



# TOONDAH HARBOUR

## APPENDIX 1 - O SUMMARY OF RELEVANT LEGISLATION



# Other Approvals and Conditions

## Queensland Government Statutes and Policies

### Nature Conservation Act 1992

*The Nature Conservation Act 1992* (Qld) (NC Act) provides the framework for creating and managing protected areas in Queensland. The Regulations under this Act regulate activities in protected areas and a permit and licensing system for the taking or keeping of native wildlife. These regulations include the Nature Conservation (Protected Areas Management) Regulation 2017 (Qld) and the Nature Conservation (Animals) Regulation 2020 (Qld).

While the NC Act applies within and outside of the PDA boundary, no protected plants or high-risk mapping have been identified in or near Toondah Harbour.

### Fisheries Act 1994

The *Fisheries Act 1994* (Qld) (Fisheries Act) sets out the responsibilities of Fisheries Queensland within the Queensland Department of Agriculture and Fisheries (DAF) for economically viable, socially acceptable and ecologically sustainable development of Queensland's fisheries resources. The Fisheries Act is supported by a number of regulations that outline general regulatory requirements relevant to management and use of Queensland's fisheries resources, including licensing arrangements and the declaration and management of fish habitat areas (FHAs), or address regulatory requirements or restriction on fishing activities for commercial and recreational fishers.

The state's fish habitats are protected and managed by considering any threats to declared FHAs, marine plants or fish passage.

FHAs are areas protected against physical disturbance from coastal development, while still allowing legal fishing. Proposals in FHAs are assessed by Fisheries Queensland on behalf of DES. There are no declared FHAs over or near the proposal site.

Operational works involving marine plants or waterway barrier works for PDA-related development are exempt from assessment under the Planning Act. They will be assessed by EDQ under the ED Act.

Any removal of marine plants or waterway barrier works will trigger assessment where it is not PDA-related development, for example if outside of the PDA area and not declared as PDA-associated development. Development applications required for impacts to fisheries habitats will then managed by SARA using the Planning Act assessment processes. Fisheries Queensland's role is to provide SARA with technical advice on applications involving aquaculture, the removal, destruction or damage of a marine plant and constructing or raising waterway barrier works.

### Coastal Protection and Management Act 1995

The *Coastal Protection Management Act 1995* (Qld) (Coastal Act) is administered by DES and provides for the protection, conservation, rehabilitation and management of the coastal zone, including its resources and biological diversity. The Coastal Act and the Planning Act work together to guide lands planning and development assessment decisions on Queensland's coasts.

The Coastal Act supports the protection of the coast and coastal resources through the provision of technical information to inform planning decisions. This includes the declaration of erosion prone areas and CMDs and the setting of development assessment codes for the Planning Act.

The Planning Act sets out the state's interests for protection of the coastal environment and management of coastal hazards (such as erosion and storm tide inundation) through the SPP and provides the tools to trigger assessment of development. Coastal development in a CMD that is triggered for assessment under the Planning Act includes:

- Tidal works and prescribed tidal works;
- Interfering with quarry material on state land;
- Disposing of dredge spoil or other solid waste in tidal water; and
- Constructing an artificial waterway.

Notwithstanding, coastal development that is PDA-related development is exempt from assessment under the Planning Act and will be assessed by EDQ under the ED Act.

#### Environmental Offsets Act 2014

The *Environmental Offsets Act 2014* (Qld) (EO Act) and the accompanying Environmental Offsets Regulation 2014 and Queensland Environmental Offsets Policy provide for activities to counterbalance a significant residual impact of a prescribed activity on a prescribed environmental matter.

Under this framework, an environmental offset may be required as a condition of a state approval where – following consideration of avoidance and mitigation measures – a prescribed activity is likely to result in a significant residual impact on a prescribed environmental matter.

Under the EO Act, conditions of an approval that require an environmental offset are applied where an application is made under the EP Act, the MP Act, the NC Act or the Planning Act.

To avoid duplication of offset conditions between jurisdictions, state and local governments can only impose an offset condition in relation to a prescribed activity and, if the same, or substantially the same impact and the same, or substantially the same matter has not been subject to assessment under one of the following Australian Government Acts:

- The EPBC Act, to the extent the assessment relates to an activity that has been declared a 'controlled action' by the Australian Government Minister;
- The Great Barrier Reef Marine Park Act 1975; or
- Another Australian Government Act prescribed by regulation, including if the Australian Government could have imposed an offset condition but did not do so. There are currently no listings.

The loss of any environmental values at Toondah Harbour may be required to be offset in accordance with the EO Act. It is not possible to identify at this stage of the assessment process whether compensatory proposals to deal with any potential residual impacts in addition to those addressed under the EPBC Act will be required.

#### Maritime Safety Queensland Act 2002

Maritime Safety Queensland (MSQ) is a branch of the Queensland Department of Transport and Main Roads (TMR) that administers maritime legislation in Queensland, including the *Maritime Safety Queensland Act 2002* (Qld) (MSQ Act). Under the Act, MSQ is responsible for:

- Improving maritime safety for shipping and recreational craft through regulation and education;
- Minimising vessel-sourced waste and responding to marine pollution;
- Providing essential maritime services such as aids to navigation and vessel traffic services; and
- Encouraging and supporting innovation in the maritime industry.

Development applications for tidal works, interfering with quarry material, disposal of dredge spoil in tidal water or constructing an artificial waterway are administered under the Planning Act.

Development applications that affect a state interest such as maritime safety are referred to SARA as identified in the Planning Regulation triggers. MSQ then provides technical advice to SARA regarding the impacts of development applications on maritime safety interests as part of the development process.

In the Queensland government's development assessment mapping system:

- The Toondah Harbour PDA is identified as a 'high risk maritime development zone', which applies to areas in the vicinity of ports, state boat harbours, marinas and navigationally difficult areas; and
- The existing ferry terminal infrastructure and wet berths are identified as "developed marina or state boat harbour area".

To assist SARA and proponents of major development proposals to identify maritime related impacts and to define mitigation strategies, MSQ has developed supporting information for the State Development Assessment Provisions (SDAP). This specifies the minimum information MSQ requires to evaluate significant development proposals through the development of management plans for:

- Marine execution;
- Vessel traffic management;
- Aids to navigation; and
- Ship-sourced pollution prevention.

While most development works in the PDA are exempt from assessment under the Planning Act, MSQ will be consulted by EDQ in the assessment of the PDA development application.

The regional harbour master at MSQ has already been consulted in relation to the project master plan that underpins this draft EIS. As the Project progresses through detailed design and state assessment, MSQ will continue to be consulted on the design, safety and operation of proposed structures within Moreton Bay waters and where associated with marina and ferry terminals, channel design associated with dredging activities and construction and ultimate operation.

Queensland Heritage Act 1992 (Qld)

The *Queensland Heritage Act 1992* (**QH Act**) is the primary legislation for the identification and protection of non-Indigenous places of cultural heritage significance and provides for their entry into the Queensland Heritage Register.

Most changes proposed to heritage places are regarded as development and require approval before work is undertaken. Development of heritage places is regulated through the Planning Act. Within a PDA; however, development on a Queensland heritage place is exempt from assessment against the provisions of the Planning Act.

The Toondah Harbour PDA contains land that is identified as being of state heritage significance and registered in accordance with the provisions of the QH Act, namely Fernleigh cottage, which adjoins GJ Walter Park.

Importantly, development on or adjoining any heritage listed place within the Toondah Harbour PDA is not proposed.

## Assessment and approval processes

### ED Act Assessment and Approvals Processes

*PDA Development Application for a Material Change of Use, Reconfiguring of a Lot and Operational Works, with a Plan of Development*

Following the designation of a new works area in the marine park and permission for reclamation, the Proponent will submit a PDA development application to EDQ for assessment for a MCU, ROL and operational works with a PoD.

The PoD if approved becomes the primary documentation for the ongoing regulation of subsequent exempt, self-assessable and assessable development.

A PoD needs to include enough detail to demonstrate consistency with the development scheme and PDA guidelines. The PoD will include but may not be limited to the following information:

- the lot layout and streets, including lot numbers, lot areas, street reserve widths, street or road carriageways (may include bus stops, interchanges, taxi ranks, loading zones and similar service areas where proposed) and location and width of footpaths;
- land slope;
- major infrastructure items;
- land uses, including lots for houses and multiple residential and proportions and locations of uses for mixed use buildings;
- primary and secondary street frontages;
- public open space areas, including lot number and area;
- built-to-boundary wall locations (including mandatory built-to-boundary situations);
- areas and dimensions of private open space;
- where privacy fencing is required at an interface with a street or park;
- fencing and, if sloping land, retaining wall details;
- building envelopes indicating minimum setbacks, access points and heights;
- where involving multiple residential, the maximum number of units of the development on a lot;
- building site coverage and maximum gross floor area (GFA);
- vehicular and pedestrian access points (particularly for multi residential and mixed-use sites); and
- signage controls and noise attenuation.

Development that is not in accordance with an approved POD may require another development application.

For PDA-related development applications are assessed and decided under the ED Act and will typically follow a six-step process: pre-lodgement discussions, lodgement, assessment against the PDA development scheme, notice of application, decision (40 business days) and compliance assessment.

Notably for PDA-related development at Toondah Harbour:

- The assessment process will be undertaken by EDQ;
- During the assessment process, EDQ may seek advice from other sources including government agencies, RCC and independent technical specialists and/or request additional information from the applicant (being the Proponent);
- A public notice period is likely to apply; and
- The MEDQ has delegated the power to decide PDA development applications for the Toondah Harbour PDA to a local representative committee (LRC) comprising senior representatives from EDQ and RCC.