



The Hon Terry Redman MLA
Minister for Regional Development; Lands;
Minister Assisting the Minister for State Development

Our Ref: 39-36452

Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
Perth WA 6000

Dear Mr O'Brien, *Simon*

Petition NO. 129 – Esperance Tanker Jetty

Thank you for your letter dated 13th October 2016, regarding the petition which was tabled by Hon Dave Grills MLC, in the Legislative Council on 26th August 2016.

The Esperance Tanker Jetty (jetty) was built by the WA Government Railway in 1935, and remained in commercial use until the mid-1970s, when it was replaced by the modern-day Esperance Port. The Esperance Shire (Shire) took control of the jetty under a lease agreement from the State Government in 1990. The Jetty is now 81 years old and is considered by the Shire to be beyond its useful life, primarily due to timber jetty structures typically being designed for a 50 year life span.

In November 2015, The Shire engaged an independent engineering firm (BMT JFA Consultants) to conduct a structural assessment of the Jetty. The assessment identified serious structural defects, resulting in the immediate closure of the Jetty. The assessment also outlined a range of options for the Shire to consider in terms of either repairing or replacing the jetty structure. At a Special Council Meeting in February 2016 the Shire resolved to demolish the existing jetty and provide a substantially smaller replacement structure, primarily due to their assessment that the capital and recurrent costs associated with repairing the existing jetty were well in excess of the costs associated with replacing the jetty.

The Shire called for tenders for the demolition of the Jetty in May 2016, and was due to award the contract at its August 2016 Council meeting, however a community group (the Jetty Group Inc) requested the Shire to defer awarding the contract, on the basis that they believed that the Shire had not fully considered all options to restore the jetty and the Group had commissioned their own independent engineering report relating to the demolition or retention of the Tanker Jetty.

The Jetty Group also applied to the Heritage Council of Western Australia (HCWA) for a Conservation (Stop Work) order to allow them more time to explore further alternatives to the demolition of the jetty.

In consideration of the above requests Council resolved at its August meeting to;

1. Invite the Jetty Group Inc. to provide to the Shire, by close of business on 31 October 2016, an engineering report including whole of life costs and other information relating to the demolition or retention of the Tanker Jetty; and
2. Proposed that at a Special Council Meeting on 8 November 2016, the Council, subject to any decision in the meantime by the Minister for Heritage on the requested Conservation (Stop Work) Order, considers;
 - a. Whether there is any basis for reconsidering its decision to proceed with the demolition of the Tanker Jetty; and
 - b. If not, to determine which of the shortlisted tenderers it will accept, for the purpose of entering into a contract for the demolition of the Tanker Jetty.

The Jetty Group presented to the HCWA on Friday 14th October regarding their request for a Conservation (Stop Work) Order, and the Shire of Esperance also presented their position at the meeting.

The Shire received the Jetty Group's independent engineering report on the 31st October 2016, and the Shire engaged GHD to undertake an independent peer review of both the BMT JFA report commissioned by the Shire, and the Bonacci Infrastructure (Bonacci) report commissioned by the Jetty Group. The peer review focused on the engineering and whole of life costings of both reports.

Based on the independent review and further advice from the Heritage Council the Shire, at a Special Council Meeting on Tuesday 8 November 2016, resolved to proceed with the demolition of the jetty with a vote of 6:3.

The decision was based on the independent peer review by GHD which identified the following issues with the Jetty Groups proposals;

- 1) Significant risks were identified in the design of the Jetty Groups option's report which had the potential to add significant costs to the project.
- 2) The independent Quantity Surveyors cost estimates of the Jetty Groups Options were deemed to be significantly under estimated.
- 3) The heritage value was deemed to have a low to medium outcome which would not necessarily be retained to a standard that would meet the Heritage Councils requirements.

The decision by the Shire was also made on further advice from the Heritage Council, post the presentation by the Jetty Group on the 14th October 2016 to seek a Conservation Stop Work Order on the demolition of the Jetty. The advice to the Shire provided on the 27th October 2016 was as follows;

- The Heritage Council advice from 21 March 2016 remained unchanged (if there is no feasible and prudent option but to demolish the Tanker Jetty the Shire can proceed with demolition);
- Request the Shire undertake a review of the proposed Jetty Groups engineering solutions including an independent review of the Shire engineering report; and
- Receive and review legal advice on who is the appropriate authority and decision maker for the purpose of the Heritage Act.

The Shire contacted the Heritage Council and outlined that a Special Council Meeting would be held on the 8th November 2016. Council would consider if the engineering solution from the Jetty Group Inc. was a feasible and prudent alternative. The Shire also outlined that it had received and reviewed legal advice on the appropriate authority and decision maker for the purpose of the Heritage Act., and confirmed that it had the authority to make this decision.

The Shire also sought legal advice on what is “feasible and prudent” in context of the Heritage Act. The advice confirmed that it is the Council, who after genuinely considering the options; determine what is feasible and prudent and what is not.

However, following the Council Resolution, the Heritage Minister imposed a 42 day Stop Work Conservation Order, stating that the Order would not be lifted until he was convinced there was a prudent and feasible alternative to demolishing the 81 year old Jetty. The Heritage Council Minister has confirmed that his expectation is that funding should be secured, as opposed to a promise for funding.

The Heritage Council Order requires the Shire to maintain the heritage value of the jetty. The Shire has interpreted this as them having to ensure that any replacement is required to incorporate heritage elements or the retention of selected elements of the jetty if deemed feasible. The Order will not be lifted until the Shire has secured funding.

Based on the above requests by the Heritage Minister, the Shire will be required to develop detailed designs and a business case, which would then need to be submitted to relevant and appropriate funding organisations. The development of detailed designs, along with community consultation and the development of a business case, followed by obtaining the relevant approvals is expected to take a significant amount of time. It is anticipated that this would take until late December or early January, at the earliest.

At the Special Council Meeting on the 8th November 2016, the Shire resolved to investigate the establishment of a steering committee. At the Council meeting on 15th November 2016, the Shire resolved to establish a 'Jetty Replacement Working Group' to develop a detailed concept plan that can be utilised in determining a successful business case and funding applications for a replacement jetty. The working group will comprise 4 elected members, 4 community members, the Goldfields-Esperance Development Commission, the Southern Ports Authority and Tourism Esperance.

It should also be noted that the Shire are holding to the requirement to limit the capital spend to a \$6m structure, being a \$2m contribution from the Shire and \$4m in leveraged funding. The Shire believe this is something that needs to be understood by all parties, including the State Government. The Shire has already sought confirmation from the Minister for Local Government that their approach to financial sustainability and asset management accords with State Government requirements. The Capital Expenditure (Capex) limit is predicated on limiting the recurrent financial liabilities associated with maintaining and amortising the whole of life cost of the asset. The Shire could only contemplate a more expensive structure if another funding body (State Government) committed to underwriting the recurrent costs related to the more expensive structure or the state taking control of the asset.

In view of the above circumstances and given the sensitivities around this project, as Minister for Regional Development, I am considering providing a funding pathway forward to assist the Shire of Esperance and the community to address the requirements outlined by the Heritage Minister. This may involve allocating a small portion of funds from the Goldfields - Esperance Revitalisation Administration Fund to assist the Shire of Esperance and community to undertake the detailed design, commissioning further engineers reports and business case development for the Tanker Jetty.

Further funding through the Royalties for Regions, Goldfields - Esperance Revitalisation Fund for capital works may be available, however recurrent operational funding to maintain the jetty is not eligible under the fund, and this is considered a major issue for the Shire in terms of complying with the current financial sustainability model, as prescribed by the Department of Local Government and Communities and outlined above.

Yours sincerely



Terry Redman MLA
Minister for Regional Development

- 9 DEC 2016