



**Magnetic Island Community Development Assoc.
Heritage Infrastructure and Planning Group
PO Box 133, Nelly Bay,
Magnetic Island, Queensland 4819**

ABN 88 303 909 978 Incorporated Association: 11505
Contact: Lorna Hempstead, President

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Senate Standing Committee on Environment and Communications

EPBC Amendment (Bilateral Agreement Implementation) Bill 2014

On 4 January 2013 this Association made a submission to your committee opposing the EPBC Amendment giving Australia's states sole responsibility for protecting the environment (species and wildlife). This was "given our experience on Magnetic Island of the demonstrable 'development-at-any-cost' history of decision making by successive Queensland governments and the improbability that a state government will assess development proposals in the national interest as opposed to short-term economic and local political interests", in the context that we are "conscious that historically federal governments have had to step in to ensure protection of such locations as the Alpine National Park, Great Barrier Reef Marine Park, Fraser Island and the Franklin River."

We are aware that the process of devolution has progressed. We note that even at this stage of that process your committee in its review of the above bill seeks evidence on "potential impacts of delegating environmental approval powers to state and territory governments"

Consistent with our position in our earlier submission, we can now cite two (2) current examples for Magnetic Island, a world heritage location [EPBC policy 5.1 Region – Magnetic Island (2010) – the only location specific EPBC policy guideline]. These demonstrate such potential impacts of delegating environmental approval powers - for state legislation and local government regulation respectively:

- The Port of Townsville (PoTL) port expansion project (PEP).
A Commonwealth assessment and decision on this port expansion proposal is critical given the proximity of the world heritage values of Magnetic Island and surrounding waters/reef environments, the most vulnerable component of the ecosystem - as identified in our 29 Feb 2013 submission (Attachment 1). We believe it is unlikely that the state will weigh environmental considerations even on par with economic considerations. Given the Commonwealth approval of other Queensland coast port developments, such as Abbot Point, the cumulative impact of such development now becomes a central issue. It is one on which further federal assessment is pivotal, in addition to an individual project assessment.

The EIS public notification period for Queensland submissions¹ closed on 13 May

¹ a total of 122 submissions

2013. The Queensland Government (Office of the Coordinator-General) has advised Port of Townsville Limited that it requires all submissions to be addressed and further information on a number of key issues to be provided; The EIS public notification period for Commonwealth submissions² (EPBC 2011/5979 refers) closed on 27 May 2013.

The PoTL website indicates that the Townsville Port Authority response to all submissions (presumably to the State Government (Coordinator- General) and the Commonwealth) are due for release in the third quarter of 2014.

➤ Townsville City Council (TCC) Draft City Plan

The 2013 consultation draft available online³ was developed further to the requirements of the Queensland Sustainable Planning Act 2009. The draft has now been provided to the State Government seeking approval to adopt and the TCC website anticipates that the Draft City Plan will be adopted in mid-2014.

The 13 May 2014 Council response to the MICDA submission (Attachment 2) acknowledges (page 4 para 3) that "It is not the role of the Draft City Plan to duplicate state or federal processes, but **to strive to create a local context for natural asset protection.**" (MICDA emphasis).

So in no way is the local government planning instrument able to implement the protection to the world heritage values of Magnetic Island provided under the EPBC. As earlier noted in the Council response (page 2 last para), the recognition of the world heritage values of Magnetic Island is 'over and above any legal requirements for the scheme to include'. These legal requirements are doubtless State requirements for natural asset protection. So the criteria for federal assessment again are crucial to protection of Magnetic Island's world heritage values.

Nevertheless, MICDA applauds this Council position.

Further, it is clear from the Council's subsequent comments that it sees protection of MNES to be with the Commonwealth⁴.

We are not convinced that for such as the Port of Townsville port expansion project - assessable by both state and the commonwealth, and provision for protection of natural assets in Townsville, that under the federal "one-stop shop" policy reliance by the federal Minister on environmental impact assessment processes by the State of Queensland is the most efficient and effective approach for environmental approvals.

² a total of 179 submissions

³ <http://wokim.townsville.qld.gov.au/Pages/XC.Plan/Default.aspx>

⁴ Council's response continues that "Additionally, it is not possible to separate out the legally required state mapping from the commonwealth mapping, and for the most part, they are linked. For example a particular Regional ecosystem (state requirement) will be the supporting habitat unit for the black throated finch (federal matter). Therefore, where it was possible and practical for the scheme to do so, federal matters were mapped.

Further, in regard to MNES, the Council's response again says that "where it was possible and practical for the scheme to do so, MNES were mapped, continuing that "it should also be noted that the Draft City Plan does not override the requirements of the EPBC. Development may also be required to be referred to the federal government to obtain approval under her EPBC. Conditions or a refusal issued due to EPBC referral override the Draft City Plan. The Draft City Plan therefore supports these matter(s) and MNES also remain protected under the EPBC." And later on page 4 states that "It should also be noted that the mapping does not remove the requirements of other state and/or federal legislative requirements. Applicants will still need to comply with these other requirements over and above the Draft City Plan (eg *Vegetation Management Act 1999*). It is not the role of the Draft City Plan to duplicate state or federal processes, but to strive to create a local context for natural asset protection.

We therefore call on your committee to review the proposed amendment in the context of specific situation such as the above two cases of natural asset protection, and the importance for each of retaining federal approval powers.

Yours sincerely

Lorna Hempstead AM
Hon President

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ATTACHMENTS

ATTACHMENT 1: 29 Feb 2013 MICDA submission to Business Entry Point SEWPAC

ATTACHMENT 2: 13 May 2014 Townsville City Council response to MICDA submission on Draft Townsville City Plan.