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Gladstone Ports Corporation

Growth, Prosperity, Community.

Our Ref: #1170745
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1 July 2015

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Sir/Madam

Submission on Sustainable Ports Development Bill 2015

The Gladstone Ports Corporation (GPC) welcomes the opportunity to comment on the Sustainable Ports Development Bill 2015. Additionally, GPC has contributed to and supports the submission collectively prepared by the Queensland Ports Association.

In general GPC supports the purpose of the Bill, in particular implementing the Reef 2050 Long Term Sustainability Plan (Reef 2050 Plan) to protect the Great Barrier Reef World Heritage Area (GBRWHA) while planning future port and supply chain expansion to meet future import and export demands. It should be noted however that most Queensland port authorities and particularly GPC have conducted extensive monitoring and research programs in relation to potential environmental impacts over many years. This information to date concludes that sea disposal has minimal environmental impact and potentially a lesser impact than those of alternative disposal options. Unfortunately, while the intention of the draft Bill is to remove sea disposal as an option for capital dredged material in the future, it does not provide certainty or clarity for ports regarding what disposal options are still available.

The following comments reflect issues which are pertinent to GPC's operations and in some instances ports in general and are provided for the Committee to consider when reviewing the Bill and reporting to Parliament.

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SECTION 2

Issue 1 – Links to Existing Regulatory Requirements

Section 2(2)(c) does not link the new regulatory requirements for development i.e. the Master Plan and Port Overlays with existing regulatory requirements for development i.e. port Land Use Plans (LUP). It would appear that Port Overlays are to replace LUP's in regulating port development.

Solution 1

Amend Section 2(2)(c) to "implementing master plans through port overlays that regulate development in and surrounding priority ports in conjunction with port Land Use Plans that regulate development on Strategic Port Land".

Issue 2 – Inclusion of diverse Port functions - Tourism

Section 2(3)(c) states that the purpose of the Act is to be achieved in a way that includes – "recognising the diverse functions of the port network, including trade, tourism and defence operations". The failure to include the Port of Cairns as a Priority Port limits the capacity of that port to expand and could potentially have a detrimental 'knock-on' effect to expansion of the cruise industry at other Queensland ports. The growth in the cruise industry has seen ever increasing vessel numbers and size visiting Queensland and Australian ports. The failure of the Port of Cairns to be capable of accommodating the increase in vessel size will limit the North Queensland region's ability to cater for future tourism growth. This is relevant to GPC due to our ongoing support to defence through the Port of Rockhampton, as outlined in Issue 3.

Solution 2

Amend the Act so that provision is made for capital dredging at the Port of Cairns, albeit in a limited manner that meets the demands of the tourism industry.

Issue 3 – Inclusion of diverse Port functions - Defence

Section 2(3)(c) states that the purpose of the Act is to be achieved in a way that includes – "recognising the diverse functions of the port network, including trade, tourism and defence operations". The capacity of Ports to cater for defence operations needs to be considered further in the Act. As defence comes under the jurisdiction of the Commonwealth Government there may be overriding legislative provisions that will permit capital dredging to be undertaken in ports other than Priority Ports. If not, this Act needs to allow capital dredging for defence needs.

For example, the Port of Rockhampton – Port Alma Shipping Terminal has been identified as a preferred site for the handling of munitions on the Queensland coast. This is due to its existing approved limits for the handling of explosives, isolation from residential and industrial development and proximity to the explosive storage at Bajool. Changes to vessels handling munitions may require an increase in the size of the swing basin at the terminal but not any increase in the depth of the approach channel. Dredging for the enlarged swing basin would constitute capital dredging.

Solution 3

Amend Section 32 so that defence operation provisions can be catered for.

Issue 4 – Lack of information re definitions

Section 2(3)(d) does not adequately define or indicate what is meant by "port infrastructure" or "supply chain infrastructure".

Solution 4

Amend *Section 2(3)(d)* to “efficiently using port and supply chain infrastructure including port facilities, shipping channels and berths, and transport corridors”.

SECTION 6

Issue 5 – Master Planned Area exclusions

Section 6 states that master planned areas cannot include marine park areas within port limits including Commonwealth marine parks. The Reef 2050 Plan nominates that “...port master planning that considers potential marine-based impacts”. Where there is existing essential port infrastructure that extends into the State and Commonwealth marine parks and within the defined port limits, there is a need to allow the inclusion of this infrastructure into the master planned area.

Solution 5

Recommend *Section 6* accommodate the inclusion of existing essential port infrastructure in the master planned areas which are located within Commonwealth or State marine parks.

SECTION 8

Issue 6 – Master Plan Content

Section 8 is titled “Content of master plan”, however the content requirements are limited and may not fully address the purpose of the Act as described in *Section 2*.

Solution 6

Amend *Section 8(1)(a)* to “state the strategic vision, objectives and desired outcomes for the master planned area taking into consideration *Section 2 - Purpose of Act*”.

Issue 7 – State interests

Section 8(1)(b) states “a master plan must identify the State interests affected, or likely to be affected, by existing uses at the port and future development at, or for, the port” which implies that the plans are to document all the negative aspects of port activities.

Solution 7

Amend *Section 8(1)(b)* to “a master plan must identify the State interests affected positively and negatively, or likely to be affected, by”.

Issue 8 - Impacts

Section 8(1)(c)(ii) states “identifies any impacts development in the master planned area may have on the environmental values”. The word “impact” usually implies negative implications.

Solution 8

Amend *Section 8(1)(c)(ii)* to “identifies any negative and positive impacts development in the master planned area may have on the environmental values”.

Issue 9 – Timeframes for Master Plan

Section 8 does not clarify the timeframe which is to be considered for “future development” or the timeframe to be considered for “impacts development in the master planned area may have”.

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Solution 9

Amend *Section 8* to define the master plan timeframes.

SECTION 12

Issue 10 – Copy of Plan or Amendment to Entities

Section 12 currently requires the Minister to give priority ports a copy of the notice regarding the Minister's decision to make or amend a plan with or without changes but not a copy of the new master plan or amendment and not a copy of the notice if the Minister decides not to make the proposed master plan or amendment.

Solution 10

Amend *Section 12* to require the Minister to give priority ports a copy of the final master plan or amendment or a copy of the notice to not make the proposed master plan or amendment.

SECTION 14

Issue 11 – Request to Review Master Plans

Section 14 allows for the Minister to review master plans at least every ten years. There should be a mechanism by which a Port Authority of a priority port may request a review or amendment of the master plan. Such a review could be triggered by a new industry that may require additional marine infrastructure, etc.

Solution 11

Amend *Subdivision 2 & 4* to allow Port Authorities of priority ports to request the Minister to review a master plan.

SECTION 17

Issue 12 – Action after Review

Section 17 allows a Minister to prepare a new plan, amend a plan or make no changes following a review, however it does not require the Minister to give a notice to the priority port of the outcome of the review or a copy of any new or amended master plan.

Solution 12

Amend *Section 17* to require the Minister to give priority ports a notice of the outcome of the review and when a new or amended plan has been prepared, and provide the priority port with a copy of the new or amended plan.

SECTION 19, 26&27,28,29&30,

Issue 13 – Regulatory consistency across jurisdictions

The Act enforces regulation by port overlay on Strategic Port Land through the Planning Act and port Land Use Plans (*Section 19 and 28*), however it does not enforce regulation by port overlay on other lands which are of State interest i.e. priority and state development areas (*Section 19, 26, 27, 29, 30*). This inconsistency in the management of areas within the master plan area will result in reduced effectiveness of the comprehensive master planning process, uncertainty for industry and poorer delivery of the Reef 2050 Long-Term Sustainability Plan (Reef 2050). In Gladstone, a significant portion of the master plan area is within the Gladstone State Development Area which covers approximately 28000 hectares.

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Solution 13

Amend relevant sections to require consistent regulatory requirements across all jurisdictions within the master plan area.

SECTION 22

Issue 14 – Making, Amending Port Overlays

Section 22 currently has no provision for priority ports to review the draft port overlay prior to public notice. Prior opportunity to review the draft would enable ports to assist in the preparation of codes for development assessment, identify opportunities for delivering Reef 2050 outcomes through enforceable management of tenant activities on port land and identify any inconsistencies with the port Land Use Plan.

Solution 14

Insert a new section which allows ports and other relevant entities to review the draft port overlay and have input into its preparation to maximise delivery of Reef 2050 objectives across the master plan area and on Strategic Port Land.

SECTION 31

Issue 15 – Definition of Restricted Area

Clarity is required on the definition of the Great Barrier Reef World Heritage Area (GBRWHA). *The Great Barrier Reef Marine Park Act 1975* in Schedule 1 defines the boundary to be “along the coastline at low water”. The Maritime Boundary Definitions from Geoscience Australia defines “...the Normal baseline correspond to the low water line along the coast” and that “...for Australian purposes, normal baseline corresponds to the level of Lowest Astronomical Tide (LAT)”. Application of this definition appears to be in contrast to the published boundary line for the GBRWHA. This has significant implication of the restricted area as covered within the Bill.

Solution 15

Section 31 needs to clarify that the boundary of the GBRWHA on the coastline is LAT as defined by Geoscience Australia as the GBRMP Act does not provide sufficient clarity by using the term “low water”.

SECTION 33

Issue 16 – Capital dredging approvals

Section 33 it is understood that the intent of this section is to restrict development outside of priority ports.

Solution 16

There is some confusion when reading this section, therefore it is recommended that section 33 read “Other than a port facility in a priority port’s master planned area an approving authority must not grant an approval for development that is, or includes, capital dredging if the dredging will be carried out –

- a) Within the restricted area: and
- b) For the purpose of establishing, constructing or improving a port facility.”

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SECTION 34

Issue 17 – Beneficial Reuse

Section 34 of the Bill currently provides no definition of “beneficial reuse” but implies it can only occur on land other than tidal land.

Solution 17

Recommend adopting the proposed QPA definition and the definition outlined in the explanatory notes of beneficial reuse as follows:

- engineered uses— for example: land reclamation; beach nourishment; offshore berms; capping material;
- agriculture and product uses—for example: aquaculture; construction material; liners; and
- environmental enhancement—for example: restoration and establishment of wetlands, upland habitats, nesting islands and fisheries.

Recommend the Bill define land reclamation to include reclamation within the restricted area that can be undertaken in a manner consistent with the principles of Ecologically Sustainable Development.

Issue 18 – Definition of “Land” and “Tidal Land”

In Section 34 disposal of dredge material is allowed on land other than tidal land but the current definitions of “land” and “tidal land” appear to overlap which makes interpretation very difficult.

Land – means any land, whether above or below the ordinary high-water mark at spring tides.

Tidal Land – means land that is submerged at any time by tidal water.

Solution 18

The two terms, their definitions and use in the Bill need to reflect that land reclamation can occur within the GBRWHA i.e. below Lowest Astronomical Tide (LAT) and between LAT and ordinary high-water mark at spring tides in priority port areas.

Issue 19 – Inclusion of reclamation

Clause 34(1) implies that beneficial reuse can only occur outside the restricted area i.e. above LAT. However recommendation WQ19 of Reef 2050 does not preclude reclamation within the GBRWHA when such reclamation is of beneficial reuse. It is advantageous to include beneficial reuse within the restricted area, as ports which have extensive inter-tidal areas can improve the efficiencies of port infrastructure by providing storage and handling areas for imports and exports of bulk products, general cargos and construction components for new industries immediately behind the wharf structures. This provides a necessary link in trade supply chains. Such efficiencies are necessary if future port development is to be concentrated within the existing priority ports.

Solution 19

From discussions with the department, it is understood the intent of this section is that if it is impracticable to beneficially reuse the prescribed dredged material within the restricted area i.e. reclamation, then the material is to be deposited on land.

It is recommended that *Clause 34* be more distinct and reflect that:

- a) Beneficial reuse within the restricted area is permissible.
- b) Where beneficial reuse within the restricted area is impracticable than disposal on land can be approved.

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Issue 20 – Allowance for rehandling dredged material

The Act does not allow for the rehandling of dredged material which is often necessary due to the inability of the dredger to pump material direct from its hopper to a disposal site. In such cases it is often required to undertake a rehandling of the material involving the temporary placement onto the seabed at a controlled site within the restricted area. This material is then re-dredged by more suitable equipment for pumping to shore. If this type of temporary placement for rehandling is not accommodated in the Act it would preclude the dredging of heavy, cohesive materials encountered in sections of the Port of Gladstone which would be detrimental to future expansion and concentration of industry and port development at this priority port.

Solution 20

More consideration is required on the definition of disposal of dredged material in the restricted area or for exemptions to apply on a case by case basis to allow for temporary placement on a limited basis to overcome logistical limitations of pumping certain sediment types to an appropriate final disposal area.

SECTION 38 & 39

Issue 21 – Existing development approvals and applications

Sections 38 & 39 both utilise the term “premises”, due to the definition of this term there is uncertainty whether an existing reclamation cell approval or wharf approval would garner the protection of the existing uses and rights provisions. In both instances a seabed lease has been obtained prior to the approval, however the reclamation or works are not certified as land or a structure until after the works or reclamation are completed.

Solution 21

Clarification is required regarding whether disposal of capital dredge material into existing approved reclamation areas will or will not be impacted by the commencement of the Act.

Further consideration is required on how the existing definitions of land, tidal land and premises interact and how they affect the interpretation of the Act.

SECTION 60

Observation

GPC has commenced an EIS process for channel duplication and disposal of dredged material to one or more reclamation areas. Because land reclamation is supported by the Reef 2050 Plan, disposal to reclamation areas within commenced EIS processes should be assessed under the existing regulatory processes. Clarification is sought on this issue as it has a fundamental impact on the progression of the project.

The most important issue in relation to this Bill for GPC is allowing land reclamation to be approved within the restricted area. The exclusion of land reclamation from within the restricted area would have significant detrimental effects on Gladstone Port's ability to:

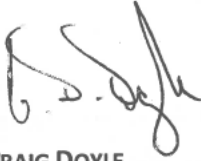
- cost effectively construct and operate port infrastructure;
- attract new industries and compete effectively nationally and globally; and
- would greatly reduce the potential capacity and utilisation of future port infrastructure.

The wording of the Bill and the Explanatory Notes are not consistent in relation to allowing future land reclamation in priority port areas therefore the Bill needs to be amended and clear definitions included as recommended above.

Should you require anything further, please do not hesitate to contact Sarah Hunter, [REDACTED]

[REDACTED]

Yours faithfully



CRAIG DOYLE
CHIEF EXECUTIVE OFFICER