, as part of any approval for the TOT.

Alternatively, the Proponent must be required to undertake a Supplementary EIS examining in detail the impacts associated with the various alternatives for providing construction access to the site.

RESPONSE

As per response at 1.1 above.

1.3 CONSTRUCTION BRIDGE OVER ROSS CREEK FOR TOT AND IMPACTS

Recommendation:

The Proponent be required to barge the substantial volumes of fill materials required directly to the site without using a temporary construction bridge over the Ross Creek, as part of *any* approval for the TOT.

Alternatively, the Proponent must be required to undertake a Supplementary EIS examining in detail the impacts associated with the various alternatives for providing construction access to the site.

That as part of any approval for the TOT Project, the Proponent also be required to provide guarantees of compensation for the damages that the Bodies Corporate of No.1 and No.7 The Strand have identified below at Section 0 of this submission.

RESPONSE

As per response at 1.1. It is noted that a range of haulage options have been examined the results of which are provided in the FCG report (Appendix A8 in Volume 2).

In addition, it is noted that the Strand Bridge is a TCC project not directly related to the Townsville Ocean Terminal development. Refer to the Holland Traffic Consulting report on Traffic at Appendix A21 in Volume 2.

1.4 PERMANENT BRIDGE OVER ROSS CREEK FOR TOT AND IMPACTS

Recommendation:

Any approval for the Proponent to undertake the TOT must proceed on the express understanding that there will be no bridge over the Ross Creek in the vicinity of The Strand.

The Proponent must be required to undertake a Supplementary EIS examining in detail the impacts associated with the various alternatives for providing permanent vehicular access to the site, other than a bridge across the Ross Creek in the vicinity of Bodies Corporate No.1 and No.7. The Supplementary EIS should also refer to the Townsville City Council's Policy for Contributions for the Breakwater Road Network Headworks and the traffic data referred to there-in.

That as part of any approval for the TOT Project, the Proponent also be required to provide guarantees of compensation for the damages that the Bodies Corporate of No.1 and No.7 The Strand have identified below at Section 0 of this submission.

RESPONSE

As per response to 1.1. In addition, it is noted that the Strand Bridge is a TCC project not directly related to the Townsville Ocean Terminal development and not necessitated by it. The additional traffic reports show clearly that the TCC policy established a few years ago, to build a bridge at the Strand to alleviate traffic impacts, is justified and necessary without the TOT Project. Refer to the Holland Traffic Consulting report on Traffic at Appendix A21 in Volume 2.

1.5 EIS AND ADEQUACY OF ADDRESSING THE TERMS OF REFERENCE

Recommendation:

In many respects the EIS fails to adequately address the Queensland Government's Terms of Reference document, especially in relation to:

- impacts on nearby residents - through the various emissions (noise, dust, grime, vibration - associated with haulage on The Strand or any nearby bridge of the Ross Creek);
- loss of amenity;
- loss of access;
- impact on road network; and
- loss of value and other financial impacts to residents and Bodies Corporate;

The State Coastal Management Plan is the Queensland Government's State Planning Policy for coastal areas. The Proposed Development is largely at odds with most aspects of the State Coastal Management Plan, including the following:

- Policy 2.1.1 'Areas of State significance (social and economic)' as the Proposed Development is inconsistent with the operation of infrastructure of State Significance - the Townsville Port and the heavy industries it services;
- Policy 2.1.2 'Settlement pattern and design' as it is policy that growth of urban settlements should not occur in areas "identified as having or the potential to have unacceptable risks from coastal hazards" which would include cyclones and storm surge
- Policy 2.1.3 'Coastal-dependant land uses' which provides that "preference should be given to necessary coastal-dependent land uses ahead of other urban land uses." The Proposed Development is largely an urban use and is for residential purposes;
- Policy 2.1.4 'Canal and dry land marinas' which specifically states that "further developments of canals and dry land marinas should only proceed if it does not adversely affect coastal resources and their values, in particular if it does not contribute to (a) degradation of water quality";
- Policy 2.2.1 'Adaptation to climate change' which states that planning for the coast must follow a hierarchy of approaches which commence with "(a) avoid - focus on locating new development in areas not vulnerable to the impacts of climate change;
- Policy 2.2.4 'Coastal hazards' which provides that "Where areas vulnerable to storm tide inundation have been developed, further development in these areas needs to address: its vulnerability to sea-level rise and storm tide inundation; and the proposed access to and protection of evacuation routes;" (underlining added); and
- Policy 2.3.1 'Future need for access' provides that "In planning for new urban land uses on the coast, the following additional matters are to be considered with respect to public access and use of the foreshore: (c) the safety of the public, if access is provided". Navigation risks associated with the bridging of Ross Creek interfere with the public's access to the coast.

RESPONSE

These matters are covered in the response to the Department of Infrastructure and Planning (DIP) terms of the Supplementary EIS, and various expert reports in Volume 2.

1.6 IMPACTS ON AMENITY AND LOSS OF VALUE AND LEGAL ISSUES

Recommendation:

As part of any approval that leads to the construction of either a temporary or permanent bridge in the vicinity of their buildings, as an express condition of that approval, the Proponent be required to provide the residents and Bodies Corporate Secure unconditional guarantees of adequate compensation for the following impacts that will arise:

- Loss of rent - the impacts arising from the Proponent's activities lead to a situation where properties are unable to attract tenants, or do so at reduced rental rate;
- Devaluation of properties - as above, and reduced accessibility from traffic interruption and diversion;
- Additional costs of maintaining units and buildings - e.g. cleaning of dust/grime on all exterior surfaces;
- Electricity for air conditioning, reflecting that residents of No.1 and No.7 The Strand will necessarily have to close windows and openings given the scale of the emissions (noise, dust, grime, diesel odours, vibration) from the Proponent's construction phase;
- Loss of amenity and enjoyment;
- Damage to property from vibration; and
- Additional inspection costs associated with minimising the impacts of the emissions (noise, dust, grime, diesel odours, vibration) from the Proponent's construction phase.

RESPONSE

As per response to 1.1.

1.7 ALTERNATIVES FOR ACCESS

Recommendation:

A major concern that the Bodies Corporate and residents have with the EIS is the change to a preference of trucking-in materials over the original barging proposal, and the consequent inadequate consideration of impacts arising from the operation of a haul route along The Strand and proposed temporary bridge over the Ross Creek.

In the context that the Proponent has apparently abandoned the barging of materials, the Bodies Corporate and residents of No.1 and No.7 The Strand are dismayed at the Proponent's lack of evaluation of alternative options for traffic access to the Proposed Development. Similarly, the Proponent has made inadequate provisions to maintain vehicular and pedestrian access for the occupants of buildings No.1 and No.7 The Strand in its EIS.

A low-level bridge further downstream may be acceptable to Bodies Corporate and residents of No.1 and No.7 The Strand, and should be evaluated in a Supplementary EIS.

RESPONSE

As per response to 1.1. The temporary bridge option included a design of the roadway at the eastern end of the Strand that specifically provided for continuing vehicular and traffic access for the residents at No. 1 and No.7 The Strand. An alternative for a crossing further downstream has been considered.

1.8 OTHER ISSUES AFFECTING THE COMMUNITY

Recommendation:

There are significant other issues which affect the wider community as well as our clients. For example it seems that the cost of transport infrastructure (i.e. Strand Bridge) for the development is being transferred to the Council and therefore the community, rather than being borne by the developer. This is particularly the case when impacts to amenity are also considered.

The adequacy of the reclaimed land's height above sea-level and consequent ability to withstand storm surge and cyclonic conditions is questioned. There is no capacity for the TOT Development to respond to expected sea level changes resulting from climate change.

Emergency access and escape from proposed development is inadequate, creating a dangerous and unsafe situation with a single egress road. It is irresponsible from a safety perspective as one significant traffic accident has prospect of shutting down whole local road network. The likelihood of a traffic accident occurring will greatly increase as a result of the Proposed Development, both during the construction and operational phases.

RESPONSE

The Proponent notes these comments and provides the following by way of response:

- **The underlying philosophy of the project is that it proceeds on its own terms, without net impacts on public resources. That is, the economic considerations underpinning the project is that it must be fully funded, and be feasible without public subsidies. Indeed, the nature of the Development Agreement in fact results in the effective development-subsidy of a significant piece of public infrastructure, namely the Ocean Terminal facility. This fundamental economic reality also applies to the proposed public ocean space, which will be constructed at developer expense.**
- **As for impacts on public infrastructure (e.g. roads, water and wastewater networks etc.) the Proponent has consistently made it clear that its position is that it will contribute fairly and equitably to any such future costs. This is consistent with standard development requirements, where Councils and service providers recover costs through a range of developer charges. The precise nature and extent of these will as is the normal course, be negotiated as the project proceeds to more detailed stages of approval. The proposition that the Strand Bridge is required solely for the TOT Development is not supported by the extensive traffic studies into the Townsville CBD traffic network.**
- **The TOT Development has been designed to meet relevant Council, State and National Standards for storm surges and cyclonic conditions. These Standards take into account climate change impacts. Details of this are presented at Appendix A10 in Volume 2 (Review of Provision for Climate Change).**
- **Issues related to emergency access have been addressed in detail in the Supplementary EIS Report and the relevant Expert Reports in Volume 2.**

1.9 CONCLUSIONS

Recommendation:

The Barge Option is feasible and should be enforced. The costs should be borne by the Developer and passed on to end consumers, not the public and the residents and Bodies Corporate of nearby buildings.

The Bodies Corporate seek that as part of any approval, the Proponent be required to barge materials directly to the site.

Given the deficiencies in the EIS consultation process, other alternative means of delivering the materials and providing traffic access to the Proposed Development need to be the subject of a Supplementary EIS process.

RESPONSE

The Proponent refers to responses above in relation to the MCA on haulage route options and in particular to the alternative method for barging material across Ross Creek. It is noted that the development to be undertaken at and in the vicinity of the casino will generate considerable construction vehicular traffic over an extended time frame.