

s47F

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**From:** Barker, James  
**Sent:** Monday, 16 October 2017 3:04 PM  
**To:** s47F  
**Cc:** Knudson, Dean; Tregurtha, James; Taylor, Mark; Papps, David; s47F  
**Subject:** RE: Hook up Walker / s47F [SEC=UNCLASSIFIED]  
**Attachments:** Toondah Harbour\_Meeting Summary.docx; Letter - David Papps to Jim Reeves MC17-017166.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi s47F

Walker (Stephen Davis and Peter Saba) are meeting with the Department (me and Mark Taylor) from 2-3pm this Thursday.

Most recently:

- I discussed progress on this proposal with Economic Development Queensland (Greg Chemello) last week. Walker Group have not decided on how to proceed with a state assessment process, in particular whether to apply to have the project assessed by the Queensland Coordinator-General as a 'coordinated project'. My understanding from Greg Chemello is that Walker have wanted to progress discussions on the Ramsar issues in the first instance.
- David Papps (as the Ramsar Administrative Authority) wrote to the Queensland Department of Environment and Heritage Protection on 15 September, providing information on Ramsar processes, as enclosed. The letter makes it clear that it is the responsibility of Queensland, as the site manager for the Moreton Bay Ramsar site, to maintain the ecological character of the site.
- Walker Group met with the Ramsar Secretariat on 7 September. Notes of that meeting (provided to the Department by the Secretariat) are also enclosed.

Mark Taylor and David Papps are also travelling to Brisbane next Tuesday to meet with EHP on the Ramsar site issues, and undertake a site visit to Toondah Harbour with EHP.

Happy to discuss.

Thanks  
James

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**From:** s47F  
**Sent:** Monday, 16 October 2017 7:50 AM  
**To:** Barker, James <James.Barker@environment.gov.au>  
**Subject:** FW: Hook up Walker / s47F [SEC=UNCLASSIFIED]

James

FYI.

Can you please advise latest, before Thursday?

Thanks

s47F

**From:** Stephen Davis [<mailto:stephen.davis@davisadvisory.com.au>]  
**Sent:** Friday, 13 October 2017 10:52 PM  
**To:** s47F  
**Subject:** Re: Hook up Walker / s47F

Greetings s47F

Will you be in Canberra this week coming, on 19<sup>th</sup> October?

Peter Saba and I will be in town for meetings and thought we would pop in and update you on our recent trip to Switzerland to see the Ramsar Secretariat

Kind Regards,

**Stephen Davis** Chief Executive Partner



Melbourne | Sydney | Newcastle | Perth | Adelaide | Brisbane | Singapore  
 Ho Chi Minh | Hong Kong | Auckland | Shanghai | Jakarta | Bangkok

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## Notes from the Meeting with the Developer and Consultant for Toondah Harbour Project

Present: Stephen Davis, Peter Saba, Rob McInnes  
Martha Rojas-Urrego, Lew Young, Yai Akoijam

Date: Thursday 7 September 2017

Purpose: The meeting was organised as a result of the developer and consultant for the Toondah Harbour Project wishing to meet with representatives of the Ramsar Secretariat to introduce the Toondah Harbour Project and present their suggestions on how to move ahead with the project by adopting the best possible approaches to minimize the impacts on the Moreton Bay Ramsar Site.

### Summary notes:

- After a brief introduction from the participants, the developer began by sharing with the Secretariat the background to the Toondah Harbour Project. They explained that the harbour and port facility development was needed due to the increasing number of people (including tourists) and vehicles using the ferry crossing to North Stradbroke Island. The housing development part of the proposed project was needed to fund the harbour and port improvement. The project is part of the overall development plan for the region, including that for infrastructure and tourism.
- The developer further explained that the project was conceptualised 50 years ago even before the area was designated as a Ramsar Site but the design was never finalized and so the work was not begun. The proposed development area was selected after reviewing the feasibility of different areas for the development, as well as after consultation with various stakeholders. As a result, it would not be an option for the project to be moved elsewhere.
- As a result, the Queensland Government designated the area as a Priority Development Area (PDA) under the Economic Development Act.
- Through a tender process, the Walker Group was hired as the developer of the project. Walker then developed a draft plan for the project (which they said may be subject to change). During the development phase of the project, they became aware of the concerns over the serious impacts that the project will cause to the ecological character of the Ramsar Site.
- The Secretariat confirmed that if the State and the Federal Government were to approve the project in its present form and restrict the boundary of the Ramsar Site under “urgent national interest”, then the case will have to be presented and discussed in front of the other Contracting Parties at the upcoming COP13. Previously, such “urgent national interest” cases have never been discussed at Ramsar COPs. If the proposed Toondah Harbour development were to be presented at COP13, then it would be the first time that such a case will be discussed at a Ramsar COP.
- The developer mentioned that they would not press on with their plan if there were going to be impacts on the Ramsar Site. They asked for alternatives on best possible approaches for the development that works for both the project and the Ramsar Site.
- They said that they could possibly reconfigure their plan so that it follows a sustainable and wise-use approach that substantially minimizes the physical and ecological impacts of the project on the Ramsar Site. This could involve restricting the development to the parts of the PDA that lies outside of the Ramsar Site boundary or to look for other suitable development areas nearby and then to compensate.

- The Secretariat said that the starting point for the proposed project should be to avoid any impacts to the Ramsar Site rather than to cause impact and then compensate afterwards.
- The Secretariat stated that it is difficult to fully understand the possible impacts from the proposed project because the Ramsar Information Sheet (RIS) for the Moreton Bay Ramsar Site has not been updated since 1999 and that an Ecological Character Description (ECD) has not been completed for the Site. It was suggested that the developer could support the updating of the RIS and drafting of the ECD for the Site.
- Furthermore, a management plan should be formulated for the Ramsar Site to help with proper long term conservation and wise use of the Site.
- The Secretariat stated that from their past experience of how to resolve conflicts over proposed developments, it is important as a first step to set up a mechanism (which can be informal), whereby representatives from the developer, government, NGOs and community groups can meet to air their views and to discuss possible options for going forward.
- There was finally discussion on developing an Information Paper or a Draft Resolution for COP13 on “best practices for developments in and around Ramsar Sites”. The Information Paper would contain case studies from around the world of developments that have taken place alongside but outside of Ramsar Sites which have adopted best practices to avoid impacts on the ecological characters of the Ramsar Site.



MC17-017166

Mr Jim Reeves  
Director General  
Queensland Department of Environment and Heritage Protection  
400 George Street  
BRISBANE QLD 4000

Dear Mr Reeves

I write in response to the Hon Steven Miles MP's letter of 25 August 2017 to the Minister for the Environment and Energy, the Hon Josh Frydenberg MP, concerning the Toondah Harbour Development (EPBC 2017/7939). The Minister has passed the letter to me for reply in my role as the Ramsar Administrative Authority for Australia.

I note that the Queensland Government is working with the proponent to identify relevant technical information on the Moreton Bay Ramsar site and is separately prioritising the updating of the Moreton Bay Ramsar Information Sheet.

On 27 July 2017, my colleague, Mr Mark Taylor met with officers from the Queensland Department of Environment and Heritage Protection, Queensland Department of Infrastructure, Local Government and Planning (including Mr Greg Chemello, General Manager, Economic Development Queensland) and representatives of Walker Group to discuss requirements under the Ramsar Convention relating to the Moreton Bay Ramsar site. At this meeting, the Queensland Government officials were provided with copies of the Ramsar Convention and relevant convention resolutions that must be taken into account in any consideration of a development that may impact on a listed Ramsar wetland.

These documents set out the full requirements for site managers in developing either a case for boundary change, or for considering mitigation strategies, including the possibility of compensatory habitat, and included:

- requirements to notify the Administrative Authority if a listed Ramsar wetland has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference (Ramsar Convention Article 3.2);
- the right of a Contracting Party, because of its urgent national interests, to delete or restrict the boundaries of a listed wetland (Ramsar Convention Article 2.5);
- where a boundary is restricted in the urgent national interest, the requirement for compensation for any loss of wetland resources (Ramsar Convention Article 4.2);
- general guidance for interpreting "urgent national interests" and guidance on compensation (Resolution VIII.20);
- guidelines for avoiding, mitigating and compensating for wetland losses (Resolution XI.9);
- guidance on Environmental Impact Assessment (Resolution X.17); and
- processes for responding to change in wetland ecological character (Resolution X.16).

In Australia, it is the responsibility of the site manager (in this case, the Queensland Government) to consider how to manage the site to maintain its ecological character. The site manager is responsible for advising Australia's Ramsar Administrative Authority if the ecological character of a listed site has changed, is changing or is likely to change due to human interference. Human interference includes urban development.

Any restrictions or deletions to the Ramsar site would need to be proposed by the jurisdiction responsible for nominating the Ramsar site (in the case of the Moreton Bay Ramsar site, the Queensland Government) and must include a justification that it is in the urgent national interest. As Ramsar Administrative Authority, I will advise the Commonwealth Minister for the Environment on whether such justification meets the requirements of "urgent national interest" under the Ramsar Convention.

The final decision on the project and any boundary change is made by the Commonwealth Minister for the Environment.

If, after assessment, it is decided that the ecological character is changing or likely to change then the site manager will need to develop a response strategy and the Administrative Authority notifies the Ramsar Secretariat. This notification will be reported to, and discussed at, the next Ramsar Conference of the Parties.

The contact officer for this matter is Mr Mark Taylor, Assistant Secretary in the Commonwealth Environmental Water Office, at [mark.taylor@environment.gov.au](mailto:mark.taylor@environment.gov.au) or on 02 6274 1904.

Yours sincerely



David Papps  
Ramsar Administrative Authority for Australia

15 September 2017

s47F

**From:** Barker, James  
**Sent:** Tuesday, 3 October 2017 3:02 PM  
**To:** Taylor, Mark; Papps, David; Tregurtha, James  
**Cc:** s47F  
**Subject:** RE: Meeting with Walker Group Reps [SEC=UNCLASSIFIED]  
**Attachments:** Toondah Harbour\_Meeting Summary.docx

Thanks Mark. I wonder whether that is an error of what was discussed, given that it is at odds with Walker's discussion with us to date, and the referral (which states that there are no alternatives to the proposal). But I will touch base with Greg Chemello for an update from his end.

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**From:** Taylor, Mark  
**Sent:** Tuesday, 3 October 2017 1:42 PM  
**To:** Papps, David <David.Papps@environment.gov.au>; Tregurtha, James <James.Tregurtha@environment.gov.au>; Barker, James <James.Barker@environment.gov.au>  
**Cc:** s47F  
**Subject:** FW: Meeting with Walker Group Reps [SEC=UNCLASSIFIED]

Hi David, James and James -- FYI

Ramsar Secretariat notes of their discussion with Walker Group reps recently, re Toondah Harbour

Note particularly the 6<sup>th</sup> dot point:

- They said that they could possibly reconfigure their plan so that it follows a sustainable and wise-use approach that substantially minimizes the physical and ecological impacts of the project on the Ramsar Site. **This could involve restricting the development to the parts of the PDA that lies outside of the Ramsar Site boundary** or to look for other suitable development areas nearby and then to compensate.

I hadn't previously been aware this was a possibility.

Cheers

M

**Mark Taylor | Assistant Secretary | Wetland Policy and Northern Water Use  
Commonwealth Environmental Water Office | Department of the Environment and Energy**

**p: 02 6274 1904**

**e: [mark.taylor@environment.gov.au](mailto:mark.taylor@environment.gov.au) |**

*The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present*



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**From:** YOUNG Llewellyn [<mailto:YOUNG@ramsar.org>]  
**Sent:** Monday, 25 September 2017 7:55 AM  
**To:** Taylor, Mark <[Mark.Taylor@environment.gov.au](mailto:Mark.Taylor@environment.gov.au)>  
**Cc:** BARZDO Jonathan <[barzdo@ramsar.org](mailto:barzdo@ramsar.org)>; ASIA OCEANIA <[asia.oceania@ramsar.org](mailto:asia.oceania@ramsar.org)>; KHURELBAATAR Solongo <[khurelbaatar@ramsar.org](mailto:khurelbaatar@ramsar.org)>  
**Subject:** RE: Meeting with Walker Group Reps [SEC=UNCLASSIFIED]

Hi Mark,

Many apologies for not sending you the notes from the meeting that the Secretariat had with the Walker Group on 7 September. I went on Mission immediately afterwards and was in PNG last week with no access to the internet.

Please find attached the notes from the meeting and as I am still in Port Moresby today (and in transit through Dubai tomorrow), I will be happy to arrange a call with you to answer any questions that you may have. Today, I am free from 13:00h – 15:00h and tomorrow, from 11:00h – 14:00h (all time in Canberra).

All the best,

Lew

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**From:** BARZDO Jonathan  
**Sent:** 19 September 2017 10:25  
**To:** 'Taylor, Mark'  
**Subject:** RE: Meeting with Walker Group Reps [SEC=UNCLASSIFIED]

Hi Mark,

I was on leave during their visit, so unfortunately I can't answer your question.

I am copying this to Lew because, although he is travelling (more-or-less in your time zone) he is looking at his emails from time to time. So I hope he can get back to you soon.

All the best,

Jonathan

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**From:** Taylor, Mark [<mailto:Mark.Taylor@environment.gov.au>]  
**Sent:** 18 September 2017 08:37  
**To:** BARZDO Jonathan  
**Subject:** Meeting with Walker Group Reps [SEC=UNCLASSIFIED]

Hi Jonathon

Wondering whether you were able to give me a brief update on how the meeting went with representatives of the Walker Group from Queensland in relation to the Toondah Harbour development in Moreton Bay Ramsar site?

Ordinarily I'd contact Lew – but he's away I think and we have meetings on the issue in the next few days.

Cheers and best

Mark

**Mark Taylor** | Assistant Secretary | Wetland Policy and Northern Water Use  
Commonwealth Environmental Water Office | Department of the Environment and Energy



p: 02 6274 1904

e: [mark.taylor@environment.gov.au](mailto:mark.taylor@environment.gov.au) |



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s47F

**From:** Taylor, Mark  
**Sent:** Monday, 18 September 2017 4:28 PM  
**To:** Tregurtha, James; Barker, James  
**Cc:** s47F  
**Subject:** FW: MC17-017166 : Toondah Harbour [SEC=UNCLASSIFIED]  
**Attachments:** Letter - David Papps to Jim Reeves MC17-017166.pdf

Hi James, James

David has now signed a response to the letter from the Qld Min for EPH re Toondah and Ramsar – addressed to their Secretary Jim Reeves. We discussed the approach with Dean and will be seeking to talk over with Greg Chemello at some point (understand he is OS currently).

Just FYI we are also planning to head up to Bris in early Oct and will meet with our DEPH colleagues then.

Cheers

Mark

**Mark Taylor** | Assistant Secretary | Wetland Policy and Northern Water Use  
Commonwealth Environmental Water Office | Department of the Environment and Energy

p: 02 6274 1904

e: [mark.taylor@environment.gov.au](mailto:mark.taylor@environment.gov.au) |

*The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present*



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**From:** s47F  
**Sent:** Friday, 15 September 2017 4:21 PM  
**To:** s47F  
**Cc:** Taylor, Mark <[Mark.Taylor@environment.gov.au](mailto:Mark.Taylor@environment.gov.au)>  
**Subject:** FW: MC17-017166 : PDMS Notification - Record Assigned [SEC=UNCLASSIFIED]

For your spire records – signed letter to Jim Reeves attached.

I have processed this in PDMS and letter is being sent via post.

Cheers

s47F

**From:** [noreply@pws.gov.au](mailto:noreply@pws.gov.au) [<mailto:noreply@pws.gov.au>]  
**Sent:** Friday, 15 September 2017 4:13 PM

To: s47F

Subject: MC17-017166 : PDMS Notification - Record Assigned [SEC=UNCLASSIFIED]

**SEC=UNCLASSIFIED**

David Papps has assigned MC17-017166 proposed Toondah Harbour development, to Commonwealth Environmental Water Office (CEWO). Quality Check 14/09/2017 5:00:00 PM.

Requests can be actioned via the [PDMS Inbox](#).

Thank you

PDMS Notification Service

Note: Please do not reply to this message.

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**SEC=UNCLASSIFIED**

s47F

**From:** Taylor, Mark  
**Sent:** Tuesday, 12 September 2017 5:36 PM  
**To:** Knudson, Dean  
**Cc:** Tregurtha, James  
**Subject:** Toondah Harbour Proposal: Draft Letter to Qld Dept Environment re Ramsar issues [SEC=UNCLASSIFIED]  
**Attachments:** 2017-7939 Corro-MC17-017166-Dept Reply.docx; Incoming Corro Qld Minister EPH re Toondah.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Dean

The Minister received a response to his letter to the Qld Min for Environment Protection and Heritage about Ramsar issues and Toondah (attached as 'incoming corro'), and this was marked to Departmental Reply. The final par from the Minister notes they '...will await further information from the Australian Government regarding any boundary change proposal...'

We have drafted a response for David, as Ramsar Admin Authority, to the Secretary of the Qld Dept which confirms information has been provided to the Department and that Queensland, as site manager, is responsible for developing the case for a boundary change and considering mitigation strategies including the possible addition of compensatory habitat.

Given the sensitivities, we thought it appropriate you have the chance to review. David's happy with this draft and intends to finalise when he's back from Mildura later this week (following your views).

Happy to discuss of course.

Cheers

Mark

**Mark Taylor** | Assistant Secretary | Wetland Policy and Northern Water Use  
Commonwealth Environmental Water Office | Department of the Environment and Energy

p: 02 6274 1904

e: [mark.taylor@environment.gov.au](mailto:mark.taylor@environment.gov.au) |

*The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present*





MC17-017166

Mr Jim Reeves  
Director General  
Queensland Department of Environment and Heritage Protection  
400 George Street  
BRISBANE QLD 4000

Dear Mr Reeves

I write in response to the Hon Steven Miles MP's letter of 25 August 2017 to the Minister for the Environment and Energy, the Hon Josh Frydenberg MP, concerning the Toondah Harbour Development (EPBC 2017/7939). The Minister has passed the letter to me for reply in my role as the Ramsar Administrative Authority for Australia.

I note that the Queensland Government is working with the proponent to identify relevant technical information on the Moreton Bay Ramsar site and is separately prioritising the updating of the Moreton Bay Ramsar Information Sheet.

On 27 July 2017, my colleague, Mr Mark Taylor met with officers from the Queensland Department of Environment and Heritage Protection, Queensland Department of Infrastructure, Local Government and Planning (including Mr Greg Chemello, General Manager, Economic Development Queensland) and representatives of Walker Group to discuss requirements under the Ramsar Convention relating to the Moreton Bay Ramsar site. At this meeting, the Queensland Government officials were provided with copies of the Ramsar Convention and relevant Convention Resolutions that must be taken into account in any consideration of a development that may impact on a listed Ramsar wetland. These included:

- requirements to notify the Administrative Authority if a listed Ramsar wetland has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference (Ramsar Convention Article 3.2);
- the right of a Contracting Party, because of its urgent national interests, to delete or restrict the boundaries of a listed wetland (Ramsar Convention Article 2.5);
- where a boundary is restricted in the urgent national interest, the requirement for compensation for any loss of wetland resources (Ramsar Convention Article 4.2);
- general guidance for interpreting "urgent national interests" and guidance on compensation (Resolution VIII.20);
- guidelines for avoiding, mitigating and compensating for wetland losses (Resolution XI.9);
- guidance on Environmental Impact Assessment (Resolution X.17); and
- processes for responding to change in wetland ecological character (Resolution X.16).

These documents set out the full requirements for site managers in developing either a case for boundary change, or for considering mitigation strategies, including the possibility of compensatory habitat.

In Australia, it is the responsibility of the site manager (in this case, the Queensland Government) to consider how to manage the site to maintain its ecological character. The site manager is responsible for advising Australia's Ramsar Administrative Authority if the ecological character of a listed site has changed, is changing or is likely to change due to human interference. Human interference includes urban development.

Any restrictions or deletions to the Ramsar site would need to be proposed by the jurisdiction responsible for nominating the Ramsar site (in the case of the Moreton Bay Ramsar site, the Queensland Government) and must include a justification that it is in the urgent national interest. As Ramsar Administrative Authority, I will advise the Commonwealth Minister for the Environment on whether such justification meets the requirements of "urgent national interest" under the Ramsar Convention.

The final decision on the project and any boundary change is made by the Commonwealth Minister for the Environment.

If, after assessment, it is decided that the ecological character is changing or likely to change then the site manager will need to develop a response strategy and the Administrative Authority notifies the Ramsar Secretariat. This notification will be reported to, and discussed at, the next Ramsar Conference of the Parties.

Should any of the relevant parties wish to further discuss any matters raised here, they should contact Mr Mark Taylor at [mark.taylor@environment.gov.au](mailto:mark.taylor@environment.gov.au) or on 02 6274 1904.

Yours sincerely

David Papps  
Ramsar Administrative Authority for Australia

September 2017



Hon Dr Steven Miles MP  
Minister for Environment and Heritage Protection and  
Minister for National Parks and the Great Barrier Reef

Ref CTS 22263/17

1 William Street Brisbane Qld 4000  
GPO Box 2454 Brisbane  
Queensland 4001 Australia  
Telephone +61 7 3719 7330  
Email [environment@ministerial.qld.gov.au](mailto:environment@ministerial.qld.gov.au)

25 AUG 2017

The Honourable Josh Frydenberg MP  
Minister for the Environment and Energy  
PO Box 6022  
House of Representatives  
Parliament House  
CANBERRA ACT 2600

Dear Minister 

Thank you for your letter of 4 August 2017 concerning the proposed Toondah Harbour development.

The Queensland Government will continue to work with the Australian Government on the maintenance and enhancement of its Ramsar sites, including Moreton Bay. Specifically, the Department of Environment and Heritage Protection will work with the Australian Government to inform the assessment of the proposal with respect to the maintenance of the ecological character of the Bay's Ramsar-listed wetland.

You may be aware that the Queensland Government is working with the proponent to provide technical information on the Moreton Bay Ramsar site. Additionally, the department has prioritised updating of the Moreton Bay Ramsar Information Sheet to ensure the most accurate information is available on the site's ecological character. The first draft of this information will be provided to the Australian Department of the Environment and Energy for initial review in the near future.

Finally, the Queensland Department of Environment and Heritage Protection will await further information from the Australian Government regarding any boundary amendment proposal associated with the Toondah Harbour, and acknowledges that any such amendment needs to be in the "urgent national interest".

Any questions in relation to this letter should be directed to Ms Danielle Cohen, Chief of Staff in my office on (07) 3719 7330.

Yours sincerely

A handwritten signature in black ink, appearing to be "S Miles".

**DR STEVEN MILES MP**  
Minister for Environment and Heritage Protection and  
Minister for National Parks and the Great Barrier Reef

s47F

**From:** Barker, James  
**Sent:** Wednesday, 30 August 2017 4:45 PM  
**To:** s47F  
**Cc:** de Brouwer, Gordon; Papps, David; Knudson, Dean; Tregurtha, James; Taylor, Mark; s47F; s47F; Richardson, Geoff; s47F  
**Subject:** FOI 170702 - Toondah harbour, due 5 September [SEC=UNCLASSIFIED]  
**Attachments:** FOI 170702 - documents for courtesy consultation - MO.PDF

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi s47F

The Department received an FOI request from Chris Walker obo Redlands 2030 under the FOI Act relating to the Toondah harbour development project (EPBC 2017/7939). The request seeks access to:

- [Item 1] The "recommendation brief prepared by officers of the Department of the Environment and Energy".
- [Item 2] Letters from the Minister for the Environment regarding his decision about this referral which were sent to: Walker Group Holdings, Queensland Minister for Environment and Heritage, Minister for Infrastructure and Development, Minister for Indigenous Affairs, and Minister for Trade, Tourism and Investment.
- [Item 3] Ecological Character Description - Moreton Bay Ramsar Site (Final Report)
- [Item 4] Line Area Advice: Wetlands Section Advice and Migratory Species Section Advice
- [Item 5] Submission from EHP
- [Item 6] Summary of public submissions
- [Item 7] The 180 public submissions received on the referral during the public comment period, excluding the 1,238 campaign submissions which were also received during the public comment period.
- [Item 8] Any correspondence or electronic communication received by the Department of the Environment and Energy and/or the Minister for the Environment and Energy from Walker Group Holdings Pty Ltd, its employees, agents or representatives, in connection with the Referral from the date it was submitted up to the present time.
- [Item 9] Any response, including by electronic means, by the Department of the Environment and Energy and/or the Minister for the Environment and Energy to correspondence or electronic communication falling under Item 8 above.

I have consulted with the proponent Walker Group and the Queensland government on the request.

- Walker Group objected to the release of some of these documents on the basis of 'sensitive business information', in particular an email from Walker that referred to potential boundary changes and how to proceed in relation to the Ramsar Convention, and the letter from the Minister to Walker Group that referred to 'significant challenges' likely to arise in the assessment of the proposal. I'm proposing to accept this argument and redact that email and letter on that basis.
- Queensland did not raise any significant objections to the release of any particular document.

At this stage, I intend to advise Redlands 2030 that I will:

- grant access to Documents 12, 14, 16, 16a, 20, 21, 28, 29, 32a, 38a, 38c, 44a, 71a and 189a in full; and
- grant access to the remaining 231 documents in part, as they contain; material irrelevant to the scope of the request (section 22 of the FOI Act), confidential information (section 35), deliberative



material (section 47C), personal privacy (section 47F) or sensitive business information (section 47G(1)(a)) and are therefore subject to exemptions pursuant to the FOI Act.

(I haven't completely finalised consideration of the decision at this stage, but am sending this email to give you sufficiently advance notice.)

Please note that:

- Documents 1 through 11 are the decision brief and attachments.
  - Document 1 includes a reference to the Clearly Unacceptable brief (MS17-000773) for the same project. I am proposing to redact this reference as conditionally exempt as part of the deliberative process, and not a record of the final controlled action decision.
  - I am proposing not to release Documents 2 and 3 as sensitive business material. These are the letters to the proponent from the Minister that refer to 'significant challenges' relating to the proposal.
  - Note that Documents 8 and 9 are the line area advice, from Wetlands Section and Migratory Species Section, which were attached to the brief. We have previously refused to release line area advice under a separate FOI relating to the first Toondah referral (now withdrawn). This was on the basis that this line area advice was deliberative, as no decision on the previous referral was ultimately made. In this case the line area advice formed part of the brief that the Minister considered. This advice is also referenced in a statement of reasons, which the Minister has provided to some third parties.
- Documents 12 to 186 are submissions received from NGOs or members of the public. I am proposing to release these, subject only to personal privacy exemption. These include the letter from the Ramsar Secretariat (Document 33), which said that the site will be placed under 'Article 3.2 notification'. (This means that the proposal will be reported at the next Conference of the Parties in October 2018.)
- Documents 187 through 192 are correspondence between the Department or Minister and the proponent. I am proposing to release these, except for Document 190 as material obtained in confidence. Document 190 is the email from Walker, mentioned above.

Documents 1, 2, 3, 33 and 190 are attached to this email. The remaining documents will be shared with you via Sigbox because of the size. The FOI contact officer is s47F on s47F if you have any issues accessing the documents. The currently proposed redactions are indicated by red boxes in the documents.

The decision is due to be made by **Tuesday 5 September 2017**.

Thanks  
James

PDR: MS17-000774

Copy to:  
Secretary  
Mr Knudson  
Mr Cahill  
Mr Papps  
Mr Oxley  
Mr Taylor  
Ms Moore  
Mr Richardson

To: Minister for the Environment and Energy (For Decision)

**REFERRAL DECISION - TOONDAH HARBOUR DEVELOPMENT, QUEENSLAND (EPBC 2017/7939)**

Through: Matt Cahill, First Assistant Secretary, Environment Standards Division.

Timing: 8 June 2017 - statutory timeframe.

**Recommendation:**

If you choose not to make the decision recommended in MS17-000773, that you decide that the Toondah Harbour Development Queensland (EPBC 2017/7939) referral is a controlled action and that you sign the brief at **Appendix A**.

Minister:

Comments:



**Signed / Not signed**

Date:

8/6/17

<b>Clearing Officer:</b> Sent: 5/06/17	James Barker	Assistant Secretary, Assessments and Governance Branch	Ph: 02 6274 2694 Mob: s47F
Contact Officer:	s47F	Director, Queensland Assessments North	Ph: s47F

**Key Points:**

1. This brief is provided for you to consider whether or not further assessment of the Toondah Harbour Development (EPBC 2017/7939) is required under the *Environment Protection and Biodiversity Conservation Act 1999*.
2. The project proposes to develop a mixed use residential, commercial, retail and tourism precinct including new ferry terminals and a marina at Toondah Harbour, 30 km south of Brisbane. The proposal will involve the excavation of a new marina and land reclamation within Moreton Bay Ramsar wetland.
3. The Department recommends that you decide that the proposed action is likely to have a significant impact on: a Ramsar wetland of international importance, listed threatened species and communities and listed migratory species for the reasons outlined in the brief at **Appendix A**.

**Appendix**

**A:** Referral Decision Brief and Attachments

## DEPARTMENT OF THE ENVIRONMENT AND ENERGY

MS17-000774

To: Minister (for decision)

Referral Decision Brief – Toondah Harbour Development, Queensland  
(EPBC 2017/7939)

Through: Matt Cahill, First Assistant Secretary, Environment Standards Division.

Timing: 8 June 2017 - statutory timeframe.

<b>Recommended Decision</b>	NCA <input type="checkbox"/> NCA(pm) <input type="checkbox"/> CA <input checked="" type="checkbox"/>												
<b>Designated Proponent</b>	Walker Group Holdings Pty Ltd 81 001 215 069												
<b>Controlling Provisions triggered or matters protected by particular manner</b>	<table border="0"> <tr> <td>World Heritage (s12 &amp; s15A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>National Heritage (s15B &amp; s15C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>Wetlands (Ramsar)(s16 &amp; s17B) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> No if PM <input type="checkbox"/></td> <td>Threatened Species &amp; Communities (s18 &amp; s18A) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>Migratory Species (s20 &amp; s20A) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> No if PM <input type="checkbox"/></td> <td>C'wealth marine (s23 &amp; s24A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>Nuclear actions (s21 &amp; s22A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>C'wealth land (s26 &amp; s27A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>C'wealth actions (s28) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>GBRMP (s24B &amp; s24C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> <tr> <td>A water resource – large coal mines and CSG (s24D &amp; s24E) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> <td>C'wealth heritage o/s (s27B &amp; s27C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/></td> </tr> </table>	World Heritage (s12 & s15A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	National Heritage (s15B & s15C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	Wetlands (Ramsar)(s16 & s17B) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> No if PM <input type="checkbox"/>	Threatened Species & Communities (s18 & s18A) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> No if PM <input type="checkbox"/>	Migratory Species (s20 & s20A) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth marine (s23 & s24A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	Nuclear actions (s21 & s22A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth land (s26 & s27A) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth actions (s28) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	GBRMP (s24B & s24C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	A water resource – large coal mines and CSG (s24D & s24E) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>	C'wealth heritage o/s (s27B & s27C) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No if PM <input type="checkbox"/>
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<b>Public Comments</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Number: 180 individual and 1238 campaign. See <u>Attachment N</u> .												
<b>Ministerial Comments</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Who: Queensland Department of Environment and Heritage Protection. See <u>Attachment I</u> .												
<b>Assessment Approach Decision</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Bilateral Applies <input type="checkbox"/>												
<b>Recommendations:</b>													
1. Consider the information in this brief, the referral ( <u>Attachment A</u> ) and other the information in the attachments.													
<b>Considered / Please discuss</b>													
2. Agree with the recommended decision.													
<b>Agreed / Not agreed</b>													

UNCLASSIFIED

3. If you agree to 2, indicate that you accept the reasoning in the departmental briefing package as the basis for your decision.

**Accepted/Please discuss**

4. Agree to the designated proponent.

**Agreed / Not agreed**

5. Agree to stop the clock on the assessment approach decision to allow time for the Queensland Government to confirm whether the project can be assessed under the bilateral agreement with the Commonwealth.

**Agreed / Not agreed**

6. Sign the notice at Attachment B (which will be published if you make the recommended decision).

**Signed / Not signed**

7. Sign the letters at Attachment C advising the proponent and relevant parties of your decision.

**Signed / Not signed**

8. Sign the draft statement of reasons at Attachment D having made any modification you consider necessary to ensure that the statement reflects your reasoning (we have provided this in anticipation of requests for it from third parties).

**Signed / Not signed**



**Minister for the Environment and Energy,  
The Hon Josh Frydenberg MP**

Date:

8/6/17

**Comments:**

## **BACKGROUND:**

### **Description of the referral**

1. Toondah Harbour is an existing marine area that serves as the base for water taxi, passenger and ferry services between the mainland and North Stradbroke Island. Walker Group Holdings Pty Ltd (the proponent) is proposing to develop a mixed use residential, commercial, retail and tourism precinct including new ferry terminals and a marina at Toondah Harbour, 30 kilometres (km) south of Brisbane. The proposal will involve the excavation of a new marina and reclaiming land within the adjoining Moreton Bay Ramsar wetland. The Toondah Harbour project is proposed to be delivered in stages over a 15 to 20 year period.

2. The key components of the proposal are:
  - project area of 73 hectares, of which approximately 50 hectares is within the Moreton Bay Ramsar wetland;
  - approximately 40 hectares of reclamation within Moreton Bay Ramsar wetland;
  - new ferry terminals to improve access to North Stradbroke Island;
  - mixed use development including residential, retail, commercial and tourism uses;
  - a marina;
  - public open space and boardwalks providing foreshore access; and
  - dredging of the existing Toondah Harbour marine access channel to allow for safe navigation for all vessels.
3. A referral for the project (Attachment A) was submitted under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) on 11 May 2017. The statutory timeframe for a decision under the EPBC Act is 8 June 2017.
4. In its referral, the proponent stated its belief that the proposal is a controlled action for the purposes of the EPBC Act and will likely have a significant impact on the ecological character of the Moreton Bay Ramsar wetland, listed threatened species and ecological communities, and listed migratory species. The proponent has stated in the referral that there are no alternatives to the location and footprint of the action.

#### State approval process

5. In June 2013, at the request of Redland City Council, the Queensland State Government declared Toondah Harbour a Priority Development Area (PDA) under the *Economic Development Act 2012* (Qld). As a result, the PDA is exempt from the standard planning and development assessment processes and will be assessed by Economic Development Queensland against the PDA Development Scheme. The proponent has stated that it intends to seek a declaration of the project as a 'coordinated project' under the *State Development and Public Works Organisation Act 1971* (Qld).
6. If you agree to the recommended decision, the Department will seek further information from the Queensland State Government regarding the state assessment process for the project. Subject to that advice, it may be that the project can be assessed under the bilateral agreement or, if not, your delegate will make a decision on the assessment approach.

#### **RECOMMENDED DECISION:**

7. Under section 75 of the EPBC Act you must decide whether the action that is the subject of the referral is a controlled action, and which provisions of Part 3 (if any) are controlling provisions for the action. In making your decision you must consider all adverse impacts the action has, will have, or is likely to have, on the matter protected by each provision of Part 3. You must not consider any beneficial impacts the action has, will have or is likely to have on the matter protected by each provision of Part 3.

8. The Department recommends that you decide that the proposed action is likely to have a significant impact on:
- the ecological character of the Moreton Bay Ramsar site (sections 16 and 17B);
  - listed threatened species, including marine turtles and the critically endangered Eastern Curlew (sections 18 and 18A); and
  - listed migratory species, including the dugong (sections 20 and 20A).

### Ramsar wetlands

9. The Moreton Bay Ramsar site is located in and around Moreton Bay, east of Brisbane in Queensland ([Attachment E](#)). The Ramsar wetland supports extensive intertidal areas of sand and mud flat habitats, seagrass, mangroves and saltmarsh that provide vital habitat for dugongs, turtles and waterbirds including significant populations of migratory shorebirds. The wetland supports more than 50,000 migratory waders. At least 43 species of wading birds use the intertidal habitats, including 30 migratory species listed on international conservation agreements.
10. In addition, Moreton Bay is one of only two Ramsar sites in Australia that supports the critically endangered Eastern Curlew throughout the year, with juvenile birds not migrating until they are 2-3 years old. The ecological character of the Moreton Bay Ramsar wetland is described in *Ecological Character Description – Moreton Bay Ramsar Site* ([Attachment F](#)) and *Information sheet on Moreton Bay Ramsar Site* ([Attachment G](#)).
11. The proposed development area is immediately adjacent to and within the Moreton Bay Ramsar site.
12. The referral states that it is likely that the proposed action will result in significant impacts on the ecological character of a portion of the Moreton Bay Ramsar wetland. In particular, the proposed action will permanently remove an area of the Ramsar wetland through approximately 40 hectares of land reclamation and is likely to negatively impact the ecological character of the wetland.
13. Advice from the Department's Wetland Section ([Attachment H](#)) considers that direct impacts to the ecological character of the wetland will occur as the proposed action will result in:
- areas of the wetland within the referral area being removed or substantially modified through dredging, excavation and/or land reclamation activities;
  - impacts on habitat values through the removal of seagrass, mangroves and intertidal mudflats;
  - impacts on the lifecycle of an ecologically significant proportion of the population of the Eastern Curlew and Bar-Tailed Godwit, as well as other listed migratory species, such as Whimbrels and Grey-Tailed Tattler, through the removal of, or disturbance to, foraging and roosting habitat in or near the referral area; and
  - changes in the hydrological regime of the wetland and consequent changes to water quality and aquatic habitats from sedimentation.

14. The referral lacks detail on the proposed development, such as the size of the marina, the number of apartments, the height of buildings and the extent of dredging required to upgrade the channel. The referral has not considered indirect impacts from the proposed action such as light pollution, the potential for increased weeds and domestic animals, and human traffic. In addition, advice from the Department's Wetland Section concludes that the impacts on the ecological character of the site will be difficult to mitigate and offset.
15. Although the referral states that a buffer zone will be included between the development and the mangroves and high tide roosting site at Cassim Island, it does not provide sufficient information for the Department to be confident that this will reduce the impacts on migratory shorebirds.
16. The Department therefore concludes that the proposed action is likely to have a significant impact on the ecological character of the Moreton Bay Ramsar wetland.

### Listed migratory species

17. The Department's Environment Reporting Tool (ERT) indicates that a total of 72 listed migratory species may occur within two kilometres of the proposed action (Attachment J). Based on the location of the action and likely habitat present in the area of the proposed action, the Department considers that significant impacts are likely in relation to the following matters:

### Listed migratory shorebirds

18. The referral notes that habitat used by migratory shorebirds for foraging or roosting within Toondah Harbour and roosting habitat adjoining the project area are characterised as 'important habitat' for migratory shorebirds under the *EPBC Act Significant Impact Guidelines 1.1 – Matters of National Environmental Significance*.
19. Eleven migratory shorebirds were recorded within or immediately adjacent to the project area during the proponent's field surveys. These include:
  - Grey-tailed Tattler (*Tringa brevipes*);
  - Ruddy Turnstone (*Arenaria interpres*);
  - Great Knot (*Calidris tenuirostris*) (also listed as critically endangered);
  - Red-necked Stint (*Calidris ruficollis*);
  - Bar-tailed Godwit (*Limosa lapponica baueri*) (also listed as vulnerable)
  - Whimbrel (*Numenius phaeopus*);
  - Eastern Curlew (*Numenius madagascariensis*) (also listed as critically endangered);
  - Terek Sandpiper (*Xenus cinereus*); and
  - Curlew Sandpiper (*Calidris ferruginea*) (also listed as critically endangered).
20. Migratory shorebirds use two different habitat types within or adjacent to the project area, namely intertidal mudflats that provide feeding habitat when exposed at low tide, and stands of mangrove trees, offshore sandbars and shoreline saltmarsh and claypan areas that provide high tide roost sites.
21. The referral states that the proposed action is likely to have both direct and indirect impacts on migratory shorebirds through clearing of approximately 40 hectares of foraging

habitat for dredging and land reclamation, and disturbance during construction including changes to water quality during dredging and reclamation works. However, the referral also states that the project area is not considered to be a major foraging site in terms of diversity or numbers of migratory shorebirds as similar habitat is found throughout Moreton Bay, and the project site provides less than 0.001% of feeding habitat within the Ramsar wetland. As outlined below, the Department considers that the loss of this foraging habitat, combined with the indirect impacts of the proposal, is likely to have a significant impact on migratory shorebirds.

22. Surveys undertaken by the proponent mapped large areas of intertidal foraging habitats in the project area, comprising areas of mudflat, sandflat, seagrass and areas of surface coral rubble, and two high tide roost sites directly adjacent to the project area (Figure 2, Attachment 3 of Attachment A).
23. Important roosting sites - Cassim Island and Nandeebie Claypan - are in close proximity to the proposed action. It is likely that the proposed action will have indirect impacts on these roosting sites, including noise and visual disturbance as a result of increased human use of the area.
24. Survey results provided in the referral (Attachment A) confirmed that Cassim Island, located approximately 100 meters east of the project boundary, and the Nandeebie Claypan, immediately south of the project area, are important roosting habitat for migratory shorebirds based on the relatively large total numbers of migratory shorebirds using these roost sites. Up to 920 migratory shorebirds of four species known to roost in mangrove trees were recorded at Cassim Island, while up to 1,060 migratory shorebirds were recorded roosting at the Nandeebie Claypan.
25. The *EPBC Act Policy Statement 1.1 Significant Impact Guidelines* (2013) and the *EPBC Act Policy Statement 3.21 - Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed migratory shorebird species* (2017) provide that a proposed action will be likely to have a significant impact on migratory species where the proposal will substantially modify, destroy or isolate an area of important habitat for migratory species.
26. The proposed action will reduce the area of occupancy for migratory shorebird species by removing approximately 40 hectares of foraging habitat; adversely affecting important roosting habitat and modifying, destroying, isolating and decreasing the availability and quality of habitat through indirect impacts such as light, noise and human interaction.
27. In addition to the above, advice received from the Department's Migratory Species Section (Attachment H) concluded that the proposed action will seriously disrupt the lifecycle (feeding, migration and resting behaviour) of an ecologically significant population of the Eastern Curlew and Bar-tailed Godwit, as well as other listed migratory species, such as Whimbrels and Grey-tailed Tattlers, through the removal of, or disturbance to, foraging and roosting habitat in or near the referral area. Additional impacts will result from linking important offshore roosting sites with the mainland as it will interfere with the recovery of the Eastern Curlew by removing important habitat and causing an increase in ongoing disturbance.

#### Other Migratory species

28. Moreton Bay supports important foraging populations of Green, Hawksbill and Loggerhead Turtles and is close to the southern-most extent of their range. The *Marine*



*Bioregional Plan for the Temperate East Marine Region (2012)* (Attachment K) considered Moreton Bay a significant feeding ground for the Green Turtle.

29. Advice from the Department's Migratory Species Section (Attachment H) considers that light pollution, vessel disturbance and habitat modification (though dredging and infrastructure/coastal development) are known threats to migratory marine species. The Department considers it likely that the proposed action will increase these threats to migratory marine species and reduce the area of occupancy of the species.
30. Based on this advice and other information available to the Department, such as the Species Profile and Threats database and information from the referral documentation, the Department considers that the proposed action is likely to have significant impacts on other migratory species such as:
- Loggerhead Turtle (*Caretta caretta*);
  - Green Turtle (*Chelonia mydas*);
  - Hawksbill Turtle (*Eretmochelys imbricata*);
  - Indo-pacific Humpback Dolphin (*Sousa chinensis*); and
  - Dugong (*Dugong dugon*).

#### **Listed threatened species and communities**

31. The Department's Environment Reporting Tool (ERT) identifies 57 threatened species and one ecological community may occur within two kilometres of the proposed action (see the ERT report at Attachment J). Based on the location of the action and likely habitat present in the area of the proposed action, the Department considers a number of these species will be impacted by loss of marine, intertidal and terrestrial habitat as well as light and noise disturbance during construction and operation of the project. The Department considers that significant impacts are likely in relation to the following matters:

#### Eastern Curlew (*Numenius madagascariensis*) – critically endangered

32. The Department has considered the likelihood of direct and indirect impacts, the importance of habitat in, and immediately adjacent to, the project area and the lack of adequate mitigation and management measures to minimise these impacts and concluded that the proposed action is likely to have a significant impact on the critically endangered Eastern Curlew.
33. The critically endangered Eastern Curlew occurs seasonally around the Australian coastline, with up to 3500 birds estimated to visit Moreton Bay (9% of the flyway population). The Eastern Curlew habitat in the Moreton Bay wetland is internationally important as it supports more than 1% of the individuals in a population of the migratory Eastern Curlew (*EPBC Act Policy Statement 3.21 - Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed migratory shorebird species (2017)*).
34. The project site contains intertidal foraging habitat for the Eastern Curlew with seven individuals recorded during 2015 surveys (Attachment A). Important roosting sites, the Nandeebie Claypan and Cassim Island, are also immediately adjacent to the project area with up to 180 Eastern Curlew having been recorded at the Nandeebie Claypan roosting site (Attachment 6 of Attachment A). Although there are a number of available roost sites

for the Eastern Curlew within the region, the Nandeebie Claypan is considered by the Department to be an important site within Moreton Bay (Attachment 6 of Attachment A).

35. The referral proposes a buffer zone of 100 to 200 metres between the development and the mangroves and high tide roosting site at Cassim Island. However, the referral does not provide adequate information on whether they would be sufficient to manage the impacts to the Eastern Curlew. The *Conservation Advice for Numenius madagascariensis (Eastern Curlew)* (2015) states that the species is easily disturbed by human interaction within 250m.
36. The Department considers that as the proposed action will substantially modify, destroy and isolate an area of habitat for the Eastern Curlew it is likely to have a significant impact on the species.

Other listed species

37. The Department's ERT identifies the potential presence of additional threatened species or communities within two kilometres of the proposed action area. Based on information available to the Department and the nature of the proposed action that includes removal of onshore vegetation, intertidal mudflats and seagrass bed that provide habitat for threatened species, the Department considers that the proposed action is likely to have significant impacts on other threatened species such as:
  - Great Knot (*Calidris tenuirostris*) – critically endangered
  - Curlew Sandpiper (*Calidris ferruginea*) – critically endangered
  - Bar-tailed Godwit (*Limosa lapponica baueri*) – vulnerable;
  - Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW and the ACT) – vulnerable;
  - Grey-headed Flying-fox (*Pteropus poliocephalus*) – vulnerable;
  - Loggerhead turtle (*Caretta caretta*) – endangered;
  - Green Turtle (*Chelonia mydas*) – vulnerable; and
  - Hawksbill Turtle (*Eretmochelys imbricate*) – vulnerable.

**PROTECTED MATTERS THAT ARE NOT CONTROLLING PROVISIONS:**

<b>World Heritage properties</b>	The ERT did not identify any World Heritage properties located within or adjacent to the proposed action area, therefore this controlling provision does not apply.
<b>National Heritage places</b>	The ERT did not identify any National Heritage places located within or adjacent to the proposed action area, therefore this controlling provision does not apply.
<b>Commonwealth marine environment</b>	The proposed action does not occur in the vicinity of a Commonwealth marine environment therefore this controlling provision does not apply.
<b>Commonwealth action</b>	The referring party is not a Commonwealth agency, therefore this controlling provision does not apply.
<b>Commonwealth land</b>	The proposed action is not being undertaken on Commonwealth land therefore this controlling provision does not apply.
<b>Nuclear action</b>	The proposed action does not meet the definition of a nuclear action as defined in the EPBC Act therefore this controlling provision does not apply.
<b>Great Barrier Reef Marine Park</b>	The proposed action is not located in the vicinity of the Great Barrier Reef Marine Park, therefore this controlling provision does not apply.
<b>Commonwealth Heritage places overseas</b>	The proposed action is not located overseas, therefore this controlling provision does not apply.
<b>A water resource, in relation to coal seam gas development and large coal mining development</b>	The proposed action is not a coal seam gas or a large coal mining development, therefore this controlling provision does not apply.

**SUBMISSIONS:****Public submissions**

38. The proposal was published on the Department's website on 11 May 2017 and public comments were invited until 25 May 2017. 180 public submissions, including from the Ramsar Secretariat, and a further 1,238 campaign submissions were received during the public consultation period. Attachment N provides a summary of the public submissions.
39. The submissions raised issues including the following:
- unacceptable impacts of 40 ha of land reclamation within a Ramsar wetland;
  - impacts to migratory shorebirds, seagrass, koalas, turtles and Dugongs;
  - Australia's need to meet its obligations as a party to international agreements to protect migratory birds and Ramsar wetlands;
  - impacts related to pollution from dredge spoil;

- the proposed development is not critical infrastructure – the local community would like to see an upgrade to the ferry terminal but do not support the construction of a marina and housing development; and
- the Ramsar Secretariat advised that the Moreton Bay Ramsar site will be placed under Article 3.2 notification. Under Article 3.2 of the Ramsar Convention “Each Contracting Party shall arrange to inform the Ramsar Secretariat...at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference”.

#### **Comments from Commonwealth Ministers**

40. By letter dated 11 May 2017, the following ministers were invited to comment on the referral:
- Senator The Hon Nigel Scullion, Minister for Indigenous Affairs
  - The Hon Darren Chester MP, Minister for Infrastructure and Transport
41. No comments were received in response to that invitation.

#### **Comments from State Ministers**

42. By letter dated 11 May 2017, the delegate for the Queensland Minister for Environment and Heritage Protection, the Hon Dr Steven Miles MP, was invited to comment on the referral. The response stated that the proposal will not be assessed using the EIS process in Chapter 3 of Queensland's *Environmental Protection Act 1994*. The response also stated that the Queensland Department of State Development reviewed the referral documentation and advised that the Coordinator-General has not received a request for declaration of this proposal as a coordinated project under Part 4 of the *State Development and Public Works Organisation Act 1971*.

#### **ASSESSMENT APPROACH:**

43. If you agree that the action is a controlled action, you must decide on the approach for assessment in accordance with section 87 of the EPBC Act. Noting that the proponent intends to lodge a formal application for declaration of the proposal as a coordinated project under Part 4 of the *State Development and Public Works Organisation Act 1971* (Qld) and the potential for assessment under the bilateral agreement, the Department recommends that this decision is postponed and made by your delegate, once the Queensland government confirms the state assessment approach.

#### **OTHER MATTERS FOR DECISION-MAKING:**

##### **Precautionary principle**

44. In making your decision under section 75, you are required to take account of the precautionary principle (section 391). The precautionary principle is that a lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage. A controlled action decision will require any uncertainties in the referral (e.g. around the potential effectiveness of mitigation measure and availability of offsets) to be clarified through further detailed assessment.

## Bioregional Plans

45. In accordance with section 176(5), you are required to have regard to a bioregional plan in making any decision under the Act to which the plan is relevant. The *Marine Bioregional Plan for the Temperate East Marine Region (2012)* (Attachment J) is relevant to the proposed action.

## Consultation and handling

46. The Wildlife, Heritage and Marine Division, Wetlands, Policy and Northern Water Branch, General Counsel Branch were consulted and provided advice in the preparation of this brief.

James Barker  
Assessments and Governance Branch  
Ph: 02 6274 2694  
Mob: s47F

## Attachments

- A: Referral
- B: Decision notice FOR SIGNATURE
- C: Letter to Walker Group Holdings FOR SIGNATURE
  - Letter to Queensland Minister for Environment and Heritage FOR SIGNATURE
  - Letter to Queensland Deputy Premier FOR SIGNATURE
  - Letter to Minister for Infrastructure and Development FOR SIGNATURE
  - Letter to Minister for Indigenous Affairs FOR SIGNATURE
  - Letter to Minister for Trade, Tourism and Investment FOR SIGNATURE
- D: Statement of Reasons FOR SIGNATURE
- E: Maps of project area, regional context, Ramsar site boundary.
- F: Ecological Character Description – Moreton Bay Ramsar Site (Final Report)
- G: Information sheet on Moreton Bay Ramsar Site (June 1999)  
<http://www.environment.gov.au/water/topics/wetlands/database/pubs/41-ris.pdf>
- H: Line Area Advice:
  - Wetlands Section Advice
  - Migratory Species Section Advice
- I: Submission from EHP
- J: Department's Environmental Reporting Tool
- K: Marine Bioregional Plan for the Temperate East Marine Region (2012)
- L: Summary of public submissions



**THE HON JOSH FRYDENBERG MP**  
**MINISTER FOR THE ENVIRONMENT AND ENERGY**

MS17-000774

**08 JUN 2017**

Mr Peter Saba  
General Manager – Queensland Developments  
Walker Group Holdings Pty Ltd  
GPO Box 652  
Brisbane QLD 4000

Dear Mr Saba

I am writing to advise you of my decision in relation to the Toondah Harbour Development, Queensland (EPBC 2017/7939) proposed by Walker Group Holdings Pty Ltd, which was referred for consideration under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

I note that the footprint of the proposed development is substantially within the Moreton Bay Ramsar wetland site and includes the permanent removal of an area of the wetland though the excavation of a marina and the approximately 40 hectares of land reclamation. The ecological character of this wetland is nationally and internationally protected under the Convention on Wetlands of International Importance (the Ramsar Convention).

I have decided under section 75 of the EPBC Act that the proposed action is a controlled action and, as such, it requires further assessment and a decision about whether approval for it should be given under the Act. A copy of the document recording this decision is enclosed. Please note that this decision only relates to the potential for significant impacts on matters protected by the Australian Government under Chapter 2 of the EPBC Act.

Although I have decided that the proposed action will be assessed under the EPBC Act, I note that significant challenges remain in regard to the approval of this project. In particular, the requirement, under section 138 of the EPBC Act, that when deciding whether or not to approve the taking of an action, I must not act inconsistently with Australia's obligations under the Ramsar Convention. I would expect the more detailed environmental impact assessment process will consider these issues as well as other likely impacts of the proposal.

I have asked my Department to liaise with the Queensland government to determine the particular assessment approach that will be used for this project, including whether it can be assessed under the bilateral agreement with Queensland.

Please note, under subsection 520(4A) of the EPBC Act and the *Environment Protection and Biodiversity Conservation Regulations 2000* your assessment is subject to cost recovery. A fee schedule will be provided to you once the decision on the assessment approach has been determined.

If you have any questions about the referral process or this decision, please contact the project manager, s47F [REDACTED] by email to s47F [REDACTED] or telephone s47F [REDACTED]

Yours sincerely



Josh Frydenberg



**THE HON JOSH FRYDENBERG MP**  
**MINISTER FOR THE ENVIRONMENT AND ENERGY**

MS17-000774

08 JUN 2017

The Hon Dr Steven Miles  
Minister for Environment and Heritage Protection  
GPO Box 2454  
BRISBANE QLD 4001

Dear Minister 

I am writing to advise you of my decision on the referral of the proposed action, to develop a mixed use residential, commercial, retail and tourism precinct including new ferry terminals and a marina at Toondah Harbour, 30 km south of Brisbane.

As the Minister for the Environment and Energy, I have decided under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) that the proposed action is a controlled action and, as such, it requires assessment and a decision about whether approval for it should be given under the EPBC Act.

I note that the footprint of the proposed development is substantially within the Moreton Bay Ramsar wetland site and includes the permanent removal of an area of the wetland though the excavation of a marina and the approximately 40 hectares of land reclamation. The ecological character of this wetland is nationally and internationally protected under the Convention on Wetlands of International Importance (the Ramsar Convention).

The information that I have considered indicates that the proposed action is likely to have a significant impact on wetlands of international importance, and nationally listed threatened species and migratory species. A copy of the document recording this decision is enclosed.

Although I have decided that the proposed action will be assessed under the EPBC Act, I note that significant challenges remain in regard to the approval of this project. In particular, the requirement, under section 138 of the EPBC Act, that when deciding whether or not to approve the taking of an action, I must not act inconsistently with Australia's obligations under the Ramsar Convention. I would expect the more detailed environmental impact assessment process will consider these issues as well as other likely impacts of the proposal.

At this stage, a decision has not been made on the approach that must be used to assess the project. I have asked officials of the Department of the Environment and Energy to liaise with



Queensland officials to determine whether this project can be assessed under the bilateral agreement between Queensland and the Commonwealth.

Questions about the referral process or this decision, can be directed to the project manager, s47F [REDACTED] by email to s47F [REDACTED] or telephone s47F [REDACTED] s47F [REDACTED]

I have also written to Queensland Deputy Premier, the Hon Jackie Trad, to advise her of my decision.

Yours sincerely



Josh Frydenberg



CONVENTION ON WETLANDS  
CONVENTION SUR LES ZONES HUMIDES  
CONVENCIÓN SOBRE LOS HUMEDALES  
(Ramsar, Iran, 1971)

Referrals Gateway  
Environment Assessment Branch  
Department of the Environment  
GPO Box 787  
Canberra ACT 2601  
Australia

Gland, 24 May 2017

Dear Sir/Madam,

**Re: Reference Number: 2017/7939**

I am writing concerning the public referral exercise for the proposed Toondah Harbour development adjacent to the Moreton Bay Ramsar Site (WALKER GROUP HOLDINGS PTY LIMITED/Residential Development/L58 on SP115554, L1 on RP145396, L33-35 on C618, L20 on SP153278, L79 on SL7088, L119 on SL9713/Queensland/Toondah Harbour Development).

The Ramsar Secretariat has reviewed the project document available on the <http://epbnotices.environment.au> website relating to the proposed development and have a number of general comments:

- The impacts from increased disturbance to the area from greater boat traffic due to the proposed harbour, marina and developments has not been evaluated;
- The impact from increased pollution from the operation of the proposed harbour, marina and developments have not been mentioned;
- The proposed development extends into the Moreton Bay Ramsar Site but the documents does not indicate the area (or percentage) of the Ramsar Site that will be affected (Referral document, page 2, para. 5, line 1);
- Loss of wetland habitat for development will set a precedent for other developments in future
- The proposed development will include 40 hectare of reclamation. If this is of tidalflat habitat within the Ramsar Site, then apart from the adverse impacts that this will have on the ecological character of the Site, it will also set a precedent for developments around other Ramsar Sites in Australia and also elsewhere in the world.

Our specific comments are included in Appendix 1 (attached). Overall, these indicate that the proposed project will have an adverse impact on the ecological character of the Moreton Bay Ramsar Site and the criteria under which the wetland was designated. This would be due to the direct loss of wetland habitats within the site through reclamation and the knock-on impacts that this will have on the species dependent on the Site (Appendix 1). In fact, the Referral document itself states that the proposed development will likely impact on the ecological character of the Ramsar Site (Section 2.3) and that this impact will be significant (Section 2.3.2).

If areas of the Ramsar Site were to be lost to the proposed development, e.g. through reclamation, then the areas lost would have to be excised from the boundary of the Ramsar Site which would have to be redrawn.

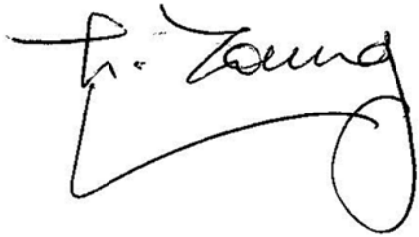
With reference to the Articles of the Ramsar Convention on Wetlands which are relevant to this case, it states that:

- Contracting Parties shall “...formulate and implement their planning so as to promote the conservation...” of their Ramsar Sites (Article 3.1);
- “Each Contracting Party shall consider its international responsibilities for the conservation, management and wise use of migratory stocks of waterfowl...” (Article 2.6);
- “Each Contracting Party shall arrange to inform the Ramsar Secretariat “...at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference.” (Article 3.2);
- Contracting Parties have the right to restrict the boundary of their Ramsar Site because of “...urgent national interests...” and to inform the Ramsar Secretariat “...at the earliest time...” if this were to happen (Article 2.5);
- “Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat.” (Article 4.2
- “If Contracting Parties make alterations to their list of Ramsar Sites or changes in the character of the Ramsar Sites, then the Secretariat will “...arrange for these matters to be discussed at the next Conference.” (Article 8.2d).

Therefore, the Government of the Commonwealth of Australia has an obligation to promote the conservation of the Moreton Bay Ramsar Site and to consider its international responsibilities for the conservation, management and wise use of the migratory shorebirds at the site. As the ecological character of the Site is now likely to change due to the proposed development, the Site will be placed under Article 3.2 notification. If the proposed development is approved and involves reclamation or development into the boundary of the Ramsar Site such that the boundary has to be restricted, then the Government is required to show that this need was due to ‘urgent national interest’ and to inform the Ramsar Secretariat as soon as possible. The Government should then, as far as possible, compensate for any loss of wetland resources, and in particular create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat. At the same time, the Ramsar Secretariat would then make arrangements for this matter to be discussed at the next Conference of Parties to the Convention.

I would be grateful if you can keep the Ramsar Secretariat updated about the decision of the Government concerning the proposed development.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'L. Young', with a large, stylized flourish at the end.

Lew Young  
Senior Regional Advisor for Asia-Oceania

cc **S47F** (Wetlands Section, Department of the Environment and Energy)

**Appendix 1:** Impact of the proposed developed on the criteria for which Moreton Bay was designated as a Ramsar Site

Ramsar designation criteria	Impact
<p>1b. Moreton Bay is one of the largest estuarine bays in Australia which are enclosed by a barrier island of vegetated sand dunes.</p>	<ul style="list-style-type: none"> <li>• According to the present Ramsar Information Sheet (RIS) for the Moreton Bay Ramsar Site, <i>“Image analysis of all intertidal areas in Moreton Bay, including Pumicestone Passage estimated that a total of 23,000 ha of tidal flats are exposed at low water datum characterised by marked differences in substrate type and species of waders present”</i>. If the proposed development will reclaim 40 hectares of tidalflats (Referral document, page 2, para.3, line 8), this will represent a loss of some 0.17% of the total area of tidal flats from the Ramsar Site. This compares with the reported loss of 0.007% of the area of intertidal mudflat in Morton Bay (Toondah Harbour Ramsar Wetland Assessment, Table 3, page 10).</li> <li>• The statement above from the RIS indicates that the tidalflats within the Ramsar Site is not homogenous and it cannot be expected that if important tidalflats for biodiversity is lost from the Ramsar Site due to the proposed project then those species will be able to easily find tidal flats of the same quality elsewhere.</li> </ul>
<p>1c Moreton Bay plays a substantial role in the natural functioning of a major coastal system through its protection from oceanic swells providing habitat for wetland development, receiving and channelling the flow of all rivers and creeks east of the Great Dividing Range from the McPherson Range in the south to the north of the D’Aguilar Range.</p>	
<p>2a Moreton Bay supports appreciable numbers of the <del>vulnerable</del> [endangered] green and [critically endangered] hawksbill turtles, the <del>endangered</del> [vulnerable] loggerhead turtle and is ranked among the top ten [vulnerable] dugong habitats in Queensland.</p> <p>(* the status of some of these species have changed since when the present Ramsar Information Sheet was drafted in 1999)</p>	<p><b>2017-7939 Referral document.pdf</b></p> <p><u>Section 2.3.1:</u></p> <ul style="list-style-type: none"> <li>• Loggerhead turtles, green turtles, Indo-Pacific humpback dolphins and dugongs are highly likely and hawksbill turtles are moderately likely to occur in the potential area of impact.</li> </ul> <p><u>Section 2.4.1:</u></p> <ul style="list-style-type: none"> <li>• <i>Loggerhead turtles:</i> Moreton Bay supports a significant feeding population of this species and they are moderately likely to occur in marine habitats within and adjacent to the Toondah Harbour project, particularly in the seagrass beds.</li> <li>• <i>Green Turtle:</i> They are often observed in the seagrass beds adjacent to the proposed project. Green turtles are highly likely to occur in marine habitats within and adjacent to the Toondah Harbour, particularly in the seagrass beds.</li> <li>• <i>Hawksbill Turtle:</i> Despite not providing critical habitat, there is a small resident population in Moreton Bay, and they may feed in, or traverse, the proposed project area. There is a</li> </ul>

	moderate likelihood that they occur in marine habitats within and adjacent to the PDA.
2b Moreton Bay supports over 355 species of marine invertebrates, at least 43 species of shorebirds, 55 species of algae associated with mangroves, seven species of mangrove and seven species of seagrass.	The documents provided shows that there will be loss of wetland habitat from the Ramsar Site with subsequent impact on the biodiversity.
2c It is a significant feeding ground for [endangered] green turtles and is a feeding and breeding ground for [vulnerable] dugong. The Bay also has the most significant concentration of young and mature [vulnerable] loggerhead turtles in Australia.	(see above following the criterion 2a)
3a Moreton Bay supports more than 50,000 wintering and staging shorebirds during the non-breeding season.	<p><b>2017-7939 Referral document.pdf</b></p> <ul style="list-style-type: none"> <li>• PDA area contains intertidal feeding habitat for a number of migratory shorebirds including the critically endangered Eastern Curlew, the critically endangered Great Knot and the vulnerable Bar-tailed Godwit (Western Alaskan) (Table 2.3.1).</li> <li>• Two high tide roost sites are located adjacent to the PDA (Nandeebie Claypan and Cassim Island). These areas have high importance to shorebirds in the region (Table 2.3.1).</li> <li>• The loss of intertidal feeding habitat for migratory shorebirds, including for threatened species, has the potential to lead to a corresponding decrease in the number of migratory shorebirds using the Moreton Bay wetlands (Table 2.4.1)</li> </ul> <p><b>2017-7939 Referral-Attached-8444_att_3_-toondah_harbour Ramsar wetland assessment.pdf</b></p> <ul style="list-style-type: none"> <li>• Project will directly impact shorebird feeding habitat, including an area that is of ‘high value’ (page 14, Fig.2);</li> <li>• Construction and operation impacts to the Cassim Island Shorebird Roost (page 14, Fig. 2);</li> <li>• “The project is likely to result in permanent impacts to a small area of shorebird feeding habitat as a result of dredging and reclamation works” (page 16, para. 5, line 1).</li> </ul>
3b At least 43 species of shorebirds use intertidal habitats in the Bay, including 30 migratory species listed by JAMBA and CAMBA.	(see above following the criterion 3a)
3c The Bay is particularly significant for the population of wintering [endangered] Eastern curlews (3,000 to 5,000) and the Grey-tailed tattler (more than 10,000), both substantially more than 1% of the known Flyway population.	<ul style="list-style-type: none"> <li>• During the summer months October 2014 to February 2015, an average of 4.8 and maximum of 7 Eastern Curlew were recorded feeding on mudflats within the study area. Eastern Curlews were recorded roosting at the Nandeebie Claypan roost site.</li> <li>• No mention is made in the documents about the presence of Grey-tailed tattler even though they are recorded by local birdwatching groups.</li> </ul>

s47F

---

**From:** s47F  
**Sent:** Friday, 23 June 2017 8:08 AM  
**To:** s47F  
**Subject:** FW: Walker Toondah Harbour Project (Commercial in Confidence)  
[SEC=UNCLASSIFIED]

FYI

---

**From:** Barker, James  
**Sent:** Friday, 23 June 2017 7:53 AM  
**To:** Taylor, Mark <Mark.Taylor@environment.gov.au>  
**Cc:** Tregurtha, James <James.Tregurtha@environment.gov.au>; Tregurtha, Margaret <Margaret.Tregurtha@environment.gov.au>; Cahill, Matt <Matt.Cahill@environment.gov.au>; s47F  
**Subject:** FW: Walker Toondah Harbour Project (Commercial in Confidence) [SEC=UNCLASSIFIED]

Mark, fri too and I'll call you to discuss the Ramsar issues (although these largely appear to be issues that we have previously discussed with Walker).

Sent with Good ([www.good.com](http://www.good.com))

---

**From:** Stephen Davis  
**Sent:** Thursday, 22 June 2017 6:24:41 PM  
**To:** Knudson, Dean  
**Cc:** Barker, James; Cahill, Matt  
**Subject:** Walker Toondah Harbour Project (Commercial in Confidence)

Greetings

We look forward to meeting with you tomorrow afternoon.

As promised, I set out below the questions / issues that we would like to discuss with you.

1. **Bilateral Agreement**

- Progress under Bilateral Assessment Agreement and likely time lines?

2. **Public Submissions**

- Is it possible to get a copy of public submissions on the referral to help Walker understand the key concerns?
- If not, can DoEE provide a summary of the organisations who made submissions and their key concerns?

3. **Ramsar Boundary**

- As a general comment, it is still not clear to me if a boundary change is needed, but what is the status of thinking around the proposed Ramsar boundary amendment discussion?
- Can DoEE explain why there is a need to change the Ramsar boundary?
- Is the best way of proceeding to put forward any proposed boundary changes in the draft EIS when it is released for public comment?

- Presumably the proposed offsets (and if boundary changes are needed to accommodate these) can be included as well in the draft EIS. That way it becomes fully public and people can comment. Is this the best approach?
- How does the timing of the Article 3.2 notification process correlate with the EIS and boundary adjustment processes?
- Or is it best to complete the boundary adjustment before the EIS under the bilateral?
- What would be the grounds for any change to the Ramsar boundary in the Toondah Harbour area? I think we would need clarity from DoEE on the basis and justification to be used for an excision or boundary changes (assuming the 'national interest' test does not apply). Part of the argument for the Moreton Bay Ramsar site) might be that: 'The boundaries of the Ramsar listing some 17 years ago were somewhat arbitrary. Since then more detailed study has clearly demonstrated that lower value habitat was included at the expense of high value habitat. Point Lillias, a rocky headland, is not high value habitat'.
- As the Administrative Authority, how does the Federal Government see its role in the boundary adjustment process?
- May we have a copy of the Ramsar Secretariat's submission on the EPBC referral so we can better understand their concerns (or a summary of them)?
- Does the federal department believe that the impacts to the ecological character of the Ramsar site will be difficult to mitigate and offset?
- Does DoEE intend to write to the Ramsar Bureau to inform them of the project and to reassure them about the assessment process and no net loss to the ecological character?

#### 4. Statement of reasons

We are reviewing the Statement of Reasons – many thanks for sending it to us.  
By tomorrow we may have some questions on the reasons.

Kind Regards,

**Stephen Davis** Chief Executive Partner



Melbourne | Sydney | Newcastle | Perth | Adelaide | Brisbane | Singapore  
Ho Chi Minh | Hong Kong | Auckland | Shanghai | Jakarta | Bangkok

#### Melbourne

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s47F on behalf of "Knudson, Dean"

<[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>

**Date:** Friday, 16 June 2017 at 1:37 pm

**To:** Stephen Davis <[stephen.davis@davisadvisory.com.au](mailto:stephen.davis@davisadvisory.com.au)>

**Cc:** "Barker, James" <[James.Barker@environment.gov.au](mailto:James.Barker@environment.gov.au)>, "Cahill, Matt"

<[Matt.Cahill@environment.gov.au](mailto:Matt.Cahill@environment.gov.au)>, "Tregurtha, Margaret" <[Margaret.Tregurtha@environment.gov.au](mailto:Margaret.Tregurtha@environment.gov.au)>,

s47F

**Subject:** RE: Walker Toondah Harbour Project [SEC=UNCLASSIFIED]

Hello Stephen,

I have limited options next week, are you and Peter available to meet with Dean on Friday 23 June @ 2.00pm – 2.30pm?

Regards,

s47F

a/g Executive Assistant to Dean Knudson  
Deputy Secretary  
Environment Protection Group  
Department of the Environment and Energy  
Ph: s47F

---

**From:** Stephen Davis [<mailto:stephen.davis@davisadvisory.com.au>]

**Sent:** Friday, 16 June 2017 12:46 PM

**To:** Knudson, Dean <[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>; Barker, James <[James.Barker@environment.gov.au](mailto:James.Barker@environment.gov.au)>; Cahill, Matt <[Matt.Cahill@environment.gov.au](mailto:Matt.Cahill@environment.gov.au)>

**Subject:** Re: Walker Toondah Harbour Project

Greetings

Sorry Peter Saba can no longer do Thursday next week but are there other days when you are free?

Kind Regards,

**Stephen Davis** Chief Executive Partner

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**From:** Stephen Davis <[stephen.davis@davisadvisory.com.au](mailto:stephen.davis@davisadvisory.com.au)>

**Date:** Friday, 16 June 2017 at 11:51 am

**To:** "Knudson, Dean" <[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>, "Barker, James" <[James.Barker@environment.gov.au](mailto:James.Barker@environment.gov.au)>, "Cahill, Matt" <[Matt.Cahill@environment.gov.au](mailto:Matt.Cahill@environment.gov.au)>

**Subject:** Re: Walker Toondah Harbour Project

Greetings

I trust you are well.

Peter Saba and I were wondering if you had time next Thursday for a meeting at your offices, just to recap on where we are and what lies ahead and to discuss the way forward.

We have a few questions we would like to clarify.

We can fit in with you re timing.

Kind Regards,

**Stephen Davis** Chief Executive Partner

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s47F

---

**From:** s47F  
**Sent:** Friday, 14 July 2017 4:53 PM  
**To:** s47F  
**Cc:** de Brouwer, Gordon; Knudson, Dean; Tregurtha, James; Papps, David; s47F ; Taylor, Mark; Barker, James  
**Subject:** Letter to Manager of Moreton Bay Ramsar Site [SEC=UNCLASSIFIED]  
**Attachments:** MS17-000835.docx; Letter to QLD Minister EHP - Miles.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

s47F

As discussed with James Barker, attached is the Letter to Minister Miles and the supporting briefing.

Cheers,

s47F

PDR: MS17-000835

Copy to:  
Secretary  
Mr Knudson  
Mr Papps  
Mr Oxley  
Ms Tregurtha  
Mr Taylor  
Mr Richardson

**To:** Minister for the Environment and Energy (For Decision)

**LETTER TO MANAGER OF THE MORETON BAY RAMSAR SITE**

**Through:** James Tregurtha, A/g First Assistant Secretary, Environment Standards Division.

**Timing:** As soon as possible to allow for timely engagement with Queensland.

Chief of Staff  
Mr Thomas  
Mr Richards

**Recommendation:**

1. That you sign the letter to the Queensland Minister for Environment and Heritage Protection, the Hon Steven Miles (**Attachment A**), seeking advice on how the Queensland Government proposes to address the potential impacts of the Toondah Harbour development on the Moreton Bay Ramsar wetland.

**Signed / Not signed**

**Minister:**

**Date:**

**Comments:**

<b>Clearing Officer:</b>	James Barker	Assistant Secretary, ESD	Ph: 02 6274 2694
Sent: 14/7/2017			Mob: s47F
Contact Officer:	s47F	Director, Queensland Assessments North	Ph: s47F

**Key Points:**

1. On 8 June 2017, you decided that the Toondah Harbour Development is a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In making this decision, you wrote to the Queensland Deputy Premier, and the Minister for Environment and Heritage Protection, noting that there are significant challenges relating to the approval of this project.
2. The Department has briefed you separately (MS17-000477) to call to the Queensland Deputy Premier about these issues. The Queensland Deputy Premier has responsibilities relating to the proposed Toondah Harbour development, because the development is in a declared 'Priority Development Area' under the Queensland *Economic Development Act*.
3. The Department recommends that you also write to the Hon Steven Miles as the Queensland Minister with portfolio responsibility for management of the Moreton Bay Ramsar wetland, seeking advice on how the Queensland Government proposes to address the potential impacts of the Toondah Harbour development on that wetland.

**Attachment**

**A:** Letter to the Queensland Minister for Environment and Heritage Protection, the Hon Steven Miles.



**THE HON JOSH FRYDENBERG MP**  
**MINISTER FOR THE ENVIRONMENT AND ENERGY**

MS17-000835

The Hon Steven Miles MP  
Minister for Environment and Heritage Protection  
GPO Box 2454  
BRISBANE QLD 4001

Dear Minister

I am writing further to my recent letter notifying you of my controlled action decision for the proposed Toondah Harbour development (EPBC 2017/7939). I am writing to you as the Queensland Minister responsible for the management of the Moreton Bay Ramsar wetland as well as the Moreton Bay Marine Park (which shares a largely similar footprint).

In that letter, I mentioned that there are significant challenges relating to the approval of this project. These relate to the proposal being located substantially within the Moreton Bay Ramsar wetland boundary and my obligations, under s.138 of the *Environment Protection and Biodiversity Conservation Act 1999*, not to act inconsistently with Australia's obligations under the Ramsar Convention. Under the Ramsar Convention, Australia has a responsibility to maintain or enhance the ecological character of its Ramsar-listed wetlands.

I am now writing to seek your agreement to Queensland working with the Commonwealth to inform the development of proposals to ensure that the proposed Toondah Harbour development can maintain the ecological character of the Moreton Bay Ramsar wetland.

One option that may arise is for a case to be developed to amend the boundary of the Ramsar wetland. To meet Australia's obligations under the Ramsar Convention, any such proposal is required to demonstrate that the change is in the 'urgent national interest', and that additional areas of compensatory habitat could be included in a revised boundary. Such a proposal would need to be substantial in terms of scale (hectares to be protected), quality (of new protected habitat), management (such as measures to minimise threats to migratory birds), and could include proposals to enhance public awareness of the ecological values of the site (such as an interpretive centre). Any proposed boundary change would need to have a clear benefit to the ecological character of the wetland as a whole.

I have asked officers of the Ramsar Administrative Authority, in the Department of the Environment and Energy, to provide information to and cooperate with Queensland officials to allow these matters to be fully considered. Any proposed case would need to be assessed and endorsed by Queensland, as the property manager, prior to submission to the Commonwealth. Through this process, I would expect that Commonwealth officials would provide advice to Queensland on the capacity of any developed proposals to fully address Australia's international obligations, in advance of any case being presented for my consideration.

Questions about this process can be directed in the first instance to Mr David Papps, the Ramsar Administrative Authority, by email: [David.Papps@environment.gov.au](mailto:David.Papps@environment.gov.au) or phone: 02 6275 9245.

Yours sincerely

JOSH FRYDENBERG

**s47F**

---

**From:** Tregurtha, James  
**Sent:** Thursday, 13 July 2017 6:20 PM  
**To:** Knudson, Dean; Papps, David; **s47F** Taylor, Mark; Barker, James; **s47F**  
**Cc:** **s47F**  
**Subject:** Toondah, Letter to QLD Minister EHP - Miles-Wetlands Edit [DLM=For-Official-Use-Only]  
**Attachments:** Letter to QLD Minister EHP - Miles-Wetlands Edit.docx

Hi all,

In advance of our meeting tomorrow morning and following a conversation I have had with Greg Chermello this afternoon I have made some further edits to the proposed letter (in track changes in the attached building on the draft James circulated last week.

I have also had a brief discussion with John about this this afternoon, but have not yet had a chance to discuss with others.

I will bring some marked hard copies with me for discussion at the meeting tomorrow.

Regards  
James

James Tregurtha  
Acting First Assistant Secretary  
Environment Standards Division  
Department of the Environment and Energy  
Tel: 6274 1077  
Mob: **s47F**

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The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

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**From:** Barker, James  
**Sent:** Wednesday, 5 July 2017 7:16 PM  
**To:** Taylor, Mark <Mark.Taylor@environment.gov.au>; **s47F**  
**Cc:** **s47F** Papps, David <David.Papps@environment.gov.au>; Tregurtha, James <James.Tregurtha@environment.gov.au>  
**Subject:** RE: Toondah, Letter to QLD Minister EHP - Miles-Wetlands Edit [DLM=For-Official-Use-Only]

Hi John

Following some further discussion with James T, I've made some further potential revisions to this letter, indicated in yellow on the enclosed. I've also enclosed the short covering brief for completeness.

I'll give you a call tomorrow to discuss this.

Thanks



James

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**From:** Barker, James  
**Sent:** Friday, 23 June 2017 12:01 PM  
**To:** Tregurtha, James <[James.Tregurtha@environment.gov.au](mailto:James.Tregurtha@environment.gov.au)>  
**Cc:** Taylor, Mark <[Mark.Taylor@environment.gov.au](mailto:Mark.Taylor@environment.gov.au)>; Papps, David <[David.Papps@environment.gov.au](mailto:David.Papps@environment.gov.au)>; s47F  
[REDACTED]  
**Subject:** RE: Letter to QLD Minister EHP - Miles-Wetlands Edit [DLM=For-Official-Use-Only]

James

As discussed, grateful for your review of this, and it would be something to flag with Dean at your catch up with him (or in the margins of the meeting this afternoon with Walker Group). I'll run down a hard copy too.

You may recall that we discussed doing this letter at our last Advisers meeting. The briefing for this letter does not go into detail on the issues, as these were covered in previous briefing.

s42

Thanks  
James

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**From:** Barker, James  
**Sent:** Thursday, 22 June 2017 12:59 PM  
**To:** Taylor, Mark <[Mark.Taylor@environment.gov.au](mailto:Mark.Taylor@environment.gov.au)>  
**Cc:** s47F  
[REDACTED] Tregurtha, James <[James.Tregurtha@environment.gov.au](mailto:James.Tregurtha@environment.gov.au)>;  
Papps, David <[David.Papps@environment.gov.au](mailto:David.Papps@environment.gov.au)>; s47F  
[REDACTED]  
**Subject:** RE: Letter to QLD Minister EHP - Miles-Wetlands Edit [DLM=For-Official-Use-Only]

Thanks Mark. Those changes look good. I will give you a call to follow up. We've done a short cover brief for it too, now enclosed with the revised letter.

s42

Thanks

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**From:** Taylor, Mark  
**Sent:** Thursday, 22 June 2017 11:36 AM  
**To:** Barker, James <[James.Barker@environment.gov.au](mailto:James.Barker@environment.gov.au)>  
**Cc:** s47F  
[REDACTED] Tregurtha, James <[James.Tregurtha@environment.gov.au](mailto:James.Tregurtha@environment.gov.au)>;  
Papps, David <[David.Papps@environment.gov.au](mailto:David.Papps@environment.gov.au)>  
**Subject:** Letter to QLD Minister EHP - Miles-Wetlands Edit [DLM=For-Official-Use-Only]

Hi James

We've provided a moderate edit which is oriented to putting the ball firmly into Queensland's court on how they propose to deal with the Ramsar related issues of the Toondah Harbour project, while mapping out the sorts of issues they'd need to consider in any proposal for boundary change.

We suggest changing the contact officer for Ramsar issues as they are probably best dealt with by us (rather than the EPBC process associated with the project). It may be more sensible that Qld consider all these issues (as well as the Art 3.2 issues) in the context of an Environmental Impact assessment – but that is a matter we can discuss with Qld EHP colleagues.

On that point, following my update to you on Toondah's mentions at the recent Ramsar Standing Committee, it's worth noting that the Ramsar site now sits on the Art 3.2 list – for projects where there has been a third party reports of "...human-induced negative changes having occurred, occurring **or likely to occur**...". Inclusion on this list does not imply that the Conference of the Contracting Parties, Secretariat or Party concerned considers that a given site is necessarily facing negative change.

Be useful to talk over when you're free

Cheers

Mark

**Mark Taylor** | Assistant Secretary | Wetland Policy and Northern Water Use  
Commonwealth Environmental Water Office | Department of the Environment and Energy

p: 02 6274 1904

e: [mark.taylor@environment.gov.au](mailto:mark.taylor@environment.gov.au) |

*The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present*



**s47F**

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**From:** Barker, James  
**Sent:** Tuesday, 4 July 2017 12:36 PM  
**To:** Tregurtha, James  
**Cc:** s47F  
**Subject:** RE: Toondah [SEC=UNCLASSIFIED]  
**Attachments:** MS17-000835.docx; Letter to QLD Minister EHP - Miles-Wetlands Edit.docx

Thanks. Revised brief and letter are enclosed. s47F is looking to find time for us to touch base with Greg (poss tomorrow if he is available). I had flagged this letter generally with Greg a couple of weeks ago, before he went on leave, but at that stage did not have a draft.

After we've discussed with Greg, I'll also touch base with EHP as the letter is to their Minister. Greg may know the right contact. Greg's Minister is the Deputy Premier.

-----Original Message-----

**From:** Tregurtha, James  
**Sent:** Tuesday, 4 July 2017 12:18 PM  
**To:** Barker, James <James.Barker@environment.gov.au>  
**Cc:** s47F  
**Subject:** Toondah

Hi James,

Dean has asked me to walk Greg Chermello through the Toondah letter before we send it up. If it hasn't gone already can you please give me a copy of the final and hold on the brief until I've made that call.

Thanks  
James

Sent from my iPhone

s47F

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**From:** Tregurtha, James  
**Sent:** Tuesday, 27 June 2017 4:00 PM  
**To:** Barker, James  
**Cc:** s47F  
**Subject:** FW: Input for James T catch up Tuesday pm with s47F  
[SEC=UNCLASSIFIED]

Hi James,  
I will raise this with s47F but intend to remain non-committal. I would like to discuss the approach again before we finalise.  
Thanks  
James

---

**From:** s47F  
**Sent:** Tuesday, 27 June 2017 3:07 PM  
**To:** Tregurtha, James <James.Tregurtha@environment.gov.au>  
**Subject:** FW: Input for James T catch up Tuesday pm with s47F [SEC=UNCLASSIFIED]

FYI – no other responses received.

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**From:** Barker, James  
**Sent:** Monday, 26 June 2017 5:10 PM  
**To:** s47F  
**Subject:** RE: Input for James T catch up Tuesday pm with s47F [SEC=UNCLASSIFIED]

Hi s47F just one for me, thanks.

- We will provide a brief this week for the Minister to write to the Qld Environment Minister regarding the Toondah harbour proposal, and whether Qld are seeking to pursue a case for a boundary change to the Moreton Bay wetland.

---

**From:** s47F  
**Sent:** Monday, 26 June 2017 3:33 PM  
**To:** Collins, Monica <Monica.Collins@environment.gov.au>; Barker, James <James.Barker@environment.gov.au>; s47F  
**Cc:** s47F  
**Subject:** Input for James T catch up Tuesday pm with s47F [SEC=UNCLASSIFIED]

Hi all

If there is anything you would like raised in James' call with s47F tomorrow afternoon, please let me know and I will pass this on to James.

Kind regards,

s47F

a/g Executive Assistant to:

James Tregurtha

a/g First Assistant Secretary

Environment Standards Division

**Department of the Environment and Energy**

51 Allara St | GPO Box 787, Canberra ACT 2601

s47F

s47F

**From:** s47F  
**Sent:** Tuesday, 27 June 2017 3:55 PM  
**To:** Tregurtha, James  
**Subject:** RE: Input for James T catch up Tuesday pm with s47F  
 [SEC=UNCLASSIFIED]

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Just had more input come through for MO call this afternoon. Consolidated input is as follows:

From s47F

**Proposed decision for mining exploration on Christmas Island**

- The proposed approach was to approve 19 of the 44 exploration lines
- General counsel raised some concerns about some of the conditions that give effect to this (refer attached)
- We are working through the options with general counsel (James meeting Margaret on Thursday). Options are:
  - Proceed as planned with a condition that prevents clearing of the remaining 25 lines
  - Apply strict rehab conditions and a bond to the remaining 25 lines
  - Seek to renegotiate the scope of the action (the company has effectively already rejected)
- Will update at advisers on Thursday after we talk with general counsel

From James Barker

- We will provide a brief this week for the Minister to write to the Qld Environment Minister regarding the Toondah harbour proposal, and whether Qld are seeking to pursue a case for a boundary change to the Moreton Bay wetland.

Kind regards,

s47F

a/g Executive Assistant to:  
 James Tregurtha  
 a/g First Assistant Secretary  
 Environment Standards Division

**Department of the Environment and Energy**

51 Allara St | GPO Box 787, Canberra ACT 2601

s47F

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**From:** s47F  
**Sent:** Tuesday, 27 June 2017 3:42 PM  
**To:** s47F  
**Cc:** Tregurtha, James <James.Tregurtha@environment.gov.au>; s47F  
**Subject:** RE: Input for James T catch up Tuesday pm with s47F [SEC=UNCLASSIFIED]

Hi s47F

As discussed, one issue for James to mention to s47F at 4.

Cheers

s47F

#### Proposed decision for mining exploration on Christmas Island

- The proposed approach was to approve 19 of the 44 exploration lines
- General counsel raised some concerns about some of the conditions that give effect to this (refer attached)
- We are working through the options with general counsel (James meeting Margaret on Thursday). Options are:
  - Proceed as planned with a condition that prevents clearing of the remaining 25 lines
  - Apply strict rehab conditions and a bond to the remaining 25 lines
  - Seek to renegotiate the scope of the action (the company has effectively already rejected)
- Will update at advisers on Thursday after we talk with general counsel

---

**From:** s47F

**Sent:** Monday, 26 June 2017 3:33 PM

**To:** Collins, Monica <[Monica.Collins@environment.gov.au](mailto:Monica.Collins@environment.gov.au)>; Barker, James <[James.Barker@environment.gov.au](mailto:James.Barker@environment.gov.au)>;

s47F

**Cc:** s47F

**Subject:** Input for James T catch up Tuesday pm with s47F [SEC=UNCLASSIFIED]

Hi all

If there is anything you would like raised in James' call with s47F tomorrow afternoon, please let me know and I will pass this on to James.

Kind regards,

s47F

a/g Executive Assistant to:

James Tregurtha

a/g First Assistant Secretary

Environment Standards Division

**Department of the Environment and Energy**

51 Allara St | GPO Box 787, Canberra ACT 2601

s47F



**THE HON JOSH FRYDENBERG MP**  
**MINISTER FOR THE ENVIRONMENT AND ENERGY**

MS17-000835

The Hon Steven Miles MP  
Minister for Environment and Heritage Protection  
GPO Box 2454  
BRISBANE QLD 4001

Dear Minister

In my recent correspondence notifying you of my controlled action decision for the Toondah Harbour Development (EPBC 2017/7939) I mentioned that there are significant challenges relating to the approval of this project.

I have since spoken with the Deputy Premier, the Hon Jackie Trad MP, about these challenges. These relate to the project proposal being located substantially within the Moreton Bay Ramsar wetland boundary and my obligations, under s.138 of the *Environment Protection and Biodiversity Conservation Act 1999*, not to act inconsistently with Australia's obligations under the Ramsar Convention. Under the Ramsar Convention, Australia has a responsibility to maintain or enhance the ecological character of its Ramsar listed wetlands.

I am writing to you as the Minister responsible for the ~~State's~~ management of the Moreton Bay Ramsar wetland, as well as the Moreton Bay State Marine Park (which shares a largely similar footprint), to ask that you provide me with advice on how the Queensland Government proposes-

~~Under the Ramsar Convention, Australia has a responsibility to maintain or enhance the ecological character of its Ramsar listed wetlands. We invite Queensland to put forward a proposal on how to address the potential impacts of the Toondah Harbour development on the Ramsar site in order to maintain its ecological character.~~

One option I understand that the Queensland Government may wish to be could consider ~~ing~~ is making a case to amend the boundary of the Ramsar wetland. To meet Australia's obligations under the Ramsar Convention, any such proposal would need to demonstrate that the change is in the 'urgent national interest', and that additional areas of compensatory habitat ~~other areas of better environmental value~~ could be included in a revised boundary. ~~The~~ Such a proposal would need to be substantial in terms of scale (hectares to be protected), quality (of new protected habitat), ~~and~~ management (such as measures to minimise ~~d~~ threats to migratory birds), and could include proposals to enhance public awareness of the ecological values of the site (such as an interpretive centre). ~~Any~~ The ~~propos~~ ed boundary change would ~~it~~ need to have a clear benefit to the ecological character of the wetland as a whole.

~~I would consider advice from the Ramsar Administrative Authority on such a proposal. If, having considered such a proposal and taken~~ If advice from the Ramsar Administrative



Authority, it is considered ~~that a proposal for~~ a boundary change is justified and environmental benefits are clear, I can decide to change the boundary of the Ramsar wetland and Australia's Ramsar Administrative Authority would notify the Ramsar Secretariat. ~~If the boundary is extended into areas in private ownership, I would need to seek to reach agreement with the owners would be required before the boundary change can be made.~~ Any change of a Ramsar boundary would need to be notified to the Ramsar Secretariat and be considered at the next Conference of the Parties.

I have asked officers within the Ramsar Administrative Authority to provide information to Queensland officials to allow these matters to be fully considered.

Questions about this process can be directed in the first instance to Mr Mark Taylor, Assistant Secretary within the Commonwealth Environmental Water Office, by email: mark.taylor@environment.gov.au or phone: 02 6274

1904

Commented [TM1]: I suspect that it is better that we are contacts for the Ramsar issues and the Q EHP – we will in all likelihood be talking to our colleagues there in any event.

Yours sincerely

JOSH FRYDENBERG

## Toondah Harbour – EPBC Referral Briefing Note

### Department of the Environment and Energy Comments

#### KEY ISSUES

##### General Comments

As a general caveat, in the available time we have not been able to thoroughly consider the full implications of the proposed methodology to the requirements of the Ramsar Convention, its resolutions or Australia's National Guidance.

The principal concern about the current version of the Toondah Harbour EPBC Referral Briefing Note, provided by the project proponents on 21 April 2017, is that it concentrates exclusively on the values that contributed to the site's listing and does not consider that ecological character is defined by the Ramsar Convention as 'the combination of the ecosystem components, processes, benefits and services that characterise the wetland at a given point in time'. The effect of this narrower focus is that broader impacts on the ecosystem, beyond the specific impacts on key threatened species at the site, are not adequately addressed.

It also appears that the methodology does not appropriately consider the Significant Impact Criteria:

*A 'significant impact' is an impact which is important, notable, or of consequence, having regard to its context or intensity. Whether or not an action is likely to have a significant impact depends upon the sensitivity, value, and quality of the environment which is impacted, and upon the intensity, duration, magnitude and geographic extent of the impacts. You should consider all of these factors when determining whether an action is likely to have a significant impact on matters of national environmental significance.*

There is no consideration of the broader geographic extent of the impacts, or the project's 'area of influence', beyond the projected impact of the proposal on roosting sites for seabirds, including the Eastern Curlew. The 'area of influence' should be considered for each significant impact criteria and be backed by scientific evidence. The methodology set out in the Note does not adequately assess cumulative, facilitated or indirect impacts. In this context, the document focuses on impacts during the construction phase, but there is insufficient detail of impacts of on-going operation of the marina/accommodation/harbour, including the impact of the presence and activities of increased numbers of residents and tourists on the Ramsar site and increased boat activity – this includes action of pollutants, increased noise and light, impact on dislocation between roosting and feeding sites etc).

Similarly there is little consideration of how the nature of the dredge spoil (which is of unknown quality/quantity) will be assessed as fit for purpose for either residential development or as potential additional habitat (if it is proposed that the spoil is used as fill for the development).

It would be useful if the methodology provided a clarity on how it will address the following key questions provided in the significant impact guidelines:

*1. Are there any matters of national environmental significance located in the area of the proposed action (noting that 'the area of the proposed action' is broader than the immediate location where the action is undertaken; consider also whether there are any matters of national environmental significance adjacent to or downstream from the immediate location that may potentially be*

*impacted)? (Note: The methodology deals with Ramsar but does not adequately cover migratory species as per their specific significant impact criteria).*

*2. Considering the proposed action at its broadest scope (that is, considering all stages and components of the action, and all related activities and infrastructure), is there potential for impacts, including indirect impacts, on matters of national environmental significance?*

*3. Are there any proposed measures to avoid or reduce impacts on matters of national environmental significance (and if so, is the effectiveness of these measures certain enough to reduce the level of impact below the 'significant impact' threshold)?*

*4. Are any impacts of the proposed action on matters of national environmental significance likely to be significant impacts (important, notable, or of consequence, having regard to their context or intensity)?*

### **Specific Comments**

#### **P1 Description of the Action**

Para 2 – It is misleading to say that the development will be carried out within the Toondah Harbour PDA, as elements will be outside that boundary, both the reclaimed areas and the access channel.

Para 3 – “Many of these have been excised ... from the Moreton Bay Ramsar site”. This statement is not accurate. Those areas were not included within the site when the boundary was established in the nomination documents, and so have not subsequently been excised.

Para 4 – If dredging will continue after the development of the reclaimed areas, then those ongoing impacts should be included as part of the design of the project, and in the consideration of longer-term impacts on the wetland.

#### **P2 Potential to Impact on MNES**

Para 2 – This para should include the specific areas (in hectares) of overlap of the PDA and the project development area with the Ramsar site.

Para 5 – The Ecological Character is not necessarily only the values that contributed to the listing of the site. The Ramsar Convention definition of “ecological character” should be provided – “the combination of the ecosystem components, processes, benefits and services that characterise the wetland at a given point in time” (Ramsar Convention 2005a, Resolution IX.1 Annex A).

Reference should also be made to guidance from National Guidelines re critical components, processes and services, and definitions under the Significant Impact Guidelines.

The focus on listing criteria leads to a narrower consideration of values. Most elements included by the proponent in this list of categories are “components”; they do not relate to functions and services, such as the impacts of intensification of use at the site and in the Bay on ecosystem function and services (sedimentation and erosion control, tidal flows, species populations, life cycles and reproduction, nutrient cycling, natural hazard reduction)

Para 5

Estuarine/intertidal areas – issue is not extent, but ecosystem function. Including impacts on water and sediment flows, food/nutrient dynamics, impacts on the life cycles of crabs and mangrove-dwelling fish etc

Coastal and sub-coastal vegetation – this should include mangroves

Migratory shorebirds – On the basis of the information provided, we do not agree with the assessment of this as minor significance

Marine fauna habitat – need to provide justification/evidence as to value of this habitat compared with other habitats in Moreton Bay

Para 6 – Significant Impact Guidelines identify a significant impact if the action will result in areas of the wetland being destroyed or substantially modified.

Para 7 – Need to provide scientific evidence for adequacy of buffers proposed for relevant shorebirds and particular activities.

Para 8 – Provide details of how lighting strategies, barriers and vegetation screening will be managed. What will happen in the off-season?

Para 9 – Need assurances that the material to be dredged will not be contaminated, if dredge spoil will be used either in the development or as base material for areas of proposed replanting/ new habitat.

Migratory and threatened species - Table 1 – Bar-tailed godwits – are comparisons of numbers being made on the same basis (ie timing, monitoring methods etc)

### **Att 1 P1 - Assessment of Potential Impacts on the Ecological Character of the Moreton Bay Ramsar Wetlands from the Toondah Harbour Project**

P5 Local Scale Assessment

Para 1 – needs to consider the critical processes, services and benefits (broader than just attributes)

P7 Contribution to ecological character

Any loss is to be avoided under the Ramsar Convention. Ramsar sites are listed to protect wetlands of international importance, and the intention is that all of the wetland within that site is protected.

Para 1 – The area of impact has not been appropriately defined, except narrowly eg with relation to roosting sites. Needs to consider the broader functions of the site (and the long-term impacts of both construction and operation, including the impact of the presence and activities of more residents and tourists).

Table 3 –

Estuarine/intertidal areas – recognises that seagrass has seen loss due to changes water quality. Dredging and potential run-off from the development are likely to impact on seagrasses.

Migratory shorebirds - The proximity of the two breeding sites to the development needs to be checked, both in terms of the likely impacts of construction disturbance, and on-going operation of the facility.

Dugong – impact may have been under-estimated.

### **Determination of Significant Impacts**

Areas of wetland being destroyed or substantially modified The Ramsar Convention is designed to halt the loss of wetlands. The activity (both dredging and land formation) is within the Moreton Bay Ramsar site, and will destroy areas of wetland (which is defined as including coastal areas, intertidal areas and marine areas up to 6 metres deep). This criterion for significant impact has not been sufficiently considered.

A substantial and measurable change in the hydrological regime of the wetland

A change in the hydrology of part of the wetland is recognised and could still be significant, even if it does not affect the whole area of the Ramsar site – an assessment needs to be made of any likely changes and their proposed management.

The habitat or lifecycle of native species being seriously affected

The significance of impacts to shorebird feeding habitat needs to be assessed in terms of the likelihood that displaced birds could/would use alternative habitats, and the numbers of particular species being affected, particularly endangered species.

Substantial and measurable change in the water quality of the wetland

The impacts of the ongoing dredging need to be assessed.

The impacts of potential water pollution from a large marina need to be assessed

A map of acid sulfate soils overlaid on the area of the development needs to be provided and some assessment made.

**Attachment 2 - Method for assessing impacts on the ecological character of a Ramsar Wetlands – Moreton Bay**

This methodology looks only at attributes (or components), not processes/functions and services/benefits.

Under commitments, the Note selectively quotes the Ramsar Convention. It does not recognise Convention Article 3.1 and overarching commitment that “The Contracting Party shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory.” This project is inconsistent with the obligation to promote the conservation of listed wetlands, as it destroys part of the wetland.

The Note is also selective in failing to reflect on or consider Resolutions of the Ramsar Convention’s Conference of Parties, to which Australia is committed – To avoid negative impacts on the ecological character of Ramsar sites as a primary step in any wetland management approach (then mitigate, then compensate).

1. Using this Methodology

The “Zone of influence” is much broader than has been recognised in this document. The activity of residents, boat owners and tourists (including noise, light, pollution, disturbance, water activities within the Bay) will extend much further than the PDA and its surrounds.