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1 March 2005

How to Write a Submission on the North South Bypass Tunnel Stage 1 E.I.S. – Legal Background

What is an E.I.S.?

Generally speaking, an environmental impact statement, (known as an E.I.S.), is a document that describes a proposed development, comments about its likely impacts on the environment and suggests how those impacts may be managed or lessened. Generally speaking the E.I.S. is prepared by a consultancy team paid for by the developer. So it is very important that agencies of government and members of the public scrutinise both the terms of reference (for any important E.I.S.) and the E.I.S. itself to see that full and accurate information on impacts has been gathered.

The information in the E.I.S. and comments from submitters usually influence certain government decisions as to whether or not to grant approvals for a development.

The North South Bypass Tunnel Stage 1 E.I.S. was recently released and submissions are due by close of business 15 April 2005. See contacts at the end of this paper for information on how to obtain copies of the E.I.S..

Why make a submission on the North South Bypass Tunnel E.I.S.?

Developer Brisbane City Council proposes to have constructed a North South Bypass Tunnel between Woolloongabba in the south and Bowen Hills in the north.

That development requires a variety of separate legal permits or approvals under State laws¹ but no major legal permits under Commonwealth laws. However the principal legally guaranteed public right to have your say on the North South Bypass Tunnel is to make a submission on the E.I.S. Do not let this narrow window of opportunity pass you by.

What happens to my submission?

The State Coordinator-General ('CG', the head public servant in the Qld State Development Department), must consider each properly made submission and prepare a Report on the E.I.S. and any submissions received. The CG's Report has the status of a "concurrence agency response". This means for example (amongst other powers) the CGC can require the application is refused or that conditions are attached

We suggest that you also send a copy of your submission to other relevant State agencies. This is because some agencies (such as the EPA) might provide advice to the CG. Other agencies may make an independent decision about whether to issue other separate State licences and

¹ The Initial Advice Statement by the developer to the State government dated March 2004 listed a number of permits and approvals that might be required for the project, including among others: E.I.S. process, *State Development And Public Works Organisation Act 1971* (Qld); approval for various activities under the *Environmental Protection Act 1994/ Integrated Planning Act 1997* (but the State Environment Protection Agency's power under this last approval has been changed to an advice only power due to a "significant project" declaration under the *State Development and Public Works Organisation Act 1971*); placing of fill or excavating in a watercourse under the *Water Act 2000*; connecting to a State road *Transport Infrastructure Act 1994*

approvals for the proposed North–South Bypass Tunnel. A copy of your submission will help the agencies evaluate any flaws in the E.I.S.

In your submission include not just comments on the scientific impacts of the North South Bypass Tunnel, but also your personal views about why your local environment is important to you. Social matters are relevant - and strong views will help to influence decision-makers and politicians.

Formal Requirements for a Valid Submission

(Post or hand deliver, do not email or fax as it might not be valid)

For an E.I.S., a ‘properly made submission’ is one that -

- is made to the Coordinator-General, ('CG', the head public servant in the Department of State Development) in writing; and
- is received on or before the last day of the submission period; and
- is signed by each person who made the submission; and
- states the name and address of each person who made the submission; and
- states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

How does the E.I.S. influence State approval processes?

The CG has declared the North South Bypass a *significant project*, which means that the powers of the State Environmental Protection Agency to refuse the environmentally relevant activities that are part of the proposed tunnel under the *Environmental Protection Act 1994/ Integrated Planning Act 1997* are gone. Instead of those powers, the State Environmental Protection Agency can only provide advice to the Coordinator-General, and the Coordinator-General effectively directs the decision whether to approve or refuse the development. For certain other separate State approval processes², while the Coordinator-General's report *must be taken into consideration* by those State Agencies in deciding to refuse or approve the proposed North-South Bypass Tunnel, it is most important to note that each State Agency still retains independent licensing or approval powers in relation to the proposed North-South Bypass Tunnel and has legal power to approve or refuse parts of the development based on criteria in their own legislation.

Example Submission

See over the page for a submission outline. It shows those features legally required and includes some of the main points we expect to be relevant in any reasons you put forward against the proposal. But please add or substitute your own points after you read and consider the E.I.S.

Where to go to get Information to Help You

The Rivermouth Action Group Inc.

Contact RAG at website www.rag.org.au/tunnel/ email tunnel@rag.org.au Ph 0416 478 615

Department of State Development and Innovation

Contact the EIS Coordinator on telephone (07) 3222 2841 or for information about the EIS process, see the State Development's site http://www.sdi.qld.gov.au/dsdweb/v3/guis/templates/content/gui_cue_cntnhtml.cfm?id=1759

A hard copy of the EIS and technical drawings may be purchased however a summary of the Draft EIS is free as is a CD containing the draft EIS and drawings, see <http://www.nsbt-eis.com/>

² Taking or interfering with a protected plant under the *Nature Conservation Act 1992* is one example.

[Skeleton Submission only. You will need to consider the E.I.S. other comments by reputable organisations such as The Rivermouth Action Group Inc, and think about the issue to form your own points. However follow this framework to ensure your submission is "properly made" and so must be legally considered by the Coordinator-General].

[##Insert Name & address& date e.g.

2 March 2005
Ms. Sue Smith
55 Smith Street
Smithsville 4999

To the Coordinator-General
c/ EIS Project Manager – North-South Bypass Tunnel
Department of State Development and Innovation
PO BOX 15168
CITY EAST QLD 4002

Dear Sir,

Submission on North-South Bypass Tunnel E.I.S.

I wish to comment on the North-South Bypass Tunnel E.I.S.

I make the following comments on the adverse impacts of this proposal and outline the following grounds, facts and circumstances supporting my points.

Below Standard Air Quality Worsened

The tunnel as planned will further decrease the already poor air quality currently experienced by all who live and work near to both the SE Freeway, Ipswich Road and Mains St and now the proposed ventilation exhaust stacks. The proposed ventilation exhaust system will discharge over an area that is already experiencing levels of particle pollution that exceed the national NEPM Air Quality goals for PM 2.5, a criteria pollutant. The proposed unfiltered discharge from the Tunnel stack will worsen the exceedence, thus worsening the health effects of this pollution.

Need Sustainable Transport Solution, not Tunnels

The tunnel is not a satisfactory or efficient way to solve our present transport needs. Alternative methods using our existing road systems for the transport of goods including route and hours access restrictions upon heavy polluting vehicles, cordon road pricing (*??what is this*) and other practical and well tried methods in use elsewhere. We need facilities for more buses, pedestrians and cyclists for the sustainable future transport of our citizens not expensive infrastructure that will cause increased air pollution and induced traffic ie cause more traffic.

Tunnels do not shorten Transit time

The proponent and the State Government claim that the main benefit to be gained from the Tunnel will be a shortening of journey time between Woolloongabba and Bowen Hills. Research elsewhere into a similar tunnel, the M5 East Tunnel in Sydney is that these benefits of increased traffic speed are rapidly lost as congestion due to increased demand to use the tunnel choke up and congest the approaches to the tunnel. (See *RTA NSW current reporting on journey times associated with Sydney Tunnels*.) A further experience in Sydney is that the attractive power of an

easier journey the tunnel promises, when not achievable due to tunnel capacity being exceeded, leads to further traffic on urban streets above the tunnel.

Disadvantage to Woolloongabba (*adapt for Bowen Hills and other areas*)

This will further disadvantage the Woolloongabba community, that began with the South East freeway. It will further increase traffic noise and congestion in residential streets from “rat running” Already severe access restrictions imposed upon Woolloongabba residents in using the SE Freeway at peak traffic flow times will be further restricted. The placing of the tunnel portals in existing the existing Ipswich Road and Shafston Avenue will restrict access to businesses, educational and community centres.

This development will adversely effect me by:

[##Insert views and reasons by reference to material in the E.I.S. or other factual material relevant to North-South Bypass Tunnel but also include your personal connection with the issue and local environment

Yours faithfully,

[##signed

Ms Sue Smith]

[##Make sure your completed submission is lodged on time by posting or hand delivering (not faxing or emailing) the signed original well before the last day for submissions, 15 April 2005.]