



3 July, 2023

The Honourable Tanya Plibersek  
Minister for the Environment and Water  
By email only: [Minister.Plibersek@dcceew.gov.au](mailto:Minister.Plibersek@dcceew.gov.au) and [tanya.plibersek.mp@aph.gov.au](mailto:tanya.plibersek.mp@aph.gov.au)

Dear Minister,

### **Request to use your EPBC Act powers to bring Toondah saga to an end**

The Toondah Harbour Priority Development Area saga has dragged on for far too long. This letter requests you to use your legislative powers referred to below, to bring it to a close.

#### **Introduction**

As you know, the Toondah proposal involves the Walker Group/Corporation (Walker) building 3,600 high-end waterfront apartments, a hotel, shops, restaurants and a 'wetland and cultural centre' in protected waters of Moreton Bay at Cleveland, inside the boundaries of the Moreton Bay Ramsar site. This obviously conflicts with Australia's obligations under the Ramsar Convention.

The plan is to "fill in" tidal wetlands which are currently inhabited by many marine and shorebird species and convert the area to private and commercial use. But it cannot proceed without Federal Government approval. (Also see our submission on Walker's Draft EIS – we sent a copy to you.)

The brazen scheme is illustrated by Walker's own plan (copy **attached**) submitted with its current Referral seeking that approval. The plan shows the State Government's Priority Development Area (PDA) boundaries, the Ramsar site boundaries and the development footprint sitting over the top of and inside the boundaries of the Ramsar site.

Apart from other breaches, clearly this plan would breach Australia's obligation under Article 2.5 of the Ramsar Convention because it would impermissibly "delete or restrict" boundaries of the Ramsar site for private profit. One obvious illustration of the deletion or restriction is that critically endangered shorebirds and other species which currently inhabit the wetlands to be "filled in" or converted into yacht marinas, would no longer be able to do so.

#### **Your relevant legislative powers**

The period for public comment on Walker's Draft Environmental Impact Statement (EIS) concluded seven months ago, on December 6, 2022. Under section 104 of the Environment Protection and

Biodiversity Conservation (EPBC) Act, Walker is required to finalise its EIS and submit it to you. Walker is yet to comply. There is no time limit on Walker stipulated in Section 104, but the requirement to finalise its EIS commenced on 7 December, 2022.

In the event of delay in complying with this requirement, Section 155 in effect gives you the power to require Walker to “put up or shut up” after you give notice of what you consider to be a “reasonable period” for Walker to respond.

Section 155 (1) of the Environment Protection and Biodiversity Conservation (EPBC) Act states:

*“1) If:*

*(a) a person who proposes to take a controlled action or is the designated proponent of an action is required or requested under this Chapter to do something; and*

*(b) the person does not do the thing within a period that the Minister believes is a reasonable period;*

*the Minister may give the person a written notice inviting the person to satisfy the Minister within a specified reasonable period that assessment of the action should continue or that the Minister should make a decision about approving the action.”*

In accordance with sub-section (2), if Walker does not respond to the notice or satisfy you in the manner specified, you may end the EPBC Act assessment process. This would bring Walker’s application for Federal approval to an end. Alternatively, if Walker complies and delivers its final EIS to you, your time limited decision making period will commence.

### **What is a reasonable time for Walker to deliver its final EIS?**

These are factors relevant to your decision about what is a ‘reasonable period’ for Walker to comply with section 104 and deliver a final EIS to you:

- The Toondah Harbour Priority Development Area was declared 10 years ago (on 21 June, 2013);
- Walker first applied for Federal approval 8 years ago (EPBC Referral 2015/7612) and its current application for approval was made 5 years ago (Referral 2018/8225);
- Walker already has had nearly seven months to finalise its EIS;
- On the release of its 5,000 + page Draft EIS on 12 October, 2022, the public and non-Walker experts were given **40 business days** to make comments or submissions on it;
- If/when Walker does deliver its final EIS to you, under section 130 (1B)(d), you will have **40 business days** to make your decision, unless you specify a longer period;
- There is an enormous amount of public interest in this proposal, and that interest continues to grow eg it featured prominently in the ‘Flyways’ documentary about migratory shorebirds, shown on ABC TV on 20 June and 24 June;
- Over 65,000 people have signed Save Moreton Bay’s petition to you to reject Walker’s Toondah Harbour scheme;
- There have been reports that over 25,000 comments or submissions opposing the scheme were made on Walker’s Draft EIS;
- For two years running there have been large ‘Mothers Day’ marches through the streets of Cleveland in opposition to the scheme, attended by thousands of people;

The vast majority of the comments/submissions on Walker’s Draft EIS are likely to be generic and would come as no surprise to Walker.

## Conclusion

In all the circumstances, including the Toondah Harbour PDA saga began a decade ago, Walker's current Referral seeking Federal approval is 5 years old, the 40 business day time limits placed on the public and other experts to comment on Walker's Draft EIS, and similar time limits placed on your Department and yourself in relation to assessment and decision making when the final EIS is delivered, we submit a reasonable time has passed already for Walker to finalise its EIS.

We submit it is appropriate to use your legislative powers to cause the delivery of the EIS, or end the assessment process without that occurring. Allowing Walker a further month would be more than reasonable in all the circumstances.

If Walker does not comply, we submit you should act in accordance with your comments to the Guardian after you used your legislative powers in May this year to reject two Queensland coal mines:-

*"I've been clear I will have zero tolerance for businesses who refuse to provide adequate information about the impact their projects will have on nature. If companies aren't willing to show how they will protect nature, then I'm willing to cancel their projects – and that's exactly what I've done."*

If you do not act to bring the assessment process to a close, it will be apparent you are putting the interests of a Billionaire property developer, Lang Walker, and his political donor companies ahead of the interests of thousands of people who are involved in opposing the scheme and want an end to the drawn out saga.

(Lang Walker's companies have declared donations of almost \$500,000 to the Liberal and Labor Parties since the Queensland Government declared the Toondah Harbour Priority Development Area in 2013.)

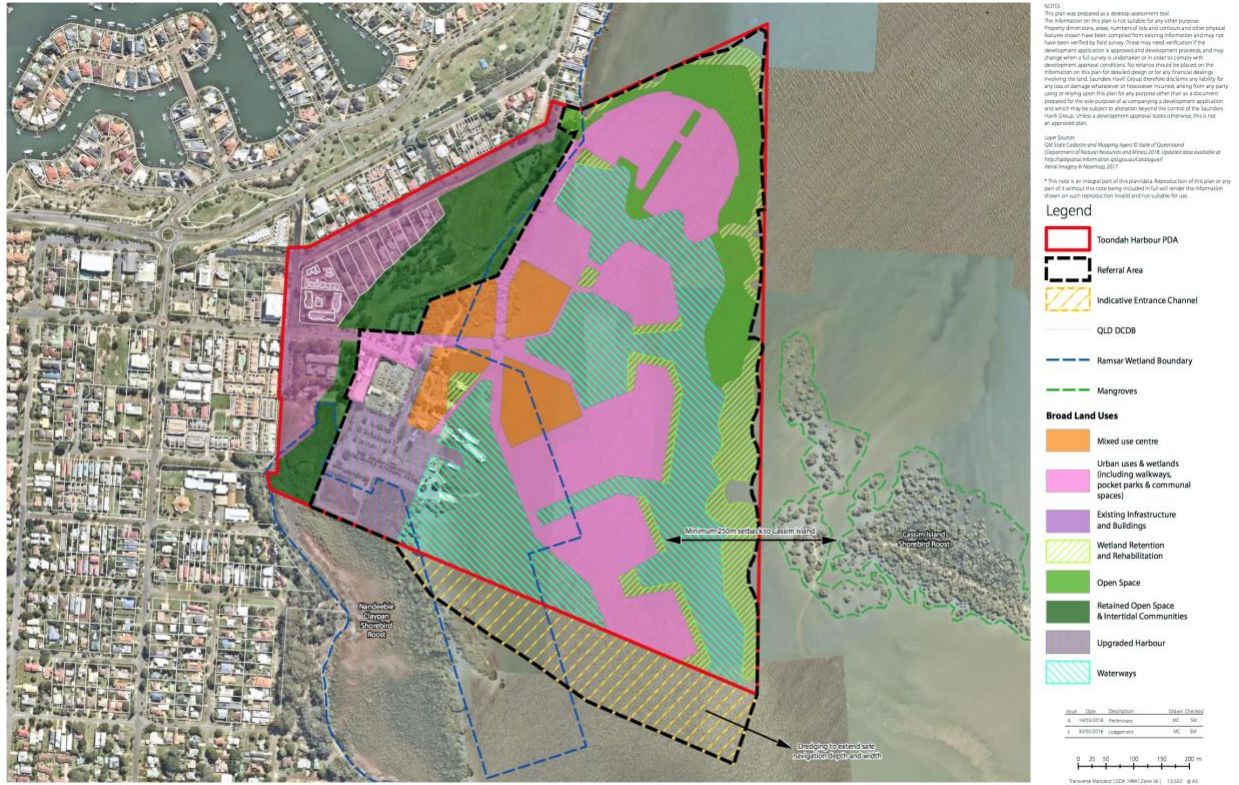
People need to get on with their lives without feeling anxious about this horrible scheme to destroy internationally recognised, Ramsar listed wetlands – the habitat of many marine and shorebird species, including the critically endangered Eastern Curlew.

We request your response within 14 days. Please reply by email to [REDACTED]

Yours sincerely,  
Richard Carew  
Secretary

Dale Ruska  
President

Stradbroke (Terangeri) Environmental and Cultural Protection Association Inc.



TOONDAH HARBOUR, CLEVELAND

ADDRESS: TOONDAH HARBOUR PDA | 10/25/2018 | #A4\_01\_01\_01\_01\_01\_01

This plan is extracted from Walker Corporation’s current Referral seeking Federal approval – EPBC Referral 2018/8225. The plan shows the Toondah Harbour PDA boundaries, the Referral Area, Ramsar site boundaries, and the development footprint on top of and inside Ramsar site boundaries.