

## Media Release:

BEST appeals DAB decision on landfill in Dockyard - could affect America's Cup  
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The Bermuda Environmental Sustainability Taskforce (BEST) today announced that it had appealed the decision by the Development Applications Board (DAB) to grant final approval for:

- a) landfill of 11 acres in the South Basin (Dockyard),
- b) interim uses of the landfill (America's Cup [AC35/ACBDA] Event Village), and
- c) end uses of the landfill (Department of Marine & Ports operations, a Commercial Marine Facility (boatyard) and Marina.

According to BEST President, Stuart Hayward, "Our formal grounds of appeal are:

1. The submitted Environmental Impact Study supplied by Bermuda Water Consultants (BWC EISStudy) was flawed in procedure and content.
2. The Department of Planning (DOP) failed to convey to the Development Applications Board (DAB) that the BWC EISStudy was a grossly inexperienced and deficient document, and that the BEC EIS Addendum (an emergency Environmental Impact Statement sponsored by ACBDA and conducted by Bermuda Environmental Consultants) did not fix all the flaws nor correct all the failings. Despite the deficiencies, the DOP erroneously conveyed to the DAB that the BWC EISStudy was an assessment capable of supporting the application.
3. The DOP failed to apprise the DAB that the EIS Addendum of record addressed only the landfill aspect of the application and NOT those of the interim uses and end uses, and concurrently misled DAB into believing that the BWC EISStudy had merit for assessing the interim and end uses.
4. The DAB failed to request an additional Addendum that dealt with the interim and end use aspects of the development and, by not making such a request, the DAB failed in its obligation to procure the best information and to be fully informed when making its decision, as required by the Supreme Court.
5. The DOP failed to convey to the DAB and the DAB failed to include key conditions recommended by the Bermuda Environmental Consulting, Ltd. (BEC), the applicant's designated environmental consultants.
6. The DOP failed in its duty to fully inform the DAB by failing to convey to the DAB key concerns of government agency consultants, including the Departments of Conservation Services and Environmental Protection."

Of greater concern in this project is that the fill being dredged for the development is not part of the application. Over 368,000 cubic meters of fill will be required, most of it will be dredged from the south channel, from Shelly Bay to Grassy Bay, without adequate environmental impact assessment.

[Note: details of these grounds of appeal and other related documents are (or soon will be) available at [www.best.org.bm](http://www.best.org.bm)]

These grounds of appeal point to serious flaws in a development is huge, complex and important — especially to the America's Cup, which BEST supports wholeheartedly. The America's Cup (AC35) is depending on the landfilled acreage on which to build their event village. Unfortunately, WEDCO's end use plans, which are not needed for the America's Cup event itself, and in fact can't be realized until after AC35 abandons the site, were piggy-backed on to the landfill and received

final approval that should have been denied. We alerted ACBDA and the DOP that this was a problem but the application was pushed through anyway.

Bermuda should be at the forefront in protecting its own environment. This decision is a betrayal of that obligation to the people of Bermuda. BEST had hoped to head off delays to the America's Cup preparation and a public battle. Early talks with ACBDA's leader Mike Winfield were encouraging. However, WEDCo's insistence on linking their insufficiently assessed long term or end use plans to the America's Cup has resulted in this impasse.

There is still a way out, a way that will minimise delay for the America's Cup. The appeal is against all three parts of the proposal, the landfill, the interim uses for the land-filled site, and the end uses for the land-filled site. The first two parts could, with a little effort, meet acceptable environmental and procedural standards and BEST has pledged to work with ACBDA to expedite resolution of the outstanding issues for the landfill and interim uses.

However, the third part — the proposed end uses — is untested. Essentially WEDCO wants to convert protected marine habitat into an industrial wasteland. WEDCO promised public meetings but that hasn't happened, So the public isn't adequately informed nor has their input been properly sought. WEDCO has not presented a tested case for the end uses. In any case, those end uses are not required until AC35 departs in 2017 or later. Therefore, there should be proper public consultation about the end uses and an independently vetted EIA should be conducted, and that part of the application should be re-submitted to the DAB.

Our appeal is now before the Minister and we call on him to do the right thing for the people of Bermuda, our environment and our future.

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