



Brisbane Airport
Corporation Pty Ltd

Make the most of life.

FILE No:

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MARS/PRISM:

Mr Paul Dunn
Director Network Regulation South
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

POST, COMPETITION &
CONSUMER COMMISSION
MELBOURNE
- 4 APR 2007

Dear Mr Dunn

BRISBANE AIRPORT CORPORATION PTY LIMITED – ELECTRICITY NETWORK

1. We refer to the teleconference held on Tuesday, 14 November 2006 between representatives from the Australian Energy Regulator ('AER') and Brisbane Airport Corporation Pty Limited ('BAC') in relation to electricity supply at Brisbane Airport.
2. Subsequent to this teleconference, BAC conducted a detailed overview of its electrical operations at Brisbane Airport in order to satisfy itself that it falls within:
 - (a) the general exemptions from the requirement to register as a network service provider published by the National Electricity Code Administrator ('NECA'). We note that these general exemptions have been adopted by the AER; and
 - (b) the on-supplier exemption contained in part 6 division 1 of the *Electricity Act 1994* (Qld) ('**Electricity Act**').
3. BAC understands that a party seeking to rely upon the general exemptions must satisfy itself that one or more of the general exemptions is applicable to its operations. BAC considers that it falls within the general exemptions, specifically the exemption class described as 'industrial park'.
4. Nonetheless, because of:
 - (a) the complexity of the regulatory environment;
 - (b) the fact that there is no specific category for 'airports' in the general exemptions;
 - (c) the possibility that the guidelines may be redrafted in the future; and
 - (d) that there are now potential anomalies between the guidelines and the on-supplier provisions of the *Electricity Act 1994* (Qld) (which we discuss in further detail below),BAC would find it helpful to receive a formal acknowledgement from the AER that it is satisfied, on the basis of the information provided by BAC, that BAC is justified in forming the opinion that it falls within the 'industrial parks' general exemption from the requirement to register as a network service provider.
5. If AER was to form a contrary opinion, BAC would appreciate the opportunity to meet with the AER to discuss other potential options that may be available to BAC to ensure strict regulatory compliance.

6. It is very important for BAC to be certain that it is fully compliant with all regulatory requirements relating to electricity because of:
 - (a) the critical importance of maintaining an efficient and uninterrupted supply of electricity to BAC's airport operations; and
 - (b) the complexity of BAC's operations and electricity network.
7. Because BAC operates in a highly regulated environment it likes to engage with all relevant regulators to ensure that it acts in a manner consistent with regulatory requirements and best practice, and to the satisfaction of the relevant regulators.

Background

8. Since becoming the lessee/operator of Brisbane Airport, BAC has made various endeavours to clarify the regulatory requirements associated with the supply and sale of electricity, as they relate to BAC's operations, including:
 - (a) seeking legal advice on its regulatory obligations;
 - (b) seeking technical advice on regulatory issues from specialist electrical consultants;
 - (c) lodging an application to NECA for full exemption from registration as a network services provider in March 2002;
 - (d) meetings and correspondence with the Office of Energy (the division of Queensland Treasury that was then responsible for administering the *Electricity Act 1994* (Qld)) in August 2002;
 - (e) meetings and correspondence with NECA in August 2002;
 - (f) a joint meeting with representatives from BAC, Office of Energy, Queensland Competition Authority and NECA in August 2002;
 - (g) a meeting with the Department of Energy (the Queensland government department that is now responsible for administering the *Electricity Act 1994* (Qld)) on 9 November 2006; and
 - (h) a teleconference with yourself and Mr Jeremy Romanez from AER on 14 November 2006.
9. The application to NECA made in March 2002 did not proceed, largely as a consequence of both the national and state regulators forming the view that neither had statutory authority to regulate the proposed manner of charging for contestable customers.

BAC's understanding of Commonwealth regulatory requirements

10. Section 11 of the National Electricity Law ('NEL') states that registration is required for BAC to undertake certain activities in the National Electricity Market ('NEM').
11. Section 11(2) of the NEL provides that a person must not engage in the activity of owning, controlling or operating a transmission system or distribution system that forms part of the interconnected transmission and distribution systems, unless:
 - (a) the person is a registered participant in relation to that activity; or
 - (b) the person is the subject of a derogation that exempts the person, or is otherwise exempted by the AER, from the requirement to be a registered participant in relation to that activity under the NEL and the National Electricity Rules ('NER').
12. Clause 2.5 of the NER also provides that, subject to clause 2.5.1(d), a person must not engage in the activity of owning, controlling or operating a transmission or distribution system unless that person is registered by NEMMCO as a Network Services Provider. Clause 2.5.1(d) states that the AER may, in accordance with guidelines issued from time

to time by the AER, exempt any person or class of persons who is or are required to register as a Network Services Provider from the requirement to register as a Network Services Provider or from the operation of Chapter 5 of the NER.

13. BAC is aware that in order to supply and sell electricity through its own reticulation network it must (in order to achieve Commonwealth regulatory compliance) either:
 - (a) fall within one of the general exemptions for the requirement to be registered as a Network Services Provider; or
 - (b) apply for a specific exemption from the requirement to be registered as a Network Services Provider; or
 - (c) seek registration as a Network Services Provider.

Exemptions

14. The network service provider exemption guidelines indicate that there are both general exemptions and specific exemptions from the requirement to register as a network services provider.

General Exemptions

15. NECA (the predecessor to AEMC and AER) has granted the following general exemptions from the requirement to register as a network services provider:
 - (a) caravan parks;
 - (b) office buildings;
 - (c) flats/apartments;
 - (d) units;
 - (e) industrial parks; and
 - (f) shopping centres.

Organisations that fall within one of these general exemptions do not need to make an application for a specific exemption.

16. If BAC does not fall within the category of general exemptions a specific exemption will need to be sought by BAC.

BAC's position

17. BAC considers that it falls within the '*General exemptions from the requirement to register as a network service provider*' that were published by NECA in 2000 and which have subsequently adopted by the AER.
18. While there is no specific general exemption for airport operators, BAC believes that it falls within the 'industrial park' general exemption. Additionally, in relation to certain parts of its operations, the 'office buildings' and shopping centres' general exemptions may also have application. For convenience, details of the 'industrial park', 'office buildings' and 'shopping centre' general exemptions reproduced from the '*General exemptions from the requirement to register as a network service provider*' are set out below:

Class of Network Owner or Operator	Description	Conditions
Industrial parks	Large areas where land and buildings are leased.	Where: <ol style="list-style-type: none"> 1. the network is supplied at no cost or a nominal fee and access to retailers is available to tenants; and 2. standards for the network are agreed with the local network service provider.
Office buildings	Large complexes where floors or individual offices are rented or leased on a short or long term basis, and electricity is supplied as part of the building infrastructure and either separately metered or charged on a basis agreed at the time of the lease.	A mechanism establishing the maximum price for on-selling of electricity must be in place.
Shopping centres	Groups of shops and offices owned by a single entity or sharing a title where electricity is reticulated as part of the building infrastructure.	Where the network is supplied at no costs or a nominal fee and either: <ol style="list-style-type: none"> 1. access to retailers is available to tenants; or 2. electricity is made available on terms negotiated as part of the hiring arrangement and a mechanism exists for setting the maximum price.

Description of Industrial parks - large areas where land and buildings are leased

19. BAC is an 80% Australian owned private sector company that was originally formed to bid for the lease of Brisbane Airport from the Commonwealth of Australia.
20. BAC's current corporate structure is set out in the diagram at **Annexure 1**.
21. The Commonwealth of Australia granted BAC a 50 year lease of Brisbane Airport for a term of 50 years, commencing 2 July 1997. As a consequence BAC, has possession or control of all land within Brisbane Airport. Brisbane Airport has a total land area of approximately 28 square kilometres. A map showing the boundaries of Brisbane Airport and the airport precincts is at **Annexure 2 (BAC Drawing No. BAC/051024/G/000001)**.
22. BAC occupies some parts of Brisbane Airport itself. The majority of the land comprising Brisbane Airport is however subleased, or is likely to be subleased in the future, by BAC to a range of office, industrial and commercial tenants.

23. BAC is also responsible for planning and development activities at Brisbane Airport as a consequence of the operation of the *Airports Act 1996* (Cth) and the *Airports (Building Control) Regulations 1996* (Cth).
24. BAC considers that the Brisbane Airport site is a large area where both land and buildings are leased and consequently falls within the description of the 'industrial parks' general exemption.

Nature of BAC's network

25. When BAC became the lessee of Brisbane Airport it became the owner and operator of an existing private electrical network that supported the Brisbane Airport precinct. Since its construction this private electrical network has been continually upgraded by both the former owner/operators, and since 2 July 1997, by BAC.
26. BAC's network is a private electricity network within the confines of Brisbane Airport.
27. BAC's private network has been connected to ENERGEX's public network since its construction in 1988. BAC first entered into a connection agreement with ENERGEX in March 1998. The BAC network is now connected to the ENERGEX network at both the Myrtle town Intake Substation and at the Airport Drive Intake Substation. A plan of the cable layout of the BAC network showing that the network is wholly within the confines of Brisbane Airport is at **Annexure 3 (BAC Drawing No. OPR/051210/E/000K0)**.
28. The Brisbane Airport precinct was classified as a tranche 1 contestable retail customer when the Queensland electricity market was first partially deregulated in March 1998. BAC is currently a contestable customer of AGL, having renewed its contract several times since deregulation.
29. BAC's network supplies over 300 metering points and a variety of users from small shops to large hangers and engineering facilities. Unlike public networks, such as Ergon and ENERGEX, that use a high proportion of overhead cabling, BAC's network is mostly underground. In addition, there is built in redundancy and stand by generation. This provides for a high level of security and reliability which are both essential features for an airport operation and are not normally seen in central business districts.
30. Due to the nature of BAC's business, the network is changing regularly as the airport expands. BAC only intends to expand the network within the private boundaries of Brisbane Airport and will only use the network to supply electricity to users located within the confines of Brisbane Airport.

BAC's core business

31. BAC's electrical infrastructure has a value of approximately \$44,000,000. That is only a small percentage of the total value of property, plant and equipment at Brisbane Airport.
32. The management of its private network is simply one of many services provided to tenants and is incidental to BAC's core business, which is the operation of an airport. This is further reflected in BAC's mission statement, details of which are as follows:
'BAC aims to develop, manage, operate and maintain Brisbane Airport as a first class airport and to transform it into a regional gateway, with full regard to the interests of all stakeholders. This will benefit customers, the community and shareholders through the generation of regional prosperity.'
33. In addition to servicing the needs of business travellers, Brisbane Airport plays a significant role in Australia's tourism industry, being the gateway to approximately 4,000,000 international and 13,000,000 local passengers per year.

The network is supplied at no cost or at a nominal cost and access to retailers is available to tenants

34. The first of the conditions that a party relying upon the 'industrial park' general exemption must comply with are that:
- (a) the network is supplied at no cost or at a nominal costs; and
 - (b) access to retailers is available to tenants.

Network is supplied at no cost or at a nominal cost

35. BAC's primary goal is to ensure that its tenants are treated fairly and not disadvantaged in any way by being connected to ENERGEX's distribution network via a private network.
36. All tenants have full access to BAC's private network, which is maintained at BAC's cost.
37. BAC purchases electricity in bulk from AGL at the entry point to Brisbane Airport, and sells that electricity to its tenants both on a metered basis and for common areas at Brisbane Airport. All consumption is measured by electrical meters which are read monthly
38. BAC and its tenants enter into standard conditions for the supply of electricity. Clause 16 of these conditions deals with 'Electricity Charges' and provides as follows:
- 'All charges for supply of electricity will be:-*
- The rates for supply of electricity, including a minimum charge, shall be consistent with those applied by the local supply authority for a supply of electricity to the consumer's premises from that authority's supply mains....'*
39. BAC invoices its metered customers based on the monthly meter reads, and charges tenants for electricity for common areas as and when the individual tenancy agreements allow such a charge to be made. BAC absorbs the vast majority of the cost of the electricity supplied in common areas at both the international terminal building and the domestic terminal building.
40. All tenants (whether currently contestable or not) are charged the equivalent franchise tariff, that is the tariff that they would have been charged if they were supplied by the area retailer directly. These tariffs are set by the Queensland State Government and are shown in **Annexure 4**. The tariff used depends upon the customer load and profile.
41. A tax invoice is sent to each user along with a utility record which contains the meter information and details of the billing method.
42. Tenants have access to a program in BAC's Utility Charging System ('UCS') which will give a tariff comparison based on 1 month's metered profile.
43. New tenants wishing to connect to BAC's private network, are treated on the same basis as existing tenants.

Access to retailers is available to tenants

44. No existing metered customers have sought access to a retailer of choice.
45. While the industrial park general exemption conditions state that access to retailers is to be available to tenants, an anomaly now exists with the Queensland regulatory requirements.
46. The Electricity Act has recently been amended by the provisions of the *Electricity and Other Legislation Amendment Act 2006*(Qld).

47. Specifically, for present purposes, the new section 23 of the Electricity Act now provides that a receiver from an on-supply network will not be a 'customer' and therefore unable to choose their retail supplier unless, the receiver's premises has an electrical installation that, to the reasonable satisfaction of the distribution entity whose distribution area includes the premises, is capable of receiving supply directly from a supply network. Receivers' premises are not currently capable of receiving supply directly from a supply network. In order for this to occur additional infrastructure would need to be constructed and BAC would have to grant appropriate easements or licences to ENERGEX to enter BAC property to provide a separate supply. It is likely that the costs of such infrastructure would not be economically viable.

Standard for the network are agreed with the local network service provider

48. The second of the conditions that a party relying upon the 'industrial parks' general exemption must comply with, is to agree the standard of the network with the local network services provider.
49. BAC maintains its network in order to support its mission to provide a first class airport for all relevant stakeholders. In doing so, BAC has invested significantly in ensuring that the electrical network is of a standard, superior even to those provided by registered network service providers, in terms of supply quality and reliability.
50. BAC's network assets are maintained according to industry standards. BAC uses the local ENERGEX standards for all electrical work and electrical equipment.
51. BAC is currently negotiating a new '*Negotiated Customer Connection Contract*' with ENERGEX. This agreement provides agreed operating protocols and imposes obligations on both ENERGEX and BAC to comply with all relevant laws, which are specifically defined to mean the NEL, Electricity Act and *Electrical Safety Act 2002* (Qld).
52. BAC has a dedicated electrical department that includes:
- (a) a specialist services and utilities manager, with 34 years experience, who is responsible for forward planning; negotiating connection agreements; electrical purchasing and on-selling and regulatory compliance;
 - (b) engineering services comprising 4 personnel who are responsible for electrical installations and contractors' works; and
 - (c) electrical maintenance comprising 5 personnel who are responsible for day to day operations, emergencies and maintenance contracts.
53. All breakdown and maintenance work on site is contracted to JP Richardson who are certified to undertake electrical work for ENERGEX.
54. To ensure a safe and reliable network BAC has sophisticated risk management procedures that include:
- (a) the dedicated electrical department referred to above;
 - (b) a Computerised Maintenance Management System ('**CMMS**') which controls and schedules the electrical maintenance program and produces, among other things, preventative maintenance forecasts;
 - (c) an electrical monitoring system that records all faults and data from the electrical network and automatically sends paging and SMS messages to the BAC electrical maintenance staff; and
 - (d) legal compliance audits to identify all relevant regulatory requirements.
55. BAC ensures that all electrical installation work is carried out by ENERGEX approved contractors.


56. BAC undertakes comprehensive forward planning of its electrical network and a 20 year plan is prepared and is regularly updated.

Conclusion

57. BAC considers that it falls within the 'industrial park' general exemption and, to the extent possible, given the recent amendments to the contestability provisions of the Queensland legislation is compliant with the required conditions attached to the 'industrial park' general exemption.
58. BAC would welcome an acknowledgement from AER that, on the basis of the information provided by BAC, it is satisfied that BAC is compliant with the NEL and the NER in relation to this particular issue. If no correspondence is received, then BAC will consider that it is compliant.
59. Should you require any further information from BAC please contact Mr Phil Randall, Services and Utilities Manager on (07) 3406 3017.

Yours Sincerely,

Brisbane Airport Corporation Pty Limited

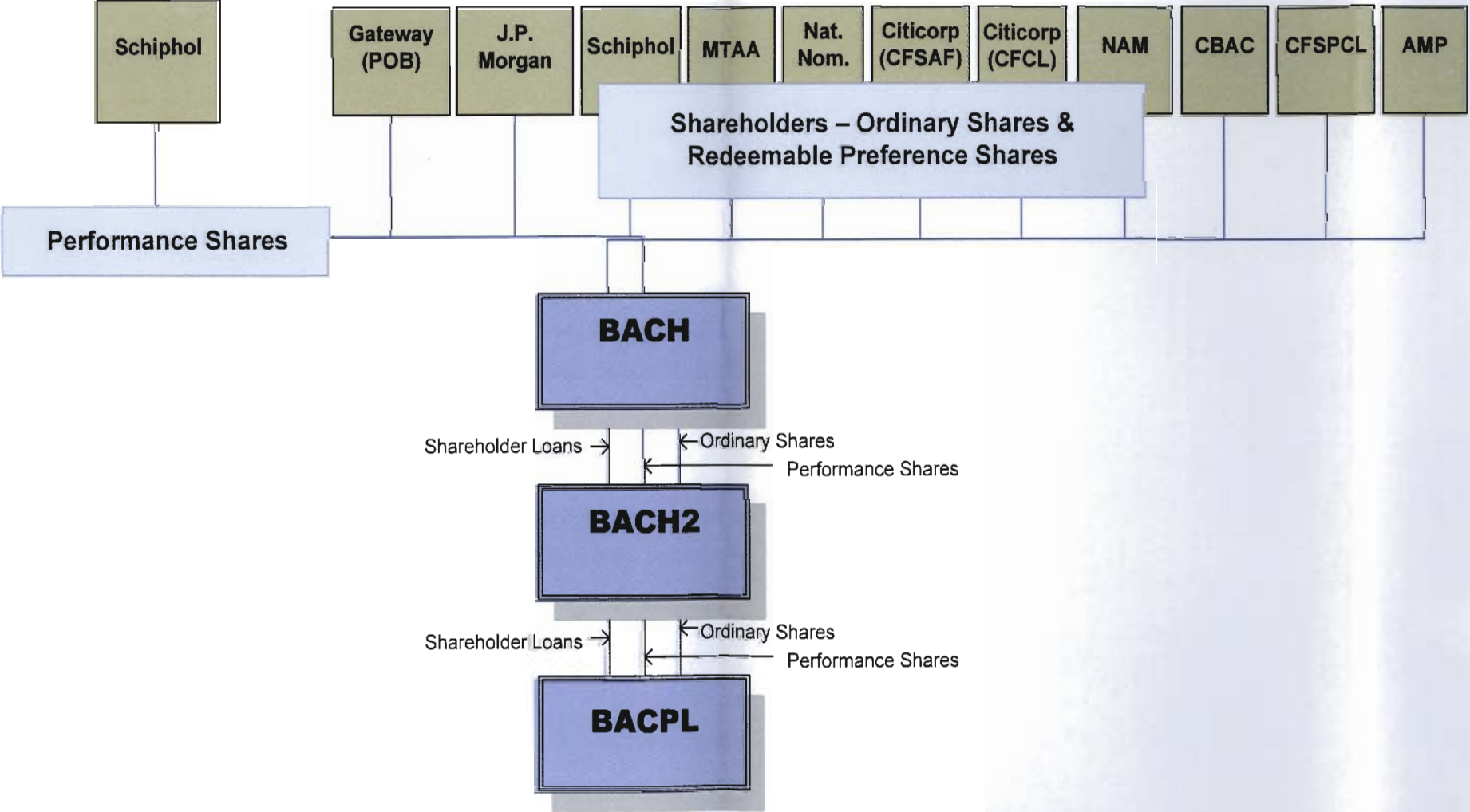


Mr Stephen Goodwin
General Manager Operations

2/04/07

Date

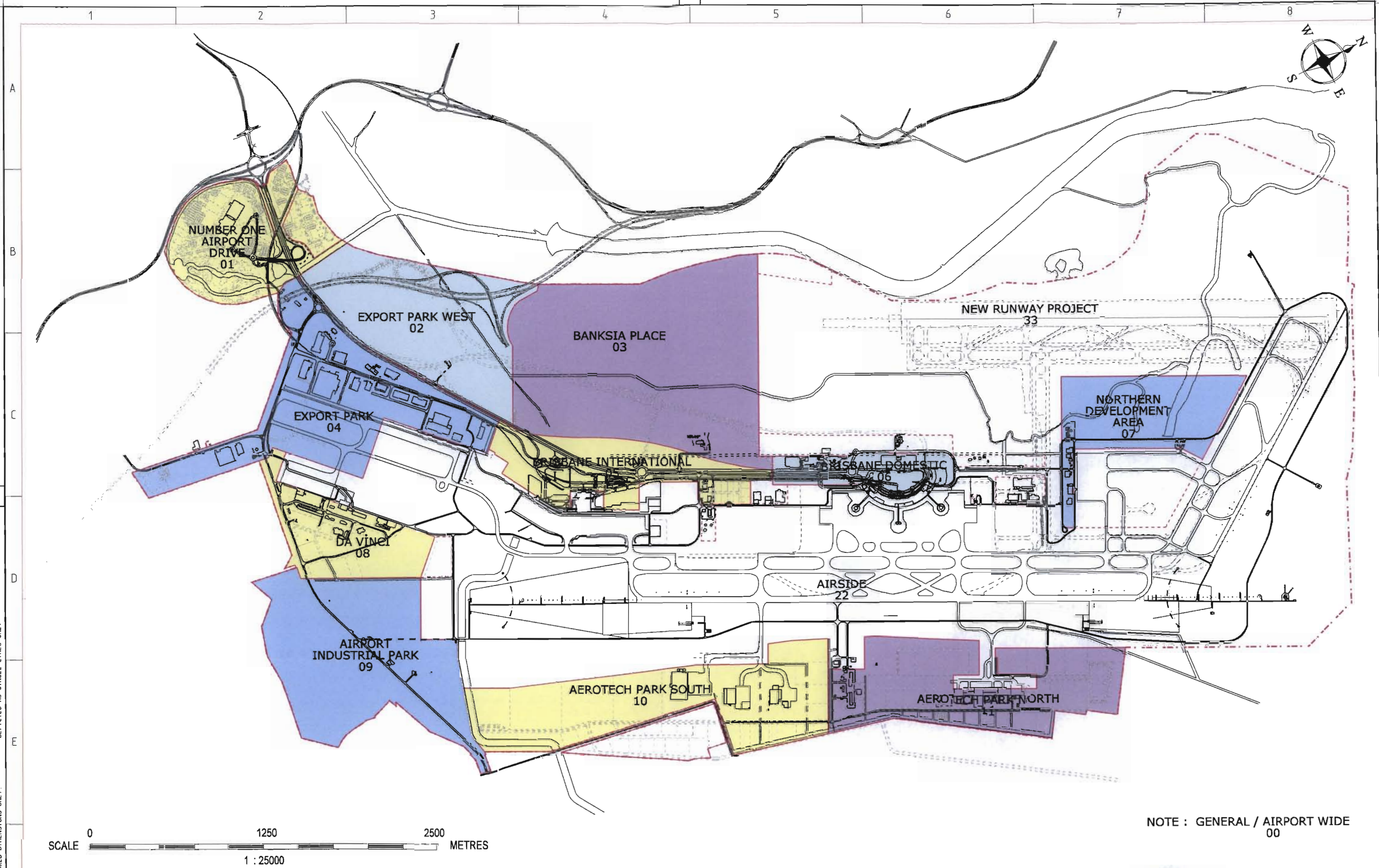
Current BACH Corporate Structure



UNLESS OTHERWISE STATED, COORDINATES ARE ON A PLANE RECTANGULAR GRID BASED ON THE PRE 50 78 A.M.G. VALUES OF P.M. 31 LOCATED NEAR THE INTERSECTION OF THE RUNWAYS AT THE OLD BRISBANE AIRPORT. DATUM FOR LEVELS - AERODROME DATUM (B.C.C.) FOR A.H.D. LEVELS SUBTRACT 1.134 FROM AERODROME.

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NOTE : GENERAL / AIRPORT WIDE
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ORDER	DRN	AMENDMENTS	DATE	No
051024	KL	08 NAME CHANGED FROM EXPORT PARK EAST TO DA VINCI.	18/01/06	4
051024	KL	GENERAL PRECINCTS AMENDMENTS.	08/09/05	3
051024	KL	PRECINCTS 03 & 05 AMENDED.	23/06/05	2
051024	KL	ORIGINAL ISSUE	05/05/05	1

Authorised Representative	Date
Authorised Representative	Date
Authorised Representative	Date

**AIRPORT PRECINCTS
NUMBERING PLAN**

<p>Brisbane Airport Corporation Pty Ltd Banksia Place Brisbane Airport QLD 4007 PO Box 61 Hamilton QLD 4007 Australia Telephone : 61 7 3406 3000 Facsimile : 61 7 3406 3111</p>	SCALE	1:25000		
	SIZE	A3		
	REVISION	4		
	Design Ref.	Project Ref.	Discipline	Number
DRAWING No. BAC / 051024 / G / 000001				

COMMERCIAL & INDUSTRIAL PRICES - EFFECTIVE 1 JULY 2006	PRICING STRUCTURE INCL. GST	New GST Inclusive Rate Cents per kWh
<p>This tariff may be used for all types of electricity usage. For businesses with predominantly daytime energy requirements, it is the most appropriate tariff. This tariff is not available at the same installation as Tariffs 21, 22, 62 and 63.</p>	Tariff 20 General Supply	
	All consumption - Cents per kWh	15.554
	Service fee per metering point per month*	\$9.68
<p>This tariff is only suitable for installations where the typical monthly electricity usage is under 330kWh. This tariff is not available at the same installation as Tariffs 20, 22, 62 and 63.</p>	Tariff 21 General Supply	
	First 100 kWh per month - Cents per kWh	19.327
	Next 9,900 kWh per month - Cents per kWh	18.150
	Remaining usage - Cents per kWh	13.816
	Minimum payment per month*	\$8.66
<p>Low Rate electricity is available between 9pm and 7am, Monday to Friday and all weekend. Electricity used outside these hours is charged at the higher rate. For electricity used at night and on weekends, this tariff has a substantially lower rate than Tariff 20. It can be attractive to customers whose operations can be managed so that about 30% or more of their total usage occurs at night or weekends. This tariff is not available at the same installation as Tariffs 20, 21, 62 and 63.</p>	Tariff 22 General Supply Time of Use	
	Low Rate - Cents per kWh	6.666
	All other consumption High Rate (7am to 9pm Mon-Fri) - Cents per kWh	18.898
	Service fee per metering point per month*	\$21.32
<p>Supply will be available for a minimum of eight hours per day during time periods set at the discretion of Ergon Energy. This tariff is for applicable water heaters and other applicable permanently connected applicable equipment. This supply is usually between the hours of 10pm and 7am. The recommended minimum size of an electric water heater is 250 litres.</p>	Tariff 31 Super Economy	
	All Consumption - Cents per kWh	5.665
	Minimum payment per month*	\$3.72
<p>This tariff can be applied to applicable water heaters and other applicable permanently connected equipment. Supply will be available for a minimum of 18 hours per day during time periods set at the discretion of Ergon Energy.</p>	Tariff 33 Economy	
	All Consumption - Cents per kWh	8.338
	Minimum payment per month*	\$3.72

This tariff is available for non-domestic loads only. It covers a variety of applications including electric water heaters, production of steam and other permanently connected heating loads of 4kW or more. Supplementary load that is permanently connected as an integral part of the installation may be supplied under this tariff provided that the aggregated rating of such supplementary load does not exceed 10% of the heating load.

Tariff 37 Non-Domestic Heating Time of Use

From 10.30pm to 4.30pm (18 hours) - Cents per kWh	8.272
From 4.30pm to 10.30pm (6 hours) - Cents per kWh	20.691
Minimum payment per month*	\$3.54

This tariff can be appropriate for customers having a monthly usage of about 18,000kWh or greater and a load factor over 35%. As well as having an electrical energy (kWh) charge, there is also a charge for the power demand that is imposed on the electricity supply system by the installation. This demand is affected by the amount of equipment being operated at the same time. No other tariffs are available for use in conjunction with Tariff 41.

Tariff 41 General Supply Demand (Low Voltage)

Energy Charge - All Consumption - Cents per kWh	4.829
#Demand Charge (per kW per month)*	\$22.91
Service fee per metering point per month*	\$32.64

#The maximum demand recorded in that month; or 60% of highest demand from any of the previous 11 months; or 75kW; whichever is the highest figure.

This tariff is for large installations. It is particularly suitable for customers using over 200,000kWh per month, when their load factor is in the range 35% to 85% and off-peak energy usage ranges between 20% and 75%. If this Demand Tariff is chosen, then the whole installation has to be supplied on this tariff.

Tariff 43 General Supply Demand Time of Use

Energy Charge - (7.00am - 11.00pm Mon - Fri) - Cents per kWh	9.801
Other Times - Cents per kWh	3.927
^Demand Charge (per kW per month)	\$9.92
Service fee per metering point per month*	\$32.64

^The maximum demand recorded in that month; or 60% of highest demand from any of the previous 11 months; or 400kW; whichever is the highest figure.

* The minimum payments and service fees cover the cost of maintaining supply, the provision of equipment and general administration.

All tariffs listed are GST inclusive and shown in cents with three decimal places. All other payments and minimum payments are shown in dollars and cents. For more information on the best tariff for your electricity needs, call us on 13 10 46, Monday to Friday, 7am to 6.30pm

The prices and usage conditions on this page are to be used as a guide only and are subject to change.