



TOONDAH HARBOUR

CHAPTER 4 ASSESSMENT FRAMEWORK



4. Assessment Framework

Legislation relating to planning and the environment is typically the responsibility of state or territory governments. However, where certain plants, animals, places and environments are considered or deemed to be of national or international significance, the EPBC Act triggers assessment of proposed actions and their potential impacts on MNES. Beyond assessment of identified projects at a federal level, projects are further assessed for their potential impacts on the environment and biodiversity values, land use considerations, infrastructure, economic and community considerations by state and local governments. The applicable legislation and policy framework and multi-tiered assessment processes for the Project have been reviewed and are described below.

The Project triggers a number of permits and approvals under the Queensland legislative framework, in addition to the EPBC Act approval processes (including this EIS). These approvals and permits, as well as relevant international agreements, are described in the following sections, with further detail in Appendix 1-O.

4.1. Australian Government Assessment Process

4.1.1 EPBC Act Matters, Policies and Guidelines

The EPBC Act is the Australian Government legislation applicable to the Project. The EPBC Act aims to:

- Provide for the protection of the environment, especially MNES;
- Conserve Australia's biodiversity;
- Protect biodiversity internationally by controlling the international movement of wildlife;
- Provide a streamlined environmental assessment and approvals process where MNES are involved;
- Protect our world and national heritage; and
- Promote ecologically sustainable development.

While the states and territories have the primary responsibility for environmental protection, the Australian Government controls nine defined MNES. These matters are:

- World heritage properties;
- National heritage places;
- Wetlands of international importance (called Ramsar sites after the international treaty);
- Nationally threatened species and ecological communities;
- Migratory species;
- Australian Government marine areas;
- Great Barrier Reef Marine Park;
- Nuclear actions (including uranium mining); and
- A water resource, in relation to coal seam gas development and large coal mining development.

The EPBC Act is not intended to exclude or limit the concurrent operation of any law of a state or territory, except where a contrary intention is identified.

The Project has been determined a controlled action under the EPBC Act, to be assessed by EIS in accordance with the tailored guidelines provided by DCCEEW.

A number of policies and general guideline documents are provided by DCCEEW as tools to assess impacts on MNES. The most relevant documents for assessment of the Project are summarised in Table 4-1. Further information on applying the EPBC Act can be found in Appendix 1-O.

Table 4-1: Australian Government Guidelines and Policies Relevant to the Project.

Guideline / Policy	Overview	Relevance
Significant Impact Guidelines 1.1 Matters of National Environmental Significance (Department of Environment, Water, Heritage and the Arts (DEWHA 2013))	The Significant Impact Guidelines provide overarching guidance on determining whether an action is likely to have a significant impact on a matter protected under national environment law.	All potential impacts are directly assessed against the criteria for significant impacts to MNES set out in these guidelines.
National Framework and Guidance for Describing the Ecological Character of Australian Ramsar Wetlands (DEWHA 2008)	The framework is a nationally agreed standard method for describing the ecological character of Australian Ramsar wetlands. It provides a step-by-step guide to the development of an Ecological Character Description (ECD) and outlines the essential elements that should be included.	The framework was used as a reference point for assessing ecological character at the project site and potential impacts. Note, there is no final ECD for the MBRS. The draft, dated 2008, has not been approved.
National Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds and Migratory Shorebirds (DoEE 2022)	Aims to raise awareness of the potential impacts of artificial light on wildlife and provide a framework for assessing and managing these impacts around susceptible listed wildlife.	Used as a reference for developing modelling of light sources and impact assessment to susceptible wildlife including migratory birds, and identification of mitigation and management measures. These guidelines have been used to inform Project design.
EPBC Act Policy Statement 3.21 - Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed migratory shorebird species (DoE 2015)	This policy statement is intended to guide stakeholders in assessing the likelihood of a proposed action having a significant impact on one or more migratory shorebird species in Australia.	The guidelines were used to in the development of surveys, identification of significant habitat and assessment of impacts on listed migratory shorebird species.
EPBC Act Environmental Offsets Policy (Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) 2012)	This policy provides upfront guidance on the role of offsets in environmental impact assessments, and how the department considers the suitability of a proposed offset.	The policy was used in developing the project offsets strategy and putting in place a framework for quantifying conservation outcomes.

4.2. International Agreements and Conventions

The Australian Government is a signatory to a range of international conventions and agreements that obligate it to prevent pollution and protect specific places, habitat, flora and fauna. Those most relevant to the project are addressed in Table 4-2.

Table 4-2: International Conventions and Agreements Relevant to the Project.

Agreement	Overview	Relevance
Ramsar Convention	The Ramsar Convention's broad aims are to halt the worldwide loss of wetlands and to conserve, through wise use and management, those that remain. In designating a wetland as a Ramsar site, countries agree to establish and oversee a management framework aimed at conserving the wetland and ensuring its wise use. Wise use under the Convention is broadly defined as maintaining the ecological character of a wetland through implementation of ecosystem approaches, in the context of sustainable development.	The Project is partially located within the MBRS. Impacts to the ecological character of the MBRS must be assessed.
Bilateral migratory bird agreements with Japan (JAMBA), China (CAMBA) and the Republic of Korea (ROKAMBA)	These agreements aim to conserve migratory birds in the East Asian - Australasian Flyway (EAAF). Each of these agreements provides for the protection and conservation of migratory birds and their important habitats, protection from take or trade except under limited circumstances, the exchange of information, and building cooperative relationships. Birds listed under these three agreements must also be placed on the migratory species list under the EPBC Act.	Potential impacts to migratory birds must be assessed at the site and regional level as well as in the context of the EAAF.
The Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention)	Improves the status of threatened migratory species through national actions and international agreements. Species listed under this agreement must also be placed on the migratory species list under the EPBC Act.	Potential impacts to migratory species must be assessed at the site and regional level as well as the global scale to ensure the lifecycle of these species are not significantly impacted.

4.3. The Ramsar Convention

Wetlands of international importance are those wetlands nominated and listed under the *Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971*. This convention is also known as the 'Ramsar Convention on Wetlands' using the protocol of naming international agreements after the city in which it was first formulated. The convention was adopted in the Iranian city of Ramsar in 1971 and came into force in 1975. In line with this nomenclature, wetlands listed under the Convention are referred to as Ramsar wetlands. The Convention uses a broad definition of wetlands which includes all lakes and rivers, underground aquifers, swamps and marshes, wet grasslands, peatlands, oases, estuaries, deltas and tidal flats, mangroves and other coastal areas, coral reefs, and human-made sites such as fishponds, rice paddies, reservoirs and salt pans.

Under the Convention signatory countries commit to:

- Work towards the wise use of all their wetlands;
- Designate suitable wetlands for the list of Wetlands of International Importance (the "Ramsar List") and maintain their ecological character through effective management; and
- Cooperate internationally on transboundary wetlands, shared wetland systems and shared species.

The Ramsar convention defines ecological character as the combination of the ecosystem components, processes, benefits and services that characterise the wetland at a given point in time.

Australia is a Contracting Party to the Convention, and has committed to:

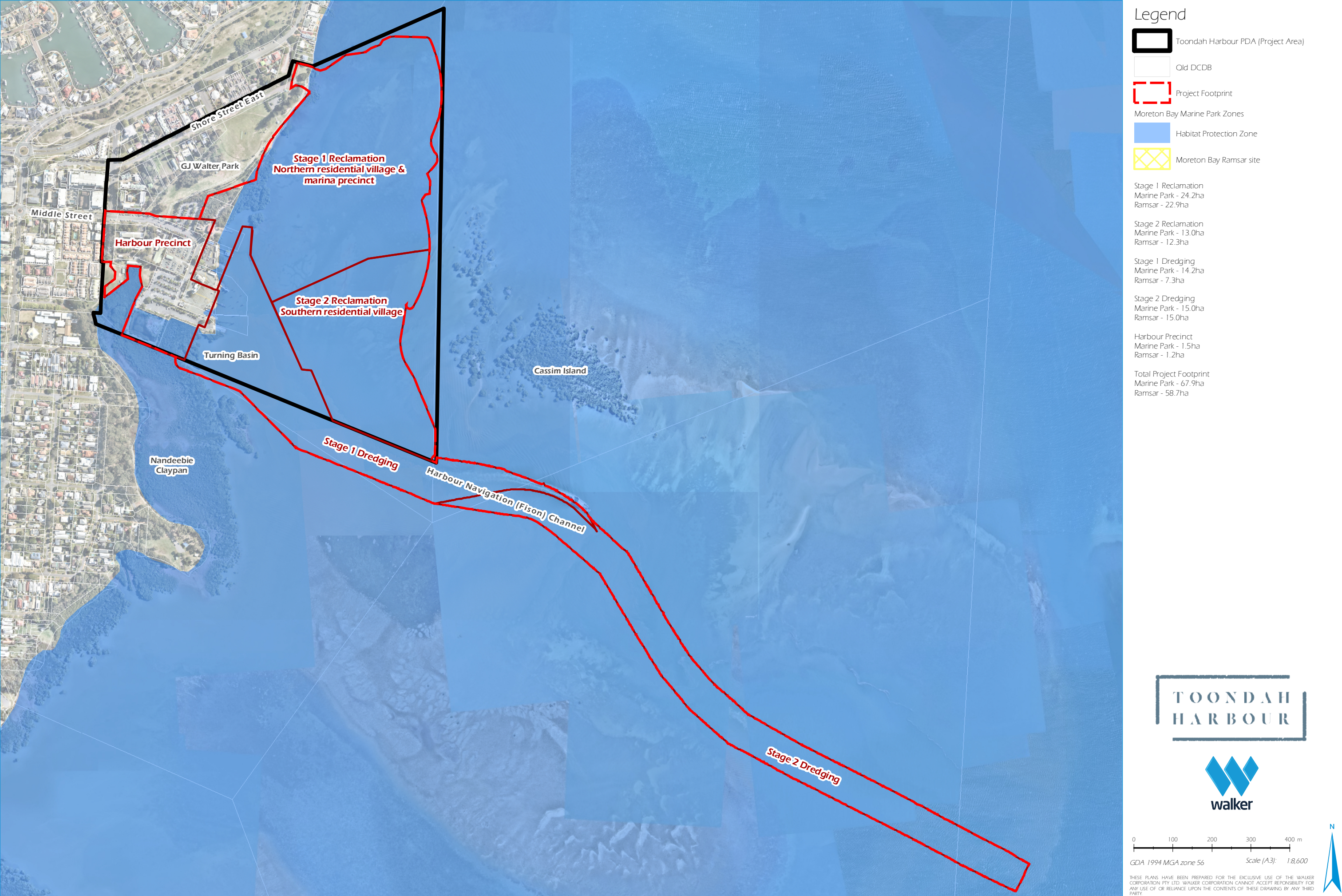
- Designate at least one site that meets the Ramsar criteria for inclusion in the List of Wetlands of International Importance;
- Promote the conservation and wise use of wetlands;
- Include wetland conservation within their national land-use planning;
- Establish nature reserves on wetlands and promote wetland training; and
- Consult with other Contracting Parties about the implementation of the Ramsar Convention.

The Ramsar Convention requires the development of a Ramsar Information Sheet (RIS) to accompany the nomination of a site to the List of Wetlands. The RIS provides essential data on each designated Wetland of International Importance in order to allow analysis of Ramsar-listed wetlands around the world, provide baseline data for measuring changes in the ecological character of wetlands, and provide material for publications which inform the public about Ramsar sites. The detailed written description of a designated wetland in the RIS legally defines the 'declared Ramsar wetland' and should be of sufficient detail to define the site boundary without reference to a map. Australia currently contains 65 wetlands listed under the Ramsar Convention all of which have an associated RIS.

The Toondah Harbour Project occurs partly within the Moreton Bay Ramsar Site (MBRS). The MBRS covers an area of 120,654 ha which includes a semi-enclosed bay bounded by Mulgumpin (Moreton Island), Minjerribah (North Stradbroke Island) and Garadgi (South Stradbroke Island); three of the largest natural sand islands in the world (refer to Figure 1-1).

The proposed reclamation areas overlap the MBRS by approximately 36.4 ha and the dredge area within Fison Channel overlaps the MBRS by a further 22.3 ha. Combined this represents 0.048% of the MBRS. Figure 4-1 shows the project overlap with the MBRS and the Moreton Bay Marine Park (refer to Section 4.4.4).

Figure 4-1: Toondah Harbour Project Footprint within the Moreton Bay Ramsar Site and Marine Park



4.3.1 Management of Ramsar Sites in Australia

In Australia, management of Ramsar-listed wetlands falls primarily to the relevant state or territory governments. Schedule 6 of the EPBC Regulations 2000 outline the Australian Ramsar management principles which encompass general principles, management planning and environmental impact assessment and approval. These principles and how they relate to the Toondah Harbour Project are addressed below.

4.3.1.1 General Principles

General principles for the management of Ramsar sites in Australia are:

- The primary purpose of management of a declared Ramsar wetland must be, in accordance with the Ramsar Convention:
 - a) to describe and maintain the ecological character of the wetland; and
 - b) to formulate and implement planning that promotes:
 - i. conservation of the wetland; and
 - ii. wise and sustainable use of the wetland for the benefit of humanity in a way that is compatible with maintenance of the natural properties of the ecosystem.
- Wetland management should provide for public consultation on decisions and actions that may have a significant impact on the wetland.
- Wetland management should make special provision, if appropriate, for the involvement of people who:
 - a) have a particular interest in the wetland; and
 - b) may be affected by the management of the wetland.
- Wetland management should provide for continuing community and technical input.

These principles relate to management of the 120,000+ ha MBRS as a whole. At a local level, to address the primary purpose of management, the Project must demonstrate the ecological character of the MBRS is maintained.

4.3.1.2 Management Planning

Management planning principles for Australian Ramsar sites are:

- At least 1 management plan should be prepared for each declared Ramsar wetland.
- A management plan for a declared Ramsar wetland should:
 - a) describe its ecological character; and
 - b) state the characteristics that make it a wetland of international importance under the Ramsar Convention; and
 - c) state what must be done to maintain its ecological character; and
 - d) promote its conservation and sustainable use for the benefit of humanity in a way that is compatible with maintenance of the natural properties of the ecosystem; and
 - e) state mechanisms to deal with the impacts of actions that individually or cumulatively endanger its ecological character, including risks arising from:
 - i. physical loss, modification or encroachment on the wetland; or
 - ii. loss of biodiversity; or
 - iii. pollution and nutrient input; or
 - iv. changes to water regimes; or
 - v. utilisation of resources; or
 - vi. introduction of invasive species; and
 - (f) state whether the wetland needs restoration or rehabilitation; and
 - (g) if restoration or rehabilitation is needed—explain how the plan provides for restoration or rehabilitation; and
 - (h) provide for continuing monitoring and reporting on the state of its ecological character; and
 - (i) be based on an integrated catchment management approach; and

- (j) include adequate processes for public consultation on the elements of the plan; and
- (k) be reviewed at intervals of not more than 7 years.

The Ramsar Convention also encourages the development of key documents once a site has been listed to assist in the management and increase awareness about the wetland, these documents include:

- An ecological character description (ECD) which describes the ecological character of the Ramsar Site; and
- Management plans, which are used to formulate and implement planning to promote the wise use and conservation of listed wetlands

In Australia the development of ECDs is guided by the *National Framework and Guidance for Describing the Ecological Character of Australia's Ramsar Wetlands*.

In the case of the MBRS:

- A Draft ECD was prepared in 2008 but has not been finalised. As of July 2022, a formal ECD for the MBRS has not been published; and
- No management plan is in place for the MBRS specifically. The *Moreton Bay Marine Park Zoning Plan 2019* (Qld) covers a similar spatial area as the Ramsar site, providing guidance on use, however, is not a wetland management plan.

Due the lack of an ECD and a wetland-specific management plan, the design and assessment of the Project has considered Australia's obligations under the Ramsar Convention and Australia's Ramsar management principles and interpreted these with reference to relevant Conference of Parties (COP) Recommendations and Resolutions.

4.3.1.3 *Environmental Impact Assessment and Approval*

This principle applies to the assessment of an action that is likely to have a significant impact on the ecological character of a Ramsar wetland (whether the action is to occur inside the wetland or not).

Before the action is taken, the likely environmental impact of the action on the wetland's ecological character should be assessed under a statutory environmental impact assessment and approval process.

The assessment process should:

- a) identify any part of the ecological character of the wetland that is likely to be affected by the action; and
- b) examine how the ecological character of the wetland might be affected; and
- c) provide adequate opportunity for public consultation.

An action should not be approved if it would be inconsistent with:

- a) maintaining the ecological character of the wetland; or
- b) providing for the conservation and sustainable use of the wetland.

Approval of the action should be subject to conditions, if necessary, to ensure that the ecological character of the wetland is maintained.

The action should be monitored by the authority responsible for giving the approval (or another appropriate authority) and, if necessary, enforcement action should be taken to ensure compliance with the conditions.

Assessment of the potential for the Toondah Harbour Project to affect the ecological character of the wetland is addressed through this Draft EIS. Significant public consultation has already been undertaken for the Project (refer to Chapter 5) and the public notification process provides formal opportunity for public consultation on the environment assessment.

As part of the environment assessment process - and in the absence of clear guidelines for assessment, an agreed ECD and a management plan for the MBRS - a method has been developed for assessing impacts of the Project on the ecological character of the MBRS. The method has been reviewed and workshopped with relevant experts across a broad range of disciplines, including IAP members. The process undertaken, method and impact assessment are provided in Volume 3 of the EIS which also includes a number of closely related studies, including the Cumulative and Consequential Impacts, the Environmental Management Framework and the Offsets Strategy.

4.3.2 The Wise Use of Wetlands

In accordance with the mission of the Ramsar Convention, projects and developments may occur in Ramsar wetlands, but they must maintain or enhance the ecological character of the site, and be in accordance with 'wise use'. Ecological character is considered to be the critical components, processes and services of the Ramsar wetland. The wise use concept refers to maintaining wetland values and functions, while at the same time delivering services and benefits now and into the future, for human well-being. Wise use, in promoting maintenance of environmental, economic and social sustainability, encourages compromise (or trade-offs) between individual and collective interests. The Project must ultimately meet the test of compatibility of the wise use and conservation purposes.

The Ramsar Convention identifies environmental impact assessment as a tool for Contracting Parties to work with proponents to reduce the impact of development proposals with potential to alter the ecological character of wetlands on the Ramsar list, and to implement the wise use principle. Resolution VII.16 of the convention calls upon the Contracting Parties to ensure that such projects are subject to rigorous impact assessment procedures, with appropriate measures to address adverse impacts and monitoring to detect unforeseen impacts.

The Project incorporates a number of land uses that are typically considered 'wise use' in the context of sustainable development in a Ramsar setting, including the turning basin, Fison Channel, ferry terminals, marina, public open space, boat ramp and recreational facilities.

Like any coastal port, Toondah Harbour and the Fison Channel must be dredged to create the required depth for safe navigation of vessels. Consistent with the NAGD, the Project responds to the fundamental challenge of disposal of dredge material associated with necessary capital dredging by proposing to beneficially reuse dredged material to reclaim land. This land will be used for public open space and urban purposes. With a net balance achieved between dredging and reclamation on preliminary estimates, the impact of dredging and material disposal is confined to the Project footprint.

Residential, recreational and commercial land uses are necessary to fund the port upgrade and other community infrastructure, provide a vibrant and financially sustainable destination and ensure that the intended benefits in terms of employment, education and conservation accrue from the Project.

By virtue of the PDA location, which has been established by regulation and is based on the position of the existing ferry terminal, the Project cannot progress without interacting with the MBRS. Effort has been invested in the planning and design of the Project to minimise impacts and integrate the development with the aesthetic and environmental values of the wetland. This is achieved through the adoption of wise use principles and modelling itself on successful wetland developments globally, and by incorporating best practice conservation, education and cultural and nature-based tourism into the Project.

Notably, a range of developments have been approved or are located within Ramsar sites both in Australia and internationally.

For example, the Riverwalk development (EPBC 2006/3176) in Victoria was approved to deliver 2,200 residential lots and other urban uses over a 197 ha area within the Port Phillip Bay (Western Shoreline) and Bellarine Peninsula Ramsar Site. While the development is within the boundaries of the Ramsar site the area was considered degraded and approval conditions required a range of measures to be implemented to protect the ecological character of the site including improving habitat values for the Growling Grass Frog.

Riviera Harbour (EPBC 2002/732) in the Gippsland Lakes Ramsar site in Victoria was also approved to carry out works within the boundaries of the Ramsar site. The works included dredging, dredge material disposal and a canal estate with urban lots covering 0.042% of the Gippsland Lake Ramsar site.

Internationally, Ramsar sites include a range of tourism and urban infrastructure within their boundaries. Examples include several marinas, apartments and hotels located within the Etang de Salses-Leucates Ramsar site in France, and a resort and mixed-use residential development within the Sungai Pulai Ramsar site in Malaysia.

4.4. State Approval Framework

Within Queensland, several pieces of legislation govern development, environmental protection and management of state interests. While developments are generally assessed under the *Planning Act 2016* (Planning Act) the majority of works proposed by the Project are to be carried out within the declared Toondah Harbour PDA and therefore are primarily (but not wholly) subject to assessment under the *Economic Development Act 2012* (ED Act) as PDA-related development. The following sections address key legislation relevant to the Project and outline the most likely State approval requirements and processes. Other legislation that may apply to the Project is addressed in Appendix 1-O.

4.4.1 Economic Development Act 2012

The ED Act establishes a streamlined planning and development assessment framework that applies to declared PDAs within Queensland. PDAs are parcels of land in Queensland that are identified for development to deliver significant benefits to the community.

The Minister for Economic Development Queensland (MEDQ) may declare a PDA under the ED Act. When a PDA is declared, EDQ works closely with local government and other stakeholders to plan, assess and guide development within a PDA. This includes preparation of the PDA development scheme.

Under the ED Act there are two types of development instruments:

- An interim land use plan (ILUP), which is in place generally up to 12 months after the declaration of a PDA, until the development scheme is approved by the MEDQ; and
- A development scheme, which is the regulatory document that assists with planning, promoting, coordinating and controlling land development within a PDA.

Relevant matters of state interest, as identified in the Queensland State Planning Policy, are considered in the preparation of development schemes.

EDQ guidelines support the development schemes and ILUPs. The guidelines outline the standards for planning and design in PDAs and cover topics such as housing, development and planning.

Under the ED Act, proposed developments for a PDA that are located outside of the PDA may be identified as 'PDA-associated development'. Section 40 of the Act provides for the declaration by the MEDQ of PDA-associated works. The MEDQ may declare development to be PDA-associated development if satisfied that delivery of the proposed development may be adversely affected if the Planning Act were to apply and one of the following applies:

- The proposed development provides development infrastructure to address the impacts of any development within the PDA; or
- The proposed development:
 - promotes the proper and orderly planning, development and management of the PDA in accordance with the relevant development instrument for the PDA; and
 - has an economic or community benefit for the State or region in which the PDA is located; and
 - cannot reasonably be located or accommodated entirely within the PDA.

Any declaration of PDA-associated development must not compromise the implementation of the development scheme or ILUP for the PDA. EDQ must also consult with the local government and any other government entities it considers will be affected by the declaration prior to declaration.

PDA development applications are made to EDQ, or - if development assessment functions have been delegated - to the delegate.

Assessable development that is PDA-related development is generally assessed by EDQ against the development scheme or ILUP. EDQ also manages a range of other processes under the ED Act, including vegetation management, compliance assessment, survey plan endorsement, currency period extension and road closure.

The ED Act also provides for conditions to be imposed on a PDA development approval that relate to a particular state agency or local government issue, and for that relevant entity to be the nominated assessing authority (NAA) for that condition.

Development assessment under the ED Act differs from the development assessment process under the Planning Act including:

- Emphasis on pre-application negotiations to resolve issues and minimise information requests;
- No categories of code or impact assessment for PDA assessable development;
- No statutory state agency referrals;
- No negotiated decision;
- No third party appeal rights; and
- The applicant can only appeal a nominated assessing authority condition.

4.4.2 Toondah Harbour PDA Development Scheme 2014

The Toondah Harbour PDA was declared on 21 June 2013. The Toondah Harbour PDA Development Scheme was adopted in May 2014 and is applicable to all development on land and water within the boundaries of the PDA.

The development scheme consists of:

- A land use plan that regulates development in the PDA and includes a vision, PDA development requirements, levels of assessment, structure plan, precinct plan and height plan;
- An infrastructure plan that details the infrastructure needed to support the land use plan and identifies applicable infrastructure charges; and

- An implementation strategy that describes other strategies and mechanisms that complement the land use plan and infrastructure plan to achieve the PDA outcomes.

The PDA development requirements elaborate on and support delivery of the vision. They include:

- PDA-wide criteria that relate to urban design, sustainability, street and movement network, natural environment, open space, community safety and development constraints and service infrastructure.
- Precinct provisions that provide guidance on outcomes and where land uses within the PDA are preferred.

Development is consistent with the development scheme if:

- It complies with all relevant PDA-wide criteria and the precinct provisions; or
- The development does not comply with one of more aspects of the PDA-wide criteria or Precinct provisions but:
 - development does not conflict with the PDA vision; and
 - there are sufficient grounds to justify approval of the development.

While the Project does not comply with every aspect of the PDA-wide criteria or precinct provisions, it does not conflict with the PDA vision and there are grounds for approval of the Project on the basis of its superior environmental, community, economic and safety outcomes. The proposed master plan is therefore consistent with the development scheme.

4.4.3 Planning Act 2016

The Planning Act is the primary legislation that establishes the framework for Queensland's planning system and provides the foundation for elements of the system—plan making, development assessment and dispute resolution. The *Planning Regulation 2017* (Planning Regulation) and other statutory instruments such as the State Development Assessment Rules (the DA Rules) and the State Development Assessment Provisions (SDAP) establish the details and processes for development assessment.

Any development applications that affect a state interest, which are expressed in the State Planning Policy (SPP), are referred to the State Assessment and Referral Agency (SARA) in the Queensland Department of State Development, Local Government, Infrastructure and Planning (DSDILGP). SARA is the single point of state referral and assessment for development applications under the Planning Act that affect a state interest.

As the Toondah Harbour Project is located within a PDA, much of the development is excluded from being assessable development under the Planning Regulation 2017 (Planning Regulation) and therefore a development approval under the *Planning Act* is not required. Exemptions that are applicable for PDA-related development include but may not be limited to:

- Development interfering with koala habitat in koala habitat areas outside koala priority areas;
- Reconfiguring a lot under the *Land Title Act 1994* (Qld) (Land Act);
- Operational work for reconfiguring a lot;
- Operational work that is the removal, destruction or damage of a marine plant;
- Operational work that is tidal works or work completely or partly in a coastal management district (CMD)—relevant works include interfering with quarry material on State coastal land above HWM, disposing of dredge spoil or other solid waste material in tidal water and constructing an artificial waterway; and
- Operational work for the clearing of native vegetation that is PDA related-development on freehold land, USL, or lands subject to a licence or permit under the Land Act if the clearing is carried out by the licensee or permittee—the exemption does not apply on leased land, land dedicated as a road and trust land.

Where exemptions occur, the MEDQ is responsible for the consideration of the relevant state interests when deciding a PDA development application (ED Act, s 87(1)(b)). This means that these matters will be considered as part of the PDA assessment process and do not require an application under the Planning Act. The Proponent will seek pre-application advice on which, if any, state interests need to be explicitly considered and the format required as part of the PDA development application to ensure that adequate supporting information is provided for assessment purposes.

Not all PDA-related development is exempt from assessment under the Planning Act. In some situations, assessment of PDA development or operational works is triggered under the Planning Regulation. For example, activities such as dredging and storage of fuels on site require approval under the Planning Act as they are prescribed environmentally relevant activities (ERAs) under the *Environmental Protection Act 1994*. In addition, any assessable development works that are located outside of the boundary of the PDA, if not declared PDA-associated development, will require assessment under the Planning Act.

4.4.4 Marine Parks Act 2004 and Marine Parks (Moreton Bay) Zoning Plan 2019

The *Marine Parks Act 2004* (MP Act) and Marine Parks Regulation 2017 (MP Regulation) provide the framework and guiding principles for the establishment of zones within the three marine parks in Queensland, including the Moreton Bay Marine Park. The Department of Environment and Science (DES) has management responsibility over the Moreton Bay Marine Park under the provisions of the MP Act.

The Marine Parks (Moreton Bay) Zoning Plan 2019 (Zoning Plan) is subordinate legislation to the MP Act. The zoning plan identifies different zones within the marine park, states the objectives for each zone and identifies the level of protection for the zone. The marine park, which was declared in 1993, covers most of Moreton Bay's tidal lands and is 3,400 km² in area. The marine park includes lands up to HAT and tidal waters seawards for three nautical miles off the east coast of Moreton (Mulgumpin), North Stradbroke (Minjerribah) and South Stradbroke (Garadji) Islands. State leasehold land below HAT is also included in the marine park.

The Zoning Plan (Part 3) divides the marine park into four management zones to provide a balance between human needs and protection of conservation value. These are the General Use Zone, Habitat Protection Zone, Conservation Park Zone and Marine National Park Zone.

Toondah Harbour overlaps the Habitat Protection Zone of the Moreton Bay Marine Park by approximately 67.9 ha, including 38.7 ha within reclamation areas and 29.2 ha within the Fison Channel extension area (refer to Figure 4-1).

The objectives to be achieved in the Habitat Protection Zone, as set out in the MP Regulation, provide for conservation through the protection and management of sensitive habitats that are generally free from potentially damaging activities and opportunities for reasonable use of the area. The existing marine transport infrastructure at Toondah Harbour, including the Fison Channel and turning basin, are included in the Habitat Protection Zone and periodic maintenance dredging already occurs there.

No parts of the Project footprint are included in the Conservation Park Zone, which aims to provide a high level of protection for marine landscapes, or the Marine National Park Zone, the "green zone", which affords the greatest level of protection in the marine park.

Part 4 of the Zoning Plan allows for areas to be established within the marine park for special management. These include a disposal and extraction area, go slow areas for natural values, go slow areas for turtles and dugongs, grey nurse shark areas, the [Mud Island] material disposal area, material extraction areas, mooring areas, no-anchoring areas and works areas.

Currently, there are no designated areas in or near the Project footprint. The Project will seek the establishment of a works area over the proposed dredging and reclamation footprint.

4.4.5 Environmental Protection Act 1994

The *Environmental Protection Act 1994* (Qld) (EP Act) is relevant for dredging and land reclamation environmental authorities and management of matters such as noise and air emissions and water quality.

The EP Act aims to protect Queensland's environment while allowing for development that improves the total quality of life, now and in the future, in a way that maintains ecological processes. Environmental protection policies are developed under the EP Act to cover specific aspects of the environment.

The Environmental Protection Regulation 2019 supports the operation of the EP Act by identifying environmentally relevant activities (ERAs) that have the potential to cause environmental harm by releasing contaminants to the environment.

The Environmental Protection (Air) Policy 2019 (Air EPP) establishes long-term objectives for sulfur dioxide, nitrogen dioxide, ozone, carbon monoxide, particles, lead and a number of air toxics. Decisions regarding conditions of approval for ERAs must consider these objectives. To prevent or minimise environmental harm, a person carrying out an ERA must take all reasonable and practicable steps to ensure that best practices in environmental management are used. Conditions of approval may include limits on emissions of air pollutants and/or requirements to monitor emissions or ambient air quality.

The Environmental Protection (Noise) Policy 2019 (Noise EPP) identifies environmental values to be protected, states acoustic quality objectives and provides a framework for decision making about the acoustic environment.

The Environmental Protection (Water and Wetland Biodiversity) Policy 2019 (EPP Water and Wetland Biodiversity) identifies environmental values for waters and wetlands and management goals for waters, states water quality guidelines and water quality objections and provides a framework for decision making about waters and the monitoring and reporting on the condition of waters.

While not directly applicable to an assessment under the EPBC Act, the Air, Noise and Water EPPs have been addressed through specific technical studies carried out for those matters. Details can be found in the relevant EIS chapters (refer to Volume 2) and technical reports. In general, the development meets the requirements of the EPPs.

Certain works, regardless of whether they are proposed to occur within or outside of the PDA boundary, may require concurrence assessment as an ERA under the EP Act where the application also seeks an environmental authority. The EP Act applies within the Toondah Harbour PDA where an application seeking an environmental authority to carry out an ERA is made. Types of ERAs are identified in Schedule 2 of the EP Regulation. An example of this is a material change of use (MCU) for an environmentally relevant activity (ERA) under the Environmental Protection Regulation 2019 (EP Regulation) for the dredging component of the Project. Other ERAs may be required for construction and operational activities such as storage of fuel and chemicals on site. As outlined above, in the Queensland planning system, prescribed ERAs require approval under the Planning Act.

4.4.6 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.

In the Queensland Government's development assessment mapping system:

- Toondah Harbour 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".

MSQ will be consulted by EDQ in the assessment of the PDA development application. The regional harbour master at MSQ has already been consulted on the master plan that underpins this Draft EIS. As the Project progresses through detailed design and state assessment processes, 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.

4.4.7 Land Act 1994

The *Land Act 1994* (Qld) (Land Act) is the main legislation dealing with tenure in Queensland. It applies to all land, including land below HWM. The Land Act is administered by the Queensland Department of Resources (DoR) and applies to land titling and processes associated with tenure changes in the Project footprint.

The Land Act outlines the processes to be undertaken when dealing with state land, which includes any restrictions which may apply to an occupier of state land. The development of state land follows a sequence of allocation, regulation and management, as follows:

- The State allocates land to a potential user for specified uses;
- State departments, local government or other public authorities regulate activities in accordance with their own powers, such as the power to grant development approvals; and
- The landholder manages the allocated land in accordance with the conditions of the lease which covers the land.

Currently, a substantial area of the Moreton Bay waters that are included within the Project footprint are identified as unallocated state land (USL). Other areas have term leases and permits to occupy in place, predominantly for marine transport purposes.

Reclaimed land at Toondah Harbour is generally intended to become freehold tenure, albeit some parts of the community infrastructure or foreshore park may be dedicated as a reserve or other form of tenure under the Land Act. EDQ will apply to DoR for a reclamation lease and the Proponent will undertake the reclamation works under a sublease arrangement.

Following the reclamation, EDQ will seek freehold tenure for the reclaimed land. The Proponent will have land access to undertake development through a project development lease.

Ferry operators are to be given new occupation agreements when the new ferry terminal and associated infrastructure is completed.

The provisions of the Commonwealth and State Native Title Acts—that is, the *Native Title Act 1993* (Cth) and the *Native Title (Queensland) Act 1993*—must be satisfied before any dealings under the Land Act can be undertaken in relation to non-freehold land.

4.4.8 Aboriginal Cultural Heritage Act 2003 (Qld)

The *Aboriginal Cultural Heritage Act 2003* (Qld) (ACH Act) protects places and items of Indigenous cultural heritage significance in Queensland. The Act is administered by the Queensland Department of Resources (DoR).

All persons must comply with the Cultural Heritage Duty of Care provisions of the ACH Act. Irrespective of any recorded places on the Queensland Cultural Heritage Register, all reasonable and practicable measures to ensure any activity does not harm Aboriginal or Torres Strait Islander cultural heritage must be undertaken.

QYAC, as the registered cultural heritage body whose area of interest includes the PDA, has conducted a cultural heritage survey of the Project footprint and submitted it to the Queensland Department of Seniors, Disability Services and Aboriginal Torres Strait Islander Partnerships. Indigenous cultural heritage will be managed under a cultural heritage management plan (CHMP) specific to the Project. Details of CHMPs are confidential to the signatories and therefore are not included in the Draft EIS.

4.5. State Government Approvals Application Requirements

If an approval is issued for the Project under Part 9 of the EPBC Act, a range of requests and applications to the State Government will be made by the Proponent listed in roughly chronological order below and to commence as soon as practicable following the EPBC Act decision. They include:

- Request to the Queensland Minister for the Environment seeking designation of a new works area in the Moreton Bay Marine Park under the Zoning Plan;
- Application under the MP Act to the DES for permission to carry out the reclamation;
- Request to the MEDQ to consider declaration of PDA-associated development under the ED Act;
- Development application under the ED Act to EDQ for approval of a material change of use (MCU), reconfiguring of a lot (ROL) and operational works, with a Plan of Development (PoD)—Note, the Toondah Harbour PDA Development Scheme requires that any works permits under the MP Act must be obtained prior to the first PDA development application being made;
- Development application under the Planning Act for a MCU for an ERA for the dredging component of the Project and any other works triggering assessment under the Planning Act;
- Request to DES for the revocation of the reclaimed land from the marine park under the MP Act (s)—This will occur in two stages commensurate with the reclamation staging strategy and issuing of certificates of satisfactory completion for each stage; and
- Compliance assessment under the ED Act – as required.

4.5.1 Marine Parks Act Approvals Assessment and Approval Processes

4.5.1.1 Designation of a Works Area

The Proponent will submit a written request to DES that the Queensland Minister for the Environment establishes a new works area over the Project footprint to enable proposed major works, including dredging and land reclamation, to be undertaken at Toondah Harbour.

Section 63 of the Zoning Plan identifies the minimum information and public notice requirements the Minister must be satisfied with in order to designate a new works area, including that:

- There are no suitable alternatives to the proposed major works;

- An assessment of the social, cultural, financial and environmental outcomes of the proposed major works has been carried out and supports the location of the proposed major works; and
- The proponent has carried out an analysis of the adverse impacts of the proposed major works in the marine park and has given the Minister adequate details about how the adverse impacts will be addressed.

The current Draft EIS has been developed to address the information requirements under the MP Act, in addition to the EPBC Act requirements. The Queensland Minister for the Environment may also consider demonstration of any public benefit including any works that may be beneficial to the cultural and natural resource of the marine park.

Sufficient public notice is required to be given for designation of a new works area. While this is defined as public notice carried out in relation to an EIS under the *State Development and Public Works Organisation Act 1971* (Qld) (SDPWO Act) or the *Environment Protection Act 1994* (Qld) (EP Act), neither of which this EIS relates to, there are other provisions under the MP Act to carry out public notice. If required, a notice will be given to the Proponent by DES outlining the public notice requirements.

4.5.1.2 *Permission for Carrying Out the Proposed Reclamation*

The Proponent will apply to DES for permission to carry out the proposed reclamation under the MP Act. The Act:

- Describes the circumstances under which the chief executive of DES may issue a permission for the reclamation (s 15);
- Details information requirements, including an EIS, about the proposed reclamation that considers the proposed use of the reclaimed part of the marine park and the potential impacts of the proposed reclamation (s 16); and
- Discusses requirements for public consultation about the EIS (s 17).

The Proponent will make this application at roughly the same time as the request to declare a works area and will nominate the intention to seek revocation of the reclaimed land from the marine park, to trigger a notice of the proposed revocation of the reclaimed part of the park (MP Act, s 14) to be issued.

4.5.1.3 *Revocation of the Reclaimed Part of the Marine Park*

Following completion of the reclamation, the Proponent will apply to DES seeking revocation of the reclaimed land from the marine park. This will be contingent upon prior Governor-in-Council notice of the proposed revocation of the reclaimed part of the park (MP Act, s 14), permission to carry out the reclamation (s 15) and the issuing by DES of a certificate of satisfactory completion for the reclamation (s 18). The latter will occur in two stages, given there are two discrete reclamation stages some years apart.

4.5.1.4 *Ongoing Maintenance Dredging Permits*

The ongoing operation of Toondah Harbour, irrespective of whether the Project proceeds, requires periodic maintenance dredging of the Fison Channel and turning basin and the placement of the material at the Mud Island material disposal area in the marine park. The Proponent will neither be involved in maintenance dredging of the Fison Channel and turning basin, nor the disposal of the maintenance dredged material. This ongoing public works activity is managed by RCC under its existing environmental authority (EPPR00618513).

4.5.2 ED Act Assessment and Approvals Processes

4.5.2.1 *Declaration of PDA-associated development*

PDA-associated development provides a mechanism for efficiently managing all development associated with a PDA, including proposed developments or operational works for a PDA that are located outside of the PDA.

If approval is given under Part 9 of the EPBC Act for the Project, the Proponent will consider which, if any, Project components located outside of the PDA it may request for consideration as PDA-associated development. This may include external road upgrades and the installation of navigation aids in the outer channel. If declared PDA-associated development, relevant works will be included in the PDA development application.

Notwithstanding, there is no requirement for the MEDQ to declare any proposed development as PDA-associated. The alternative is for the proposed development to be assessed under the Planning Act.

4.5.2.2 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. 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 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 (i.e., the Proponent).
- A public notice period may apply.
- 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.

4.5.2.3 Planning Act Assessment and Approval Processes

The Proponent will make a development application to SARA for any development or operational works that trigger assessment under the Planning Act and Planning Regulation. Development approval will be sought for a MCU of premises for an ERA to address the dredging components of the Project. Other developments or operational works that trigger Planning Act approval may be identified during the course of pre-lodgement discussions.

4.6. Monitoring, Enforcement and Approval Compliance

Approvals and permits are expected to be subject to conditions that require works to be undertaken in a certain way or within a certain timeframe, and may also require the lodgement of further information for the permit or approval to remain valid.

In the case of a development approval issued under the ED Act or Planning Act, it is expected that conditions of approval will be given, several of which will require works or actions to demonstrate compliance with the conditions.

Compliance assessment under the ED Act will also be required. This is the process of endorsing documents (plans, works, reports, strategies), as required by a condition of approval.

4.7. Local Government Assessment Not Required

Within the PDA, the ED Act changes the usual local government planning and development processes that apply under the Planning Act. PDA-related assessable development will be assessed against the development scheme rather than the local government planning instrument, the Redland City Plan. RCC will, however, have a role in decision making as part of the LRC for the Toondah Harbour PDA.

RCC's local laws continue to apply in PDAs, unless the matter has been dealt with in an ED Act by-law which provides that the local law does not apply (ED Act, s 54).