

**Date : 29/01/2021 5:22:58 PM**  
**From : "ROWLAND Philip"**  
**To : "LOVEDAY Chris"**  
**Subject : Proposed Toondah Harbour Development**  
**Attachment : Proposed Toondah Harbour Development.docx;**  
Chris

Attached is the schedule of approvals needed from DES for Toondah Harbour. It was done in Dec 2018. Mike Ronan is sending me a more recent (and shorter) update although most of the content in the attachment is still current.

Can't find a decent flow chart of the EPBC EIS process. I'll keep looking or craft something up - badly.

Regards

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## Proposed Toondah Harbour Development

### DES advice on key approvals

The following is a list of key approvals administered by Department of Environment and Science (DES) that may be required for the proposed Toondah Harbour development to proceed. The information is provided to assist the project facilitation team at Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) to investigate potential assessment processes for the proposed Toondah Harbour development. It is based on the project described in the referral to the Commonwealth Department of Environment and Energy on the 5 June 2018 under the Commonwealth *Environmental Protection Biodiversity and Conservation Act 1999* (EPBC XX/2018). It is the proponent's responsibility to identify and obtain all relevant approvals.

It does not address approvals that may be required as part of the Priority Development Area under the *Economic Development Act XXX*.

Approvals required for Toondah Harbour may include:

- Environmental authority for dredging - ERA 16 (1)(c) for dredging of more than 100,000, but not more than 1,000,000, tonnes of material in a year (*Environmental Protection Act 1994*)
- Material change of use for an environmentally relevant activity (ERA) (*Planning Act 2016*)
- Development approval-tidal works or works within a coastal management district, removal, destruction or damage of marine plants and waterway barrierworks (*Planning Act 2016*)
- Allocation of quarry material permit (*Forestry Act 1959* and *Coastal Management and Protection Act 1995*)
- Marine park permit (*Marine Park Act 2004*)

### Summary of key approvals

Aspect	Legislation	Approval	Delegate	
Shipwreck	<i>Queensland Heritage Act 1992</i>	Permission to interfere with an underwater cultural heritage artefact.		There is a historic shipwreck called the 'Toondah' located on Cassim Island immediately adjacent to the Fision channel which is proposed to be dredged as part of the project. The Toondah shipwreck is protected under Section 91 of the QH Act. Written consent by DES is required to undertake any activity that may interfere with an

				underwater cultural heritage artefact. The definition of an underwater cultural heritage artefact includes historic shipwrecks.
Dredging	<i>Environmental Protection Act 1994</i>	Environmental Authority (EA) for dredging (ERA 16)	DES	Environmentally Relevant Activity (ERA) 16 (1)(c) for dredging of more than 100,000, but not more than 1,000,000, tonnes of material in a year (
Marine parks permits	<i>Marine Parks Act 2004 and Marine Parks Regulation 2017</i>	Marine parks permits	DES	Works within the Moreton Bay Marine Park will require a permit under the <i>Marine Parks Act 2004</i> from DES
Allocation of quarry material	<i>Coastal Protection and Management Act 1995</i>	Allocation of quarry material	DES	Previous EPBC referrals for the project previously mentioned the potential need to source reclamation material from Middle Banks. If the current referral requires reclamation material to be sourced from this location, an allocation of quarry material would be required for this site. A development approval, for operational works that is tidal works, and as EA for dredging at this location would also be required prior to the taking of quarry material from Middle Banks.
<p><b>Revocation of part of the Moreton Bay (MB) Marine Park.</b></p> <p>There are 3 different processes that could be followed. All processes would need to result in revocation of the marine park as reclaimed land is inconsistent with the use of the Marine Park. The preferred process is the revocation of part of the Marine Park upfront (process 1). The other two processes are significantly more resource and time intensive and the revocation would not occur until after the development has been completed and DES is satisfied with the reclamation.</p> <p>All processes would require the proponent to conduct an environmental impact statement (or similar) document to be assessed under Government EIS process, extensive public consultation and justification that the development is in the interest of the State in terms of economic and social benefits. Compensatory measures (i.e. offsets would likely also be required).</p>				
1. Upfront revocation of park of the MB Marine Park	<i>Marine Parks Act 2004 and Marine Parks Regulation 2017 and Marine Park (Moreton Bay) Zoning Plan 2008</i>	Revocation of part of the MB Marine Park	Legislative Assembly	This is the preferred process. Upfront revocation of part of the MB Marine Park under the Marine Parks Act (preferred process) which would need to be passed by the legislative assembly.
2. Permission to reclaim part of the MB Marine	<i>Marine Parks Act 2004 and Marine Parks Regulation 2017 and Marine Park</i>	1. Permission to reclaim part of the MB Marine Park		Process would include: Proponent seeks approval from XX to reclaim part of the MB Marine Park (by X) → proponent conducts reclamation → State Government signs-off that the reclamation is

Park and then revocation.	<i>(Moreton Bay) Zoning Plan 2008</i>	2. Revocation of the MB Marine Park (after the development is completed)		satisfactory → State Government XXX part of the MB Marine Parks is revoked.
3. Amend the MB Marine Park Zoning Plan to declare works area and then revocation of the area from the Marine Park	<i>Marine Parks Act 2004 and Marine Parks Regulation 2017 and Marine Park (Moreton Bay) Zoning Plan 2008</i>	1. Amend the MB Marine Park Zoning Plan to declare works area 2. Revocation of the area from the Marine Park (after the development is completed)		Process would include: Proponent seeks approval from DES to reclaim part of the MB Marine Park → DES seeks approval to amend MB Marine Park Zoning Plan to designate a 'works area' → proponent conducts reclamation → State Government signs-off that the reclamation is satisfactory → State Government begins process to revoke part of the MB Marine Park (see process 1).
For areas outside of the PDA				
Dredging	Environmental Protection Act 1994 Planning Act	MCU for ERA 16	DES	Dredging to be undertaken outside of the PDA may will require a material change of use for an ERA (dredging) under the Planning Act 1996. Dredging to be undertaken inside of the PDA will not require a material change of use for an ERA.

Revocation of part of the Moreton Bay Marine Park:

- Revocation of part of the Moreton Bay Marine Park over the Priority Development area and proposed channel.
- There are 3 possible processes that could be used for revocation under the Marine Parks Act and subordinate legislation. The preferred process is the revocation of part of the Marine Park upfront. The other two processes involve lengthy processes to seek permission for the reclamation and then for the revocation of the marine park after the reclamation is done. These processes are extensively more resource intensive for the government.
- Specifically:

- Approval for the proponent to reclaim part of the MB (by X), reclamation activities by proponent, sign-off by the Government that the reclamation is satisfactory and then revocation of the relevant part of the Marine Park (passed by XX).
- All processed would require the proponent to conduct an environmental impact statement (or similar) document to be assessed under Government EIS process, extensive public consultation and justification that the development is in the interest of the State in terms of economic and social benefits. Compensatory measures (i.e. offsets would likely also be required).
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Marine Parks Act/MB Marine Park Zoning Plan:

- Requires the revocation of the marine park. There are 3 different processes that could be followed to do this 3 options. All processed will need to result in revocation of the marine park as reclaimed land is inconsistent with the use of the Marine Park.
  - Revoke marine park upfront (approval Legislative Assembly)
  - Get permission to reclaim and then revoke after reclamation
  - Pass legislation to declare works area within the MB Marine Bay and then revoke (Legislative Assembly after).
    - conduct reclamation → revoke marine park

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### Coastal approvals

Coastal approvals relevant to the Toondah Harbour Redevelopment Project will vary depending on whether the development is sited wholly within the PDA, if any of the development occurs outside of the PDA, and whether any of the development to occur outside the PDA is considered “PDA-related development”. Development completed inside the PDA and any development completed outside the PDA but considered “PDA-related development”, is not assessable under the *Planning Act 2016*. Any development completed outside of the PDA and not considered “PDA-related development” will be assessable under the *Planning Act 2016* and the State Development Assessment Provisions.

Coastal approvals required for Toondah Harbour may include:

- Environmental authority for dredging - ERA 16 (1)(c) for dredging of more than 100,000, but not more than 1,000,000, tonnes of material in a year (*Environmental Protection Act 1994*)
- Material change of use for an environmentally relevant activity (ERA) (*Planning Act 2016*)
- Development approval-tidal works or works within a coastal management district, removal, destruction or damage of marine plants and waterway barrierworks (*Planning Act 2016*)
- Allocation of quarry material permit (*Forestry Act 1959* and *Coastal Management and Protection Act 1995*)
- Marine park permit (*Marine Park Act 2004*)

Note that any approval under the *Planning Act 2016* will also require owner’s consent to be provided in support of the application where the development is on unallocated state land.

### Environmental authority for dredging

Capital dredging to straighten and widen the Fison Channel and extend the swing basin is assessable under the *Environmental Protection Act 1994* (EP Act) as an ERA requiring an environmental authority (EA). The relevant ERA is ERA 16 (1)(c) for dredging of more than 100,000, but not more than 1,000,000, tonnes of material in a year). The placement of dredged material within the reclamation area or at sea can also be regulated via this EA, as the placement or disposal of dredged material is considered part of this ERA.

The presence of the PDA has no bearing on the requirement for the proponent to obtain an EA for this ERA.

### Material change of use

Dredging to be undertaken outside of the PDA may require a material change of use for an ERA (dredging) under the *Planning Act 1996*. Dredging to be undertaken inside of the PDA will not require a material change of use for an ERA.

### **Development approval**

Under the *Planning Act 2016*, operational works that is tidal works or works within a coastal management district, the removal, destruction or damage of marine plants, and the undertaking of waterway barrier works within the PDA does not require a development approval. Any of these works to be completed outside of the PDA but considered “PDA-related development” will also not require an approval under the *Planning Act 2016*.

Operational works that is tidal works or works within a coastal management district, the removal, destruction or damage of marine plants and the undertaking of waterway barrier works, to be completed outside of the PDA, will require a development approval under the *Planning Act 2016*. This includes dredging of any portion of Fison Channel that lies outside of the PDA boundaries and any reclamation or construction works to be completed outside of the PDA boundaries

### **Allocation of quarry material permit**

The removal of quarry material from land under tidal water to above the high water mark (mean high water spring) on State coastal land requires an allocation of quarry material under section 73 of the *Coastal Management and Protection Act 1995* and administered by the Department of Environment and Science. The removal of quarry material from areas of the Fison Channel and the swing basin that is under lease, may also require an allocation of quarry material under the *Forestry Act 1959* administered by the Department of Agriculture and Fisheries. If quarry material is being removed from land under tidal waters that is freehold land or is held under a lease or licence issued by the State, the allocation of quarry material is not regulated by the *Coastal Management and Protection Act 1995*. Instead, the *Forestry Act 1959* applies

The presence of the PDA has no bearing on the requirement for an allocation of quarry material. Note an allocation of quarry material permit only allows access to the quarry material to be dredged. A relevant development approval for tidal works and an EA for dredging must also be obtained to allow the extension of the channel.

### **Marine park permit**

Works within the Moreton Bay Marine Park will require a permit under the *Marine Parks Act 2004* from the Department of Environment and Science.

### **Middle banks**

Previous EPBC referrals for the project previously mentioned the potential need to source reclamation material from Middle Banks. If the current referral requires reclamation material to be sourced from this location, an allocation of quarry material would be required for this site. An EA for dredging at this location would also be required prior to the taking of quarry material from Middle Banks.

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## Heritage

Further to our conversation you requested clarification on particular issues in relation to historic shipwrecks under the Qld Heritage Act (QHA) and Cmwth Historic Shipwrecks Act.

1. Under the Cmwth Historic Shipwrecks Act 1976, a section 15 permit is required to engage in conduct that may result in the damage, interference with, disposal, or removal of a historic shipwreck.
2. Also a correction in relation to my comments about the QHA, under Section 91 written consent by the Chief Executive (of DES) is required to undertake any activity that may interfere with an underwater cultural heritage artefact. The definition of an underwater cultural heritage artefact includes historic shipwrecks.
3. Also under the QHA (Section 89) a person who discovers a shipwreck must notify the Chief Executive (of DES) as soon as is practicable.
4. Priority Development Areas (PDAs) do not de-activate the requirements of the QHA in relation to historic shipwrecks and underwater cultural heritage.
5. A brief assessment of the *Toondah* wreck: *Toondah* was an oyster fishery inspection vessel built in Queensland in 1882. It relates to an industry that played an important role in the development of the State. The vessel was used to survey parts of Moreton Bay. The shipwreck is possibly the only remaining government vessel related to the late 19<sup>th</sup> Oyster fishing industry.

Some useful links:

<https://dmzapp17p.ris.environment.gov.au/shipwreck/public/wreck/wreck.do?key=2422>

<https://www.qld.gov.au/environment/land/heritage/archaeology>

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-1992-009>

<https://www.legislation.gov.au/Details/C2012C00174>

<http://www.environment.gov.au/heritage/historic-shipwrecks/protected-zones>

<https://www.environment.gov.au/system/files/resources/5f3fdad6-30ba-48f7-ab17-c99e8bcc8d78/files/final-report-18-relationship-other-cth-legislation.pdf>

<https://www.environment.gov.au/system/files/resources/5d70283b-3777-442e-b395-b0a22ba1b273/files/23-regulatory-burden.pdf>

Date : 6/10/2021 9:29:17 PM  
From : "LOVEDAY Chris"  
To : "LAWRENCE Rob"  
Cc : "ANDERSEN Claire"  
Subject : Re: Toondah Harbour EIS - Proposed Working Group  
Attachment : image006.png,image007.png,image008.png;  
Rob

Thanks for forwarding this message on.

As we discussed today, DES (through my team) have been involved in a number of meetings and briefings about the proposed Toondah Harbour project over a number of years. Most recently (as indicated by Debbie below) Walker Group and their key consultant Saunders Havill provided a briefing about progress on the EIS. At this time I made it clear that the content of the Commonwealth EIS would be reviewed in detail by DES when it was released for public comment (the same time DAWE seeks advice from QLD government agencies).

I have also kept in regular contact with DAWE about the project and its progression through the EIS process under the EPBC act.

I would be happy to contact either Adam or Kari from EDQ directly about this matter, but if you would prefer to respond to Debbie directly I can provide the following dot points to include in a response.

1. Whilst I appreciate the offer for DES to be part of a working group to consider the submitted EIS, there is already a robust process in place to ensure comments and submissions are captured and provided to DAWE in a timely manner.
2. As you may be aware, DES, as QLDs environmental regulator, will undertake a detailed review of the submitted EIS once it is received from DAWE.
3. This review will focus on any predicted impacts to matters of state environmental significance and other environmental values present at the site of the proposed development, included in the EIS.
4. In addition to its own review, DES will coordinate comments from other agencies across the QLD government in order to provide a consolidated submission to the EIS for consideration by DAWE and ultimately the proponent. This is a role DES fulfils on a regular basis as the key contact for EIS processes being completed under the EPBC Act (this applies to projects being undertaken in accordance with the bilateral agreement and also for projects not subject to the bilateral agreement, such as Toondah Harbour)
5. Should EDQ choose to include comments in the submission coordinated by DES, I can ensure my EIS assessment team includes the staff you have nominated below in any request for comments.

I hope this is helpful.

Cheers

Chris

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**From:** LAWRENCE Rob <Rob.Lawrence@des.qld.gov.au>  
**Sent:** Wednesday, October 6, 2021 9:43 am  
**To:** LOVEDAY Chris  
**Subject:** FW: Toondah Harbour EIS - Proposed Working Group



**Rob Lawrence**  
Deputy Director-General  
Environmental Services and Regulation  
Department of Environment and Science

P 07 3330 5550 M [CTPI 49-SE](tel:0733305550) [rob.lawrence@des.qld.gov.au](mailto:rob.lawrence@des.qld.gov.au)  
GPO Box 2454, Brisbane QLD 4001

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**From:** Debbie McNamara <Debbie.McNamara@dSDLGP.qld.gov.au>  
**Sent:** Friday, 24 September 2021 8:16 AM  
**To:** LAWRENCE Rob  
**Cc:** Gillian TYRRELL  
**Subject:** Toondah Harbour EIS - Proposed Working Group

Good Morning Rob

Firstly I would like to introduce myself, I have been recently been appointed as the new General Manager for Economic Development Queensland (EDQ) as part of the Department of State Development.

As you will most likely be aware, the Walker Group EPBC Act draft EIS for the Toondah Harbour project is expected to be referred to DES in October 2021 by the Commonwealth Department of Agriculture, Water and the Environment (DAWE) for formal comment from the Queensland Government. Noting that this date is tentative and subject to confirmation from Walker. I understand that the draft EIS will be substantial, around 3,500-pages, and that the Queensland Government will be asked to provide comment within the 40 business day notification period.

EDQ is keen to work with DES to ensure there is a well-considered, coordinated and timely response provided to DAWE on the EIS. As the State will only have a limited period to review and comment on the document I would like to propose that we establish a working group ahead of the request from DAWE, consisting of officers from both our agencies, as well as other agencies with relevant state interests.

EDQ has been working with the Walker Group on this project in two capacities, with responsibility for a number of actions required to progress this project:

1. **Developer** ♦ The Urban Development team of EDQ is responsible for administration of the Toondah Harbour Development Agreement, which was entered into in February 2016 between the Minister for Economic Development Queensland (MEDQ), Redland City Council, RIC Toondah Pty Ltd (council ♦s wholly-owned subsidiary) and the Walker Group. EDQ Urban Development represents the interests of the MEDQ as land owner for the commercial transaction and delivery of community infrastructure; and
2. **Regulator** ♦ The MEDQ declared the Toondah Harbour Priority Development Area (PDA) and prepared the associated Toondah Harbour PDA Development Scheme. EDQ Development Assessment will represent the interests of the MEDQ as decision maker for future development application(s) to be progressed by the Walker Group as applicant.

From EDQ ♦s perspective the following officers for this working group would be:

<p>Adam Yem Project Director ♦ Development Assessment, EDQ Department of State Development, Infrastructure, Local Government and Planning P 07 3828 2990   M <a href="#">CTPI 49-Sch</a> <a href="mailto:adam.yem@dsdilgp.qld.gov.au">adam.yem@dsdilgp.qld.gov.au</a></p>	<p>Kari Stephens Planning Manager ♦ Development Assessment, EDQ Department of State Development, Infrastructure, Local Government and Planning P 07 3452 7167 <a href="mailto:kari.stephens@dsdilgp.qld.gov.au">kari.stephens@dsdilgp.qld.gov.au</a></p>
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If you could please consider and advise if you are in agreement with regards to the establishment of a Queensland Government working group ahead of receipt of the referral of the draft EIS. Further, if you are then able to let me know who from your agency would be best placed to be involved and I will share their details with my team so we can be as prepared as possible for the release of the EIS.

I understand the Walker Group ♦s EIS consultant, Saunders Havill has been in contact with Chris Loveday, Director ♦ Technical and Assessment Services, Operational Support, DES during the preparation of the draft EIS.

I look forward to our respective teams working together on this significant body of work.

Regards



Debbie McNamara  
General Manager  
**Economic Development Queensland**  
Department of State Development, Infrastructure,  
Local Government and Planning

Microsoft teams ♦ [meet now](#)

P 07 3452 7510 M [CTPI 49-Sch4](#)  
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*I acknowledge the traditional custodians of the lands and waters of Queensland. I offer my respect to elders past, present and emerging as we work towards a just, equitable and reconciled Australia.*



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