

CLAYTON UTZ

Sydney Melbourne Brisbane Perth Canberra Darwin Hong Kong

By email and facsimile

Ms Tracey Baillie
Administration Officer - Planning
George Town Council
P.O Box 161
George Town TAS 7253

Fax: (03) 6382 3240

9 January 2014

Email:
council@georgetown.tas.gov.au
tbaille@georgetown.tas.gov.au

Dear Ms Baillie

Demolition of tanks, buildings and above ground infrastructure located at the BP Bell Bay Terminal on Norfolk Street, Bell Bay, Tasmania (BP land) - Objection to grant of application

We refer to our letter dated 10 October 2013 (copy enclosed without attachments), email dated 22 October 2013 (copy enclosed), telephone discussion between Mr Dino De-Paoli and Ms Xuelin Teo of our office on 1 November 2013 and your letter dated 23 December 2013.

1. During the telephone discussion with Mr De-Paoli on 1 November 2013, Mr De-Paoli said that while Mr George Brown was not in the office that day, he would speak with Mr Brown upon his return to the office on 5 November 2013 about providing a response to our letter dated 10 October 2013.
2. To date, we have not received any response to our letter dated 10 October 2013 and email dated 22 October 2013.
3. On 30 December 2013, our client, United Terminal Bell Bay Pty Ltd received notice of a planning application by letter dated 23 December 2013 from you. The application for a planning permit was made by Pitt & Sherry on behalf of BP Australia Pty Ltd (**BP**) for the demolition of, inter alia, four fuel tanks on the BP land (**application**).
4. As previously stated in our letter dated 10 October 2013, United owns the United Bell Bay Terminal (**United land**) which adjoins the BP land.
5. For the reasons stated in our letter dated 10 October 2013, and given the Council's failure to provide any of the information requested in that letter and our email dated 22 October 2013, our client continues to be extremely concerned that the demolition works proposed by BP will cause significant and irrevocable damage and contamination to the adjoining United land.
6. Accordingly, our client hereby objects to the grant of the application and repeats its request for the information set out in our letter dated 10 October 2013 and email dated 22 October 2013.
7. If you do not have access to a copy of the attachments to our letter dated 10 October 2013 (which we have provided to Mr Brown and Mr De-Paoli in electronic and hard copy form), we would be pleased to send them to you upon request.
8. If, notwithstanding our client's objection, the application is granted, our client reserves its rights of recovery in respect of any damage it suffers as a consequence.

CLAYTON UTZ

Sydney

Melbourne

Brisbane

Perth

Canberra

Darwin

Hong Kong

George Town Council

Yours sincerely



Fred Prickett, Partner
+61 3 9286 6971
fprickett@claytonutz.com

Xuelin Teo, Senior Associate
+61 3 9286 6976
xteo@claytonutz.com

Copy: Mr Stephen Brown
General Manager, George Town Council
stephenb@georgetown.tas.gov.au

Mr Dino De-Paoli
Acting General Manager, George Town Council
dinod@georgetown.tas.gov.au

CLAYTON UTZ

Sydney Melbourne Brisbane Perth Canberra Darwin Hong Kong

Mr Stephen Brown, General Manager and
Mr Dino De-Paoli, Director, Infrastructure and Development
George Town Council
P.O Box 161
George Town TAS 7253

10 October 2013

Dear Mr Brown and Mr De-Paoli

Demolition of tanks located at the BP Bell Bay Terminal on Norfolk Street, Bell Bay, Tasmania

As you know, we act for United Terminals Pty Ltd and United Terminal Bell Bay Pty Ltd (**United**).

1. United owns the land at the corner of Mobil Road and Norfolk Street in Bell Bay, Tasmania, also known as the United Bell Bay Terminal (**United land**).
2. BP Australia Pty Ltd (**BP**) is the lessee of the adjoining land known as the BP Bell Bay Terminal (**BP land**).
3. BP proposes to commence works in relation to the demolition of certain tanks located on the BP land on or after 16 October 2013.
4. United is extremely concerned that the demolition works proposed by BP will cause significant and irrevocable damage and contamination to the adjoining United land in light of the following:
 - (a) BP has a demonstrated track record of failing to maintain the tanks and associated pipes in order to ensure that they do not lead to contamination of adjoining land. In particular, BP has previously caused contamination on the United land and on Council land located on the front of the United land;
 - (b) hydrologically, the land on which the tanks are located falls toward the United land. Consequently, there is an appreciable risk that any contamination resulting from the demolition works will flow into the United land; and
 - (c) BP has failed to provide any information to United in respect of the demolition works to seek to allay United's concerns about environmental harm that may be caused by the demolition works.
5. Please see attached the following correspondence which sets out further details of the contamination referred to above and our client's concerns:
 - (a) our letter dated 30 September 2013 to BP which includes a request for information (this letter was courtesy copied to you, but a further copy is attached for convenience);
 - (b) email dated 2 October 2013 which we received from BP; and
 - (c) our letter dated 10 October 2013 to BP.
6. In the circumstances referred to above, the concerns on the part of United, as the owner of adjoining land which has already been contaminated, and its requests for information to allay

those concerns, are reasonable. United has a legitimate interest in ensuring that necessary steps are being taken by BP to mitigate the risks of environmental harm associated with the demolition of the BP tanks.

7. On this basis, our client requests that the Council provide, as soon as possible (noting the date referred to in paragraph 3 above):
- (a) all documents it has in relation to the demolition works that BP intends to engage in, including any:
 - (i) environmental impact assessments or analyses conducted in respect of the demolition works, including any reports obtained by BP in this regard;
 - (ii) documents relating to any application made to the Council for approval of the demolition works (including any application made to the Council for any permit to undertake the works and associated responses by the Council); and
 - (iii) correspondence between BP and the Council; and
 - (b) all documents it has in relation to any contamination that has been caused by BP emanating from the BP land.

Yours sincerely



Fred Prickett, Partner
+61 3 9286 6971
fprickett@claytonutz.com

Xuelin Teo, Senior Associate
+61 3 9286 6976
xteo@claytonutz.com