



REPORT TO THE UNESCO WORLD HERITAGE COMMITTEE

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Status of Implementation of Recommendations in
World Heritage Committee Decision 36 COM 7B.8
and 37 COM 7B.10, Great Barrier Reef (Australia)
and the March 2012 Reactive Monitoring Mission

Prepared by WWF-Australia and the Australian Marine Conservation Society
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The Great Barrier Reef World Heritage Area (the Reef) is in crisis. Since its inscription on the World Heritage List in 1981 the condition of the Reef has seriously declined, with the declines accelerating in the past decade despite management measures aimed at increasing the Reef's level of protection and reducing fishing and pollution pressures. The Australian community is looking to the World Heritage Committee to maintain a watching brief and exert influence on the Australian and Queensland governments to implement the transformational management changes required now to halt and reverse the decline in the Reef's health and resilience.

These changes are urgent as ecosystem recovery of coral reefs can take decades; however current proposals by the Australian and Queensland governments have time-frames of up to 5 years before relatively modest changes are likely to be implemented. The proposed changes will do little to mitigate the impacts on the World Heritage property in the short to medium term from existing and currently proposed developments.

This report prepared by WWF-Australia (WWF) and the Australian Marine Conservation Society (AMCS) provides a summary assessment of the progress made by the Australian government in conjunction with the Queensland government in addressing the recommendations requested by the World Heritage Committee in 2012 and 2013 and the 2012 reactive monitoring mission (see Appendices 2 and 3).

Its purpose is to provide a third party analysis of progress, or otherwise, in implementing the recommended actions. A similar analysis was prepared and submitted to the World Heritage Committee in January 2013, and updated in June 2013. To support the current analysis, the Environmental Defenders Office, Queensland (EDO Qld) has provided legal advice on the failures of the current regulatory framework in protecting the Outstanding Universal Value (OUV) of the Reef. Their advice includes the effect of recent and proposed changes to policy and law by the current Queensland and Australian Governments (see Appendix 5).

In summary, the Queensland legislation outlined throughout the Draft Program Report does not ensure GBR protection and many recent changes actively impede GBR protection. The proposed delegation of approval powers are of great concern for GBR protection. The Commonwealth Government plans to devolve "the broadest range" of decision-making approval powers to Queensland by September 2014, which is likely to allow Queensland to approve actions that may have significant impacts on the GBR.

– Environmental Defenders Office Qld, January 2014



Above: Green sea turtle (*Chelonia mydas*). Indo-Pacific Ocean

1. STATUS OF GREAT BARRIER REEF WORLD HERITAGE AREA

Drawing on the findings of the draft Great Barrier Reef Region Strategic Assessment prepared by the Great Barrier Reef Marine Park Authority (GBRMPA), following is an overview of the current condition and trend of the attributes contributing to the Outstanding Universal Value (OUV) of the Reef.

- **More than half of the attributes** for all four OUV criteria **show a deteriorating trend** since inscription of the Great Barrier Reef as a World Heritage Area.
- The overall **condition of three of the four OUV criteria is declining**.
- The criterion for **Integrity of the GBRWHA is declining**.
- Overall, the attributes that make up the criterion, **Habitats for conservation of biodiversity are in poor condition and are declining**.
- The main pressures on OUV continue to be climate change impacts, poor water quality due to agricultural run-off and impacts associated with coastal development including ports. Impacts on values are from legacy effects, current pressures and cumulative impacts that have already, and are continuing to lower the resilience of GBRWHA ecosystems.
- **Key** values of the GBRWHA that play a significant role in its OUV **are in poor or very poor condition and the majority are showing a declining trend**, including: inshore coral reefs and corals in the lower two thirds of the Region; seagrass meadows and seagrasses; freshwater wetlands; grass and sedgeland; woodlands; connecting water bodies; sharks and rays; marine turtles; seabirds; shorebirds; dugongs; Indigenous sacred sites, sites of particular significance, places important for cultural tradition; Indigenous stories, song lines, totems and languages; and Indigenous structures, technology, tools and archeology.

OUTSTANDING UNIVERSAL VALUE (OUV) CRITERION	CONDITION SUMMARY FROM THE GREAT BARRIER REEF REGION STRATEGIC ASSESSMENT REPORT <small>(Table 7.1, GBRMPA (2013a))</small>	KEY WWF / AMCS CONCERNS ON STATUS OF CONDITION <small>(Chapter 7, GBRMPA (2013a))</small>
<p>Natural beauty and phenomena (previously criterion (iii) now criterion (vii))</p>	<p><i>The significant loss of coral cover, especially in areas south of about Cooktown, has reduced underwater aesthetic value, as has increasing turbidity in inshore areas. The natural beauty of large areas remains intact, especially for offshore coral reefs in the far north and aerial vistas, as well as for neighboring islands (many of which are national parks). While many of the natural phenomena remain intact, others are likely to have deteriorated, for example some turtle nesting locations and coral spawning.</i></p>	<p>While the overall current condition of this criterion is good, it is deteriorating due to:</p> <ul style="list-style-type: none"> – reduced water quality, including effects of sedimentation from coastal development, – the very poor condition of inshore coral and seagrass habitats that support reef ecosystems, and – the overall poor condition and declining trend in the condition of key environmental processes including primary production, connectivity, recruitment and reef building are negatively impacting on this criterion. <p>The increasing influence of impacts derived from the effects of climate change on coral cover, and coastal and port developments are also reducing the aesthetic values of the GBRWHA.</p>
<p>Major stages of the Earth's evolutionary history (previously criterion (i) now criterion (viii))</p>	<p><i>The Region remains a globally outstanding example of an ecosystem that has evolved over millennia, and almost all geomorphological evolutionary processes remain intact. Examples of all stages of reef development remain, although the overall health of reefs, especially the southern two-thirds, has declined significantly.</i></p>	<p>While overall the condition of this criterion is very good, the poor conditions and declining trends of a number of attributes of MNES values combined with ongoing pressures like climate change will reduce the quality of this criterion, particularly in relation to reef health, linked coastal environments and islands.</p> <p>The environmental process of reef building, which forms an important component of this criterion, is in poor and declining condition in the southern Region (south of Cooktown) while in the northern Region, the current condition is good, though declining. As the rate of reef building is dependent on the net effect of recruitment, calcification and erosion, reef building has been negatively affected by cyclones and reduced coral cover. Increasing sea temperatures and ocean acidification are also likely to be reducing calcification rates of coral reefs.</p>

OUTSTANDING UNIVERSAL VALUE (OUV) CRITERION

CONDITION SUMMARY FROM THE GREAT BARRIER REEF REGION STRATEGIC ASSESSMENT REPORT

KEY WWF / AMCS CONCERNS ON STATUS OF CONDITION

(Chapter 7, GBRMPA (2013a))

(Table 7.1, GBRMPA (2013a))

Ecological and biological processes
(previously criterion (ii) now criterion (ix))

Many ecosystem processes remain in good condition, however some, such as recruitment and reef building are declining. Any processes associated with specific groups that are in decline (for example, corals and seagrasses) have likely also declined. In the inshore southern two-thirds, there are particular concerns about some processes such as connectivity, nutrient cycling and sedimentation, principally associated with land-based activities in the catchment. Traditional Owners maintain their cultural practices and customs, however indigenous heritage values are under pressure especially in the southern two-thirds of the Region.

The **environmental processes in the southern inshore region are in poor condition and are deteriorating**. Increased severity of cyclones, increased terrestrial sediments and resuspension of marine sediments, rising sea levels, increased sea temperatures, altered light conditions, enhanced levels of terrestrial-sourced nutrients, increasing ocean acidity, changed freshwater inflow and salinity, elevated primary production, reducing symbiosis, reduced connectivity and reduced reef building are all factors contributing to this condition and trend. The poor condition of environmental processes has affected the resilience of coral reefs, seagrass meadows, inshore habitats, dugongs, bony fishes and sharks and rays. Although many elements of the ecosystem may remain resilient, the emergent picture is that **the resilience of the GBR ecosystem as a whole is being significantly and incrementally eroded, and that the rate of erosion is increasing**. **Indigenous heritage is in poor condition and declining**. There is a limited baseline of knowledge on indigenous heritage, no appropriate consultation process with Traditional Owners on access and use of information, and no cultural heritage information management system. There are also a number of knowledge gaps in relation to aspects of indigenous heritage values and their appropriate management including: places of significance; tangible places of importance; archaeological sites or indigenous places; story places and songlines; places or totems; and indigenous place names and language relevant to the Region.

Habitats for conservation of biodiversity
(previously criterion (iv) now criterion (x))

There are significant concerns about some key habitats, particularly seagrass meadows and coral reefs, and some species such as dugongs, some marine turtles and some dolphins. These concerns are not as great in far northern areas, which remain relatively intact. Populations of humpback whales, estuarine crocodiles, loggerhead turtles and green turtles (southern stock) are recovering from historical declines. There have been no records of species extinction, though there is concern that speartooth shark has not been recorded in or near the Region since 1982.

Biodiversity values for a number of southern habitats is poor or very poor condition and declining. These include: inshore seagrass meadows; inshore coral reefs; freshwater wetlands; forested floodplains; grass and sedgeland; woodlands; forests; connecting water bodies. Similarly, the **condition of a number of species** that make up biodiversity values **is also poor or very poor and declining**. These include: southern inshore seagrass; southern inshore corals; sharks and rays; marine turtles; seabirds; shorebirds; southern inshore dolphins- in particular the Australian Snubfin and Indo-Pacific Humpback; southern inshore dugongs. Of further concern is that **in the northern Region, sharks and rays, turtles, seabirds and shorebirds**, many of which are Listed threatened species, **are in poor condition and declining**. While this is partly due to influences external to the northern Region, it is concerning because historically this region has been in good condition and the area's remoteness creates challenges for effective monitoring of condition and management.

OUTSTANDING UNIVERSAL VALUE (OUV) CRITERION	CONDITION SUMMARY FROM THE GREAT BARRIER REEF REGION STRATEGIC ASSESSMENT REPORT (Table 7.1, GBRMPA (2013a))	KEY WWF / AMCS CONCERNS ON STATUS OF CONDITION (Chapter 7, GBRMPA (2013a))
<p>Benchmarking the integrity of the GBRWHA. Based on the extent to which the property meets the criteria set out in the World Heritage Convention Operational Guidelines.</p>	<p><i>The Great Barrier Reef is the world's third largest World Heritage Area and encompasses all but the most northerly part of the Great Barrier Reef ecosystem. Except for small exclusions, it is all within a marine protected area, and is therefore afforded a high level of direct protection and management. External pressures such as climate change, catchment run-off and coastal development are affecting its overall integrity.</i></p>	<p>The overall Integrity of the GBR as a World Heritage property is in decline. The benchmark for the Integrity attribute of whether the property is protected from adverse effects of development and/or neglect is poor and declining.</p> <p>OUV criteria are not mutually exclusive. For example, the poor condition of Habitats for conservation of biodiversity is likely to reduce the condition of other listing criteria, over time, such as Natural beauty and phenomena and Ecological and biological processes, in addition to Integrity.</p>

The management challenge

Of notable concern is that certain significant impacts on values are caused by activities (such as land-based agricultural practices affecting water quality) outside the direct jurisdiction of Reef management agencies. For other impacts, like the effects of climate change, impact-mitigation is currently not achievable by Australia alone even if the government considerably increased mitigation responses.

While present management measures that are primarily tackling land based agricultural activities are likely to improve conditions for water quality and so have positive flow on effects for at risk habitats and species (for example seagrass, dugongs and coral), benefits are unlikely to be realised in the short to medium term. Thus, enhanced resilience and recovery of the Reef through improvement in the condition of these elements is more likely to occur over the long term. The underlying problem for management is that, due to the lowered resilience of the Reef's ecosystems and the likelihood that management actions will not catalyse immediate recovery of declined systems, halting and reversing the overall declining condition of the Reef won't be possible using current approaches. There is growing consensus that recovery of the Reef will require significant additional investments and a different approach than business as usual.

The challenges for conservation, effective management and recovery of values include: the lack of a coordinated and adequate management approach between the Australian and Queensland governments with differing jurisdictional responsibilities; government-supported growth in the mining industry resulting in additional and expanded port developments and increased risk from shipping; inadequate resources for effective compliance and enforcement activities; a lack of understanding of cumulative impacts on values; and knowledge gaps concerning conditions and trends of a number of habitats and species within the Region.

The adoption by governments of coordinated and stronger regulatory measures and operational policies that have been developed through informed, cross-jurisdictional strategic planning is critically important to improving the conditions of values.

Targeted research and monitoring to address knowledge gaps and better understand resilience and cumulative impacts is fundamental to developing effective management regimes. This needs to be combined with the widespread adoption by decision makers, in the absence of conservation certainty, of firm precautionary approaches for ecologically sustainable use.




Indigenous heritage is a unique, irreplaceable part of Australia's national cultural heritage which requires improved recognition, protection and understanding. The condition of this MNES value would be improved by effective collaboration with Traditional Owners to assess Indigenous heritage values of the Region; knowledge management systems and improved information sharing arrangements; and the development of a comprehensive management framework and an Indigenous heritage strategy for Traditional Owner use and management of the Great Barrier Reef.

2. SCORECARD ON IMPLEMENTATION OF WORLD HERITAGE COMMITTEE AND MISSION RECOMMENDATIONS

2.1 Methodology

WWF and AMCS have undertaken a detailed assessment of the performance of both the Australian and Queensland governments in addressing the World Heritage Committee and UNESCO/IUCN reactive monitoring mission recommendations. This assessment is based on reviewing a range of documents released for comment by both the Australian and Queensland governments, including formal public consultations, government policies, and ministerial statements and decisions (see reference list and Appendix 4).

Based on the review of documentation produced to date, recently released reports and briefings provided by the Australian and Queensland governments, a scorecard on progress in addressing the recommendations of the Committee and mission has been prepared. The scorecard uses three grades to describe the adequacy of addressing the recommendations. These are:

SYMBOL	GRADE	CRITERIA
	GOOD PROGRESS OR COMPLETED	Significant work underway; likely to address recommendation adequately.
	SOME CONCERN	Some recent actions/decisions do not go far enough or are contrary to the intent of the recommendation; unlikely that the recommendation will be fully addressed.
	MAJOR CONCERN	No progress, or range of actions/decisions are contrary to intent of recommendation; highly unlikely that recommendation will be addressed.

2.2 Commentary on implementation of recommendations

The following table includes the recommendations from the World Heritage Committee's 2012 and 2013 decisions and the recommendations from the mission report, an analysis of relevant actions being undertaken by either the Australian or Queensland

governments in relation to the respective recommendations and, where applicable an assessment grade on progress for both the Australian and Queensland governments.



Key:

WHC = Recommendations contained in the World Heritage Committee's decision 36 COM 7B.8 and 37 COM 7B.10. The order of the recommendations in the table below reflect the order of World Heritage Committee Decision 36 COM 7B.8 starting with the third paragraph; hence the numbering of the Committee's recommendations starting with WHC 3. The recommendations from 37 COM 7B.10 immediately follow the relevant 36 COM 7B.8 recommendation.



MR = Recommendations contained in the mission report (Douvere and Badman, 2012). The mission report's recommendations have been organised to follow the relevant World Heritage Committee recommendation as the Committee drew significantly on the mission's report in developing decision 36 COM 7B.8; their numbering reflects the numbering of the recommendations in the mission report.

N/A = Not applicable. The recommendation is not the responsibility of the relevant government, or the work is to be undertaken later in 2014/2015.





OUV = Outstanding Universal Value is the key term/concept that the World Heritage Committee uses to describe the overall values of the property for which it is inscribed under the World Heritage Convention.



#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
WHC3	<p>Welcomes the initial positive results of the Reef Plan and associated measures to address major long-term impacts on the property from poor water quality and requests the State Party, in collaboration with its partners, to maintain, and increase where necessary financial investment and sustain the positive trend beyond 2013;</p>	<p>Australian and Queensland governments response: The Australian and Queensland governments renewed the Reef Water Quality Protection Plan (Reef Plan) in July of 2013. The ‘Long Term Goal’ of Reef Plan is that “by 2020 the quality of water entering the reef from broadscale land use has no detrimental impact on the health and resilience of the Great Barrier Reef”.</p> <p>The new Reef Plan contains targets for agricultural pollution reduction and farm management practice improvements by 2018. The key problem with the new Reef Plan is that the 2018 pollution reduction targets will likely be quite insufficient to deliver the Long Term Goal.</p> <p>The 2018 target of a 50% reduction in the key pollutant, dissolved inorganic nitrogen (DIN), is the target that was supposed to have been achieved by 2013 – it has simply been delayed by five years. It is likely that a target of up to 80% reduction in DIN will be required to avoid unnatural Crown of Thorns Starfish outbreaks which have been a major factor in Reef decline.</p> <p>The Australian and Queensland governments have not undertaken the research needed to set the pollution reduction targets to meet the 2020 goal. Consequently they do not know the scale of action and investment needed.</p> <p>Recent Reef Report Cards have shown a modeled reduction in pollutant loads reaching the Reef due to the actions and investments under Reef Plan. However, Report Cards only cover the first two years of the Reef Rescue program which is now in its sixth year. This makes it problematic to understand what has been successful and to better target future actions.</p> <p>Australian Government response: In April of 2013 the previous Australian Government announced the refunding of Reef Rescue – a five year \$200 million package to reduce agricultural pollution running off to the Reef.</p> <p>The current Australian Government has also announced a Reef 2050 Plan to ensure the long-term environmental protection of the Great Barrier Reef, which has a focus on funding farm practice improvements to cut Reef pollution. Reef 2050 includes a commitment to establish a Reef Trust which will combine government (\$40 million seed funding) and private funds to invest strategically to improve coastal habitat and water quality along the Great Barrier Reef.</p> <p>The 2013 Scientific Consensus Statement (Brodie et al 2013) identified terrestrial run-off as “one of the most significant threats to the long-term health of the Great Barrier Reef”. The ongoing support by successive Australian Governments to fund pollution reduction program is therefore critical.</p> <p>However, there has been no analysis of what pollution reduction targets are needed and what investment will be needed to achieve these. Until this occurs it is likely that current measures will prove insufficient to restore the Reef’s health and build resilience to climate change.</p>		



#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
		<p>Queensland Government response:</p> <p>The Queensland Government used the release of Reef Plan 2013 to confirm its annual \$35 million investment out to 2018 “to help achieve the Reef Plan 2013 goals and targets”. Whilst a continuation of funding levels is significant, there is insufficient detail on how this money is being invested and whether the investment is effectively being spent on cutting Reef pollution.</p> <p>The Queensland Government’s major pollution initiative is supporting industry developed voluntary Best Management Practice (BMP) programs for the two key polluting industries sugar cane and cattle. These are being used in preference to the previous government’s approach of regulating pollution standards (refer to EDO analysis, Appendix 5, Section 4, Agricultural Run-Off).</p> <p>The cane BMP does not contain standards that will cut pollution sufficiently to protect the Reef. The cattle BMP does not measure improved land conditions or the likely pollution reductions. Both BMPs fail to aim for a sufficiently high level of adoption or properly target high risk areas.</p> <p>Overall the implementation of current BMP programs will likely not even meet government targets for pollution reduction as contained in Reef Plan, let alone the long term goal to ensure agricultural pollution has no detrimental impact on the Reef.</p> <p>There are no clear plans to address pollution from farm businesses which do not adopt BMP programs, including when existing pollution regulations will actually be enforced.</p> <p>Queensland has a target to double agricultural production by 2040 yet has no plan on how potential increased agricultural pollution will be managed. All the gains made from Reef Plan could be lost if this issue is not addressed.</p>		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR1	<p>Sustain beyond 2013, and on a long-term basis, the current financial investment in the progressive and highly important Reef Water Quality Protection Plan and associated Reef Rescue measures, and where necessary increase this investment, to address impacts of water quality in the catchments that drain into the Great Barrier Reef, and ensure that these programmes and related planning policies consider water quality impacts from all uses within the catchments.</p>	<p>The assessment of WHC3 above addresses much of this recommendation.</p> <p>It is important to emphasise that both the Australian and Queensland governments have only maintained their level of investment (which is in fact a funding cut when inflation is factored in).</p> <p>There is a very strong argument that funding needs to be significantly increased. The 2012 Australian Institute of Marine Science (AIMS) paper <i>The 27 year decline of coral cover on the Great Barrier Reef and its causes</i> (De'ath et al, 2012) showed that between 1985 and 2012 Reef coral cover declined by over 50%. A key reason for this was Crown of Thorn Starfish (COTS) outbreaks which recent research has linked to excessive fertiliser run-off. Without COTS outbreaks in this period coral cover would have increased by 24%. Reducing starfish populations by improving water quality is the best action that can be taken to improve the health of the Great Barrier Reef in the short term. Investment needs to be significantly scaled up so that large cuts to pollution can be achieved in the short term to give the Reef the best chance of recovery.</p> <p>Reef coral cover was around 50% in 1960 according to the 2013 Scientific Consensus Statement. The AIMS paper concluded that without intervention Reef coral cover would likely fall to 5-10% by 2022. If pollution impacts are not properly addressed through greatly increased investment and on-ground action, it is highly unlikely that the Outstanding Universal Value of the Great Barrier Reef will be conserved.</p> <p>The Queensland government has continued with legislative changes that reduce regulatory and planning mechanisms for controlling water quality impacts from a range of uses within the catchments in particular mining and land clearing activities. Sections 3, 8 and 13 in the EDO analysis, Appendix 5 documents changes to:</p> <ul style="list-style-type: none"> - <i>Vegetation Management Act 1999</i> (Qld) that now allows for clearing of 'high value regrowth' and clearing of protected (native) vegetation for new purposes such as 'high value agriculture' or 'necessary environmental clearing'. The changes also introduced self-assessable vegetation clearing codes provided the person merely 'notify' the department. - <i>Water Act 2000</i> (Qld) that have removed the requirement for a riverine protection permit to destroy vegetation in a watercourse or spring. Whilst 50 metre 'buffer zones' in certain catchments may still apply, there are reduced protections for watercourse clearing in other areas which may impact on the OUV of the GBR. - <i>Environmental Protection Act 1994</i> (Qld) that make it easier for the release of contaminated water in GBR catchments through applications for Temporary Emission Licences to cover both emergency situations and now 'applicable events'. 		





#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
WHC5	<p>Notes with great concern the potentially significant impact on the property's Outstanding Universal Value resulting from the unprecedented scale of coastal development currently being proposed within and affecting the property, and further requests the State Party to not permit any new port development or associated infrastructure outside of the existing and long-established major port areas within or adjoining the property, and to ensure that development is not permitted if it would impact individually or cumulatively on the Outstanding Universal Value of the property;</p> <p>WHC Decision: 37 COM 7B.10</p> <p>6. Notes with concern urges the limited progress made by the State Party in implementing key requests made by the Committee (Decision 36 COM 7B.8) and the recommendations of the March 2012 joint World Heritage Centre/ IUCN reactive monitoring mission as well as on-going coastal development on the Reef, and the State Party to strengthen its efforts in order to fully implement the Committee requests and mission recommendations that have not yet or only partially been implemented, including by making commitments to:</p> <p>a) Ensure rigorously that development is not permitted if it would impact individually or cumulatively on the OUV of the property, or compromise the Strategic Assessment and resulting long-term plan for the sustainable development of the property,</p> <p>b) Ensure that no port developments or associated port infrastructure are permitted outside the existing and long-established major port areas within or adjoining the property,</p>	<p>Australian government response:</p> <p>In December 2013 the Australian government Minister for Environment approved approved four major developments within the GBR World Heritage Area (WHA), including a capital dredging program at Abbot Point, a terminal expansion at Abbot Point, an LNG Facility on Curtis Island and a Gas zTransmission Pipeline to Curtis Island.</p> <p>As part of the capital dredging program at Abbott Point the Minister approved a dredge spoil dumping site that is outside of the port's limits and within the GBR Marine Park and WHA; the decision is in direct contravention of the WHC's recommendation as the proposed dredge spoil dump site is outside the existing and long-established port area of Abbot Point. Previously the dredge spoil dump site was within the port's limits.</p> <p>There are still no legislative or policy frameworks of the Australian or Queensland governments that consider cumulative impacts, with the narrow exception of the Reef Water Quality Program. Most concerning is the limitation of the commitment to developing cumulative impact 'guidelines' for 'proponents to consider'. Guidelines are generally unenforceable and are discretionary in the way in which they may be satisfied. 'Discretionary guidelines for development proponents' is not what the WHC recommended.</p> <p>Queensland government response:</p> <p>In October 2013 the Queensland government released its draft Queensland Ports Strategy for public comment. The draft strategy lacks detail in key areas with a number of the major initiatives to be delivered at a future date; it provides little guidance on how the overall vision, themes and key actions will achieve the outcomes outlined in various sections of the Strategy; and in a number of instances, particularly in relation to improved environmental outcomes, the proposed processes address future developments and exclude existing approved, or under assessment proposals. Its time-frame is 10 years, whereas the GBR Coastal Zone strategic assessment and program reports and the proposed Sustainable Development Plan are for 25 years.</p> <p>There are currently 29 Coordinated Projects undergoing the environmental assessment process in Queensland. Almost half of these proposed developments have the potential to directly impact on the OUV of the GBR including the Aquis Resort in Cairns, the Cairns Shipping Development, the Capricorn Integrated Resort at Yeppoon, the Dudgeon Point Coal Terminals at Hay Point, the Fitzroy Terminal and the Townsville Port Expansion.</p> <p>Since 2012, the Queensland Government has also declared 9 major projects to be 'Prescribed Projects'. These declarations allow the Coordinator-General - a senior public servant within Department of State Development and Infrastructure Planning (DSDIP) - to make decisions where he believes individual departments (like the Department of Environment and Heritage Protection (EHP)) are taking too long to finalise approvals or conditions. Prescribed Projects currently include two of Australia's biggest ever coal mines- Alpha and Kevin's Corner. These mines are located in GBR catchments with their coal to be shipped through Abbot Point. As recently as 23 December 2013, the Government declared the LNG facility on Curtis Island to be a 'Prescribed Project'. Two other recently declared Prescribed Projects are major resort projects in the GBR zone: Great Keppel Island Resort and the Ella Bay Resort.</p>		




#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
	c) Ensure that the legislation protecting the property remains strong and adequate to maintain and enhance its OUV;	The EDO analysis, Appendix 5 documents extensive changes to Queensland legislation and administrative processes that reduce the level of protection afforded to the Queensland environment, hence the OUV of the GBR and Wet Tropics World Heritage Areas. Of particular concern, are changes to the <i>Nature Conservation Act 1992</i> (Qld) (section 5) and deliberate measures to reshape the language of environmental policy away from ecologically sustainable development (section 2).		
MR2	Not permit any new port development or associated infrastructure outside of the existing and long established major port areas within and adjoining the property. It is essential that development is not permitted if it would impact individually or cumulatively on OUV, including the integrity of the property. This measure should apply both within and in the adjacent areas to the property. This measure should take immediate effect and requires full application until the Strategic Assessment and the resulting long-term plan for the sustainable development of the property has been completed, and has been considered by the World Heritage Committee at its 39th session in 2015.	See WHC5.		
MR4	Ensure that any development, including ports and other types of development, as well as all associated infrastructure and supporting activities are carried out consistent with the highest international standards of best practice, commensurate with status of an iconic World Heritage property, and enabling the State Party to continue to provide global leadership for the conservation and sustainable development of multiple use marine protected areas.	See WHC5. Australian government response: The Australia government has received two reports addressing the benchmarking of international best practice for ports (GHD (2013); Gladstone Independent Review Panel (2013)) however the current decisions listed above reflect existing practices. It appears that the recommendations of the two reports cited above will be addressed during the development of the Sustainable Development Plan for the GBR; however there are no details on the approaches for doing this, apart from utilising master planning in the first instance. Queensland government response: In November 2012, the Queensland Government announced it was lifting a 20-year ban on uranium mining. The Government considers that once Queensland's uranium industry becomes 'commercially viable' then a case may be made to have a licensed uranium port at Townsville where uranium can be shipped through the GBR to places like India and Japan. The draft GBR Coastal Zone Strategic Assessment has not considered the risks to the Reef posed by lifting the ban on uranium mining in Queensland. The Terms of Reference for the Coastal Zone Strategic Assessment did not include 'nuclear actions' (such as uranium mining) or 'water resources from coal seam gas (CSG) and large coal mining development' even though both are listed MNES under the EPBC Act. See EDO analysis, Introductory Note and sections 16 and 21, Appendix 5 for more details.		





#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR7	<p>Ensure that any determination made for applications under the EPBC Act, considering this is the principal legislation to ensure development does not negatively impact the values and integrity of the property, includes for each application:</p> <p>a) A thorough assessment, supported by a detailed statement of reasons, and appropriate independent review input, on how the proposal will ensure conservation of each of the components that make up the OUV of the property, and avoid impacts upon it;</p> <p>b) A thorough consideration of the combined, cumulative and possible consequential impacts of development, infrastructure and associated activities on the OUV as material considerations in determining all applications, benchmarked on the date of inscription of the property in 1981;</p> <p>c) Detailed assessment of alternative options for all aspects of a development proposal, including supporting infrastructure and activities. This assessment should consider in detail the environmental, social and economic costs and benefits and lead to a clear indication of the net benefit of the development to the values and integrity of the property.</p>	<p>See WHC5.</p> <p>Australian government response:</p> <p>In December 2013, the Queensland and Australian governments entered into a statutory agreement (assessment bilateral agreement) which has given Queensland powers to assess all MNES. The agreement means the Commonwealth has transferred responsibility for the assessment of actions in Queensland and state waters that are in the GBRMP. Up until December 2013, the power to assess actions in Queensland land and state waters in the GBRMP remained with the Commonwealth.</p> <p>Given the changes in Queensland environmental protection legislation and decision-making frameworks summarised elsewhere in this table and analysed in the EDO advice at Appendix 5, we are gravely concerned by the implications of this transfer of responsibilities.</p> <p>Queensland government response:</p> <p>The proposed changes to Queensland’s planning and assessment legislation summarised in our January 2013 report to the WHC have been progressed. The EDO analysis at Appendix 5 summarises the impacts of these changes on management of the coastal zone (see section 6). In summary this has resulted in:</p> <ul style="list-style-type: none"> – The new State Planning Policy (SPP) and State Development and Assessment Provisions (“SDAP”) modules consider Matters of State Environmental Significance (MSES); however there is no express consideration of OUV of the GBR. The SDAP allows dredging for reclamation of land below tidal water, dumping of dredged spoil on land and at sea, and dumping of spoil from artificial waterways into coastal waters for certain purposes. Unlike the previous SPP, the new SPP does not clearly prohibit the dumping of contaminated dredged material. – For certain development in wetland protection areas in GBR catchments, there is a ‘self-assessable development code’ which sets out the ‘performance outcomes’ and ‘acceptable outcomes’, however the SPP does not provide an absolute prohibition on development in wetland protection areas; and – The SPP does not provide protection for all categories of protected wildlife in Queensland. The plight of many ‘less high-profile’ native species will fall outside of the planning framework. <p>There has also been a removal of the Department of Environment and Heritage Protection’s (EHP) decision-making powers. The introduction of a Single Assessment and Referral Agency (SARA) on 1 July 2013 effectively centralised decision making to the Department of State Development Infrastructure and Planning (DSDIP) on development assessment applications and ended the “concurrence” power of EHP and other referral agencies. EHP now only provides ‘technical advice’ on planning matters relating to the environment but DSDIP has the final say.</p>		





#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR8	<p>Adopt the highest level of precaution in decision-making regarding development proposals with potential to impact the property, and to Prevent any approval of major projects that may compromise the outcomes of the Strategic Assessment, until the Strategic Assessment is completed and its resulting plan for the long-term sustainable development for the property has been considered by the World Heritage Committee. During this period, the State Party is requested to ensure no developments are permitted which create individual, cumulative or combined impacts on the OUV of the Great Barrier Reef World Heritage area and its long-term conservation.</p>	See WHC5		



#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
WHC6	<p>Requests furthermore the State Party to complete the Strategic Assessment and resulting long-term development of the property for consideration by the World Heritage Committee at its 39th session in 2015 ... ensure that the assessment and long-term plan are completed against a number of defined criteria for success, fully address direct, indirect and cumulative impacts on the reef and lead to concrete measures to ensure the overall conservation of the Outstanding Universal Value of the property</p>	<p>In November 2013 two draft strategic assessments and program reports were released for public comment; the submission period for these documents closes on January 31, 2014. The strategic assessments are being undertaken under the Australian government's <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth) (EPBC Act); thus, they are limited to identifying and providing a management framework for most (but not all) matters of national environmental significance (MNES) under that Act. While this approach has been adequate for the GBR Region assessment as the GBR Marine Park is a MNES, it is a particular problem for the GBR Coastal Zone Strategic Assessment as the framework does not comprehensively address all of the activities and pressures affecting the GBR WHA (refer to EDO analysis, Introductory Note, Appendix 5). Additionally the Act is concerned with 'significant' impacts on MNES at the time those individual actions are being assessed. There is little to no scope for an assessment of the cumulative impacts of all activities on the OUV of the WH property.</p> <p>Australian government response:</p> <p>The draft Great Barrier Reef Region Strategic Assessment prepared by the Great Barrier Reef Marine Park Authority (an Australian government agency) is a comprehensive document drawing on the 2009 Great Barrier Reef Outlook Report (GBRMPA 2009) that documents the current condition and trend of key attributes and values contributing to the OUV of the GBR WHA as well as impacts. An independent analysis of the effectiveness of GBRMPA's management programs was undertaken. It makes a series of recommendations to redress the problems confronting the property.</p> <p>The draft Program Report released with the strategic assessment proposes a range of management measures to respond to the recommendations. These measures are generally plans to undertake more plans, or develop guidelines with no apparent statutory basis. There is no analysis of the scale of interventions required to meet the overarching goal of halting and reversing the decline of key elements of the OUV, nor an assessment of likely outcomes of the proposed management measures. Proposed time-frames for implementations are between 12 months and 5 years.</p> <p>Queensland government response:</p> <p>The draft Queensland Strategic Assessment prepared by the Queensland government focuses on impacts on matters of national environmental significance (MNES) and management, planning and development policy and legislation relating only to MNES. This ignores the fact that the condition, trend and resilience of MNES is influenced by the condition and resilience of surrounding ecosystems; this is particularly important for the GBR WHA which is highly connected with the adjacent coastal catchments and is the receiving environment for excessive land based sources of pollution. Thus, by focussing on MNES the scope of the draft Strategic Assessment and Program Report is too narrow and provides an unrealistic, and overly optimistic, assessment of the effectiveness of existing management. This means that the final Program will be too limited to achieve the proposed objectives.</p> <p>The EDO analysis at Appendix 5 provides a thorough analysis of the shortcomings of the Queensland prepared documents with respect to legislation and policy. This analysis identifies a range of recent legislative and policy changes that are likely to negatively impact the GBR WHA and which are not addressed by the draft documents. It also documents the systematic downgrading of the application of ESD principles, a reduction in public participation and third party rights of appeal, and relaxation in enforcement and compliance activities for environmental matters.</p>		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR5	<p>Complete the Strategic Assessment and resulting long-term plan for the sustainable development of the property for consideration by the World Heritage Committee at its 39th session in 2015. The assessment and long-term plan should be completed in a coordinated and fully consultative process, against a number of defined criteria for success, and considering the conclusions and recommendations of the mission as set out in this report.</p>	See WHC6		
WHC7	<p>Urges the State Party to establish the Outstanding Universal Value of the property as a clearly defined and central element within the protection and management system for the property, and to include an explicit assessment of Outstanding Universal Value within future Great Barrier Reef Outlook Reports;</p> <p>WHC Decision: 37 COM 7B.10</p> <p>6. Notes with concern the limited progress made by the State Party the State Party to strengthen its efforts by making commitments to:</p> <p>.....</p> <p>c) Ensure that the legislation protecting the property remains strong and adequate to maintain and enhance its UV;</p>	<p>Australian government response:</p> <p>The draft GBR Region Strategic Assessment provides an analysis of the attributes and elements of the property's OUV and a condition and trend analysis of these components.</p> <p>GBRMPA is including an assessment of OUV in scoping for the Great Barrier Reef Outlook Report due in 2014.</p> <p>In December 2013, the Queensland and Australian governments entered into a statutory agreement (assessment bilateral agreement) which has given Queensland powers to assess all MNES. The agreement means the Commonwealth has transferred responsibility for the assessment of actions in Queensland and state waters that are in the GBRMP. Up until December 2013, the power to assess actions in Queensland land and state waters in the GBRMP remained with the Commonwealth.</p> <p>Queensland government response:</p> <p>The EDO analysis at Appendix 5 details a number of legislative and policy changes that are inconsistent with this recommendation. These include:</p> <ul style="list-style-type: none"> - Recent amendments to the protective legislation for threatened species, the <i>Nature Conservation Act 1992</i> (Qld) (NCA), now allow protected areas (such as national parks) to be used for purposes that are not in accordance with the principles of ecological sustainability. The amendments moved away from IUCN categories of protected areas and in some cases removed categories completely. - The Government has deliberately moved to reshape the language of environmental policy away from ESD; alternative phrases have been coined which have no substance at all such as: "environmental prosperity"; and "sustainable economic development". - Removal of Queensland Department of Environment and Heritage Protection's (EHP) decision-making powers. The introduction of a Single Assessment and Referral Agency (SARA) on 1 July 2013 effectively centralised decision making to the Department of State Development and Infrastructure Planning (DSDIP) on development assessment applications and ended the "concurrence" power of the EHP and other referral agencies. DSDIP now only need to consider 'advice' from EHP on matters relating to the environment. 		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR6	<p>Include, in the future editions of the Outlook Report for the Great Barrier Reef, and commencing with the version to be published in 2014, a specific assessment on the condition, trends, threats and prospects for the OUV of Great Barrier Reef World Heritage Area. The assessment should be benchmarked at the date of inscription of the property in 1981, and its results should be reported to the World Heritage Committee for consideration at its 39th session in 2015.</p>	<p>See WHC 7 above.</p> <p>Agreement reached that OUV will be benchmarked at date of inscription in 1981; however for some elements of the OUV only limited data sets are available for this time-frame.</p>		N/A
MR9	<p>Ensure all components of the OUV of the Great Barrier Reef are a clearly defined and form a central element within the protection and management system for the property as well as the catchments and ecosystems that surround it. The OUV of the property should be a principal reference for all plans and legislation relating to the protection and management of the property as a whole, and in particular for legislation in relation to development within or in areas adjacent to the property. All the elements that constitute the OUV of the property should be included in the framework for future monitoring and reporting on the State of Conservation of the property to the World Heritage Committee.</p>	<p>See WHC 7.</p>		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
WHC8	<p>Recommends the State Party, in collaboration with its partners, to sustain and increase its efforts and available resources to conserve the property, and to develop and adopt clearly defined and scientifically justified targets for improving its state of conservation and enhancing its resilience, and ensure that plans, policies and development proposals affecting the property demonstrate a positive contribution to the achievement of those targets, and an overall net benefit to the protection of Outstanding Universal Value;</p>	<p>Australian government response:</p> <p>The draft GBR Region Strategic Assessment provides the basis for determining targets for improving the state of conservation of the GBR WHA and draft Program Report proposes a number of possible targets with a focus on management outcomes. This approach is supported; we note however a considerable amount of work needs to be done to establish a robust set of targets and embed them into relevant policy and management programs.</p> <p>The draft program report also proposes a GBR Net benefit policy. While we support this approach in principle, we consider that its application has many challenges not least of which is sufficient capacity by managers to measure net benefit; we note the difficulties experienced by Reef Plan managers to document the outcomes of their investment. In the marine environment there are multiple pressures that are cumulative and determining the contributions (negative and positive) of proposed new impacts is difficult and subject to numerous errors. Thus, we recommend a highly precautionary approach to the development and application of this proposed policy and that calculated net benefits should exceed calculated net impacts by a factor that, at the very least, reflects the historical legacy of the impacted ecosystem.</p> <p>Australian and Queensland governments response:</p> <p>Throughout the draft GBR Coastal Zone program report there is an underlying approach of “avoid, mitigate, offset”; imposing conditions that attempt to ‘mitigate’ and/or ‘offset’ the impacts allows development to proceed. The EDO analysis (section 10, Appendix 5) provides a number of examples where both Australian and Queensland government mitigating and offsetting conditions have had only limited success, and in some instances failed. Queensland has released for limited consultation an updated draft offsets policy. We note EDO’s view namely; <i>we consider it falls well short of best practice, is not scientifically based and is of a lower standard than the Commonwealth’s offsets policy.</i></p>		
MR10	<p>Develop and adopt, at the level of the Ministerial Forum, clearly defined and scientifically justified targets for improving the State of Conservation of the OUV of the Great Barrier Reef World Heritage Area, including for enhanced resilience of the property, and in particular for the conservation, and where necessary restoration, of the inshore areas of the property that are under greatest pressure. All plans, policies and development proposals affecting the property should demonstrate a positive contribution to the achievement of those targets.</p>	<p>See WHC8.</p>		



#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR12	Ensure increased resources from both State and Federal Governments for the protection and management of the property, in particular to cover growing costs associated with effective responses to key threats and increasing demand for use of both within the property and its adjacent areas that affect it. Resources allocated to the research, monitoring and surveillance of the property should consistently reflect the actual increase of costs associated with such activities.	See WHC8.		
WHC9	Requests moreover the State Party to undertake an independent review of the management arrangements for Gladstone Harbour, that will result in the optimization of port development and operation in Gladstone Harbour and on Curtis Island, consistent with the highest internationally recognized standards for best practice commensurate with iconic World Heritage status	<p>Australian government response:</p> <p>The Australian government-commissioned Gladstone Independent Review Panel is complete with two reports released (Gladstone Independent Review Panel 2013(a), 2013(b)). The Panel confirmed that, <i>The OUV of the GBRWHA is expressed in the Port of Gladstone</i> (Finding 1); and that, <i>There has been variable consideration of world heritage and environment matters in the state and port strategic planning processes for the Port of Gladstone. When these matters were considered, there was inadequate avoidance or mitigation of impacts to world heritage values</i> (Finding 6). In its initial report the Panel made 17 findings and 26 recommendations; in its supplementary report the Panel proposes 21 best practice principles for the planning and management of ports. The Australian government Environment Department web site notes that, <i>The review will be used to inform the comprehensive strategic assessment of the Great Barrier Reef.</i></p> <p>Recently details have emerged about design and construction problems with the containment bund wall built as part of the 23 million cubic metres dredging and land reclamation Western Basin Dredging and Disposal Project in Gladstone Harbour. On 20 January 2014 Australian Environment Minister Greg Hunt announced that he is establishing an independent inquiry to investigate the failure of the bund wall in the first instance.</p> <p>Queensland government response:</p> <p>The Gladstone Healthy Harbour Partnership (GHHP) was launched on 6 November 2013 when a Memorandum of Understanding was signed by representatives from the Gladstone community and GHHP Partners. The Queensland has committed \$4 million over two years to support establishment of the Partnership and its science and monitoring work.</p> <p>http://www.healthyharbour.org.au/?page_id=12</p> <p>Around the time of establishing the GHHP the Queensland government also announced plans to continue development at Gladstone and duplicate the main shipping channel at Gladstone which will involve 12million m³ of dredging. It was declared a 'Coordinated Project' as well as a 'controlled action' under the EPBC Act. An Environmental Impact Statement (EIS) is currently being prepared. It is expected to be completed shortly.</p>		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR3	Commission an independent review of all environmental concerns of consented developments in Gladstone Harbour and on Curtis Island, and the implications of the consented developments in Gladstone Harbour and on Curtis Island for Traditional Owners and the local community dependent on the resources of the area. The review should be undertaken by internationally recognized and widely respected scientific experts and conducted in an independent and transparent manner.	See WHC9.		


ADDITIONAL MISSION RECOMMENDATIONS

MR11	Commission an independent review, undertaken by internationally recognized and widely respected scientific experts, of the overall institutional and legal mechanisms that provide coordinated planning, protection and management of the Great Barrier Reef World Heritage Area as a whole. The results of the review should be reported to the Great Barrier Reef Ministerial Forum and provide input to the Strategic Assessment to which the State Party has committed.	<p>Australian government response:</p> <p>There has been no progress on this review. We note the comments in relation to this recommendation in the 2013 State Party report to the WHC by the Australian government; these comments reference the independent review of management effectiveness undertaken as part of the GBR Region Strategic Assessment which identified a number of areas requiring improvements. We also note the independent review by SKM (SKM 2013) of the draft GBR Coastal Zone Strategic Assessment and Program Report prepared by the Queensland government; SKM identified many matters of concern with the these reports.</p> <p>The 2013 State Party report (Commonwealth of Australia 2013) clearly states the intention that any matters raised through the strategic assessment process will be dealt with in the development of the long term sustainable development plan (p.42).</p> <p>We consider that the current and proposed steps taken by the Australian government do not address the intent of this recommendation.</p>		N/A
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ADDITIONAL MISSION RECOMMENDATIONS

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR13	<p>Develop a fully integrated approach to the planning, regulation and management of ports and shipping activity affecting the property, including via Shipping Policy for the property, the proposed Ports Strategy of Queensland, and individual Port Plans, that will ensure that ports and shipping activity does not negatively impact the OUV, including the integrity, of the property, and meets the highest international standards in its planning, regulation, assessment and operation.</p>	<p>Australian government response:</p> <p>The Australian Maritime Safety Authority released the draft North East Shipping Plan (NESMP) for public consultation in August 2013. It is a well-organised overview of the situation and provides an important set of priority actions for further reducing the risk of shipping in the GBR WHA. Key areas in which the draft needs to be improved include: addressing the increased threat of the introduction of invasive marine pests through ballast water and hull bio-fouling; the management of anchorages; improved understanding of the impacts of acoustic pollution from shipping activities; and establishing a regulatory and legal regime that discourages the use of sub-standard ships and addresses the current short-comings of the insurance and compensation regime under which ships operate.</p> <p>Importantly, management of anchorages is not addressed in the NESMP; reference is made to the recommendations of the GHD report on anchorages commissioned by the Australian government as part of the GBR strategic assessment processes. Both the GBR Region and the GBR Coastal Zone Strategic Assessments and Program Reports give very limited consideration of issues relating to improved management of shipping anchorages within the GBR WHA.</p> <p>The intent of this recommendation to develop “a fully integrated approach” has not been addressed so far by the distinctly separate processes used in preparing the draft NESMP and the two draft strategic assessments and program reports.</p> <p>We note that the Australian Maritime Safety Authority continues to implement a range of improvements following the Australian Transport Safety Bureau report into safety issues with Queensland coastal pilotage.</p> <p>Queensland government response:</p> <p>We note our previous comments and concerns (see WHC 5) on the draft Queensland Ports Strategy.</p> <p>A recent report by the Centre for Policy Development (Eadie, 2013) explored opportunities for efficiency measures for the GBR major ports, none of which were covered by the draft Queensland Ports Strategy.</p>		

ADDITIONAL MISSION RECOMMENDATIONS

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR15	<p>Mission recalls the obligation of the State Party to report to the World Heritage Centre any new plans and proposals for developments that may impact the OUV of the property, consistent with paragraph 172 of the Operational Guidelines to the World Heritage Convention, and prior to their determination. This has been done regularly by the State Party since the 35th Session of the Committee, and the mission notes that in future, and at least until the World Heritage Committee has considered the completed Strategic Assessment and the resulting long term plan for the sustainable development of the property at its 39th session in 2015, these reports should additionally include an executive summary detailing the outcomes of the assessments mentioned in Recommendation 9 of the mission report and confirming that the proposal will not individually or cumulatively impact on the OUV of the property.</p>	<p>Australian government response:</p> <p>Australian government has reviewed and updated its reporting requirements.</p> <p>It is unclear how the bilateral arrangements under the EPBC Act will affect these reporting arrangements.</p>		N/A

3. RECOMMENDATIONS

This document highlights serious concerns about the condition and management of the Great Barrier Reef World Heritage Area.

- Key values of the World Heritage Area that play a significant role in its Outstanding Universal Value are in poor or very poor condition and the majority are showing a declining trend, including: inshore coral reefs and corals in the lower two thirds of the Region; seagrass meadows and seagrasses; freshwater wetlands; sharks and rays; marine turtles; seabirds; shorebirds; dugongs; Indigenous sacred sites, Indigenous stories, song lines, and archeology.
- Queensland legislation and policy outlined throughout the Draft Coastal Zone Strategic Assessment and Program Report prepared by the Queensland government does not ensure Great Barrier Reef protection and many recent changes actively impede protection. The proposed delegation of approval powers from the Australian to the Queensland government are of great concern for Reef protection.
- The recent approvals by both the Australian and Queensland governments which we consider will *impact individually or cumulatively on the OUV of the property* (WHC 37 COM 7B.10) given the nature of the developments and the poor track record on mitigating and offsetting impacts. In particular, we draw the Committee's attention to the approval for a capital dredging program at Abbot Point and dredge spoil dump site outside the existing footprint of the Abbot Point port and inside the Great Barrier Reef Marine Park and World Heritage Area; this is in direct contravention of WHC 37 COM 7B.10 6(b).

WWF-Australia and the Australian Marine Conservation Society request the World Heritage Committee to:

- (i). Reiterate the Committee's concerns about the condition and trend of the State of Conservation of the Great Barrier Reef World Heritage Area.
- (ii). Reaffirm the Committee's concern about the adequacy of the legislation and policy to protect the property and the implications of recent and proposed changes by both the Australian and Queensland governments.
- (iii). Reaffirm the Committee's recommendations made in the past three years and note that key actions need to be undertaken including:
 - Ensuring that commitments to contain the footprint of ports to existing sites are adhered to, and extend for at least 25 years.
 - Establishing immediate protection measures for areas of Outstanding Universal Value well recognised and inadequately protected including the Fitzroy Delta, Balaclava Island, northern Curtis Island and Cape York.
 - Reviewing the Abbot Point capital dredging approval given its apparent contravention of the Committee's recommendations about not approving activities outside of existing port areas.
 - Identifying the pollution reduction targets required to meet the Reef Plan 2020 Goal of "no detrimental impact" from water quality, and to commit the funds needed to implement the actions to meet these targets.

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5. APPENDICES

1. Background to the report
2. World Heritage Committee decisions 35 COM 7B.10, 36 COM 7B.8 and 37
3. Recommendations of Mission Report, Reactive Monitoring Mission to Great Barrier Reef (Australia), 6th to 14th March 2012.
4. Information about WWF-Australia and the Australian Marine Conservation Society
5. Environmental Defenders Office Queensland. Legislative Protection of the Great Barrier Reef World Heritage Area, Australia.

Appendix 1: Background to recent recommendations of the World Heritage Committee relating to the Great Barrier Reef World Heritage Area

In June 2011 UNESCO's World Heritage Committee¹ expressed "extreme concern of the approval of Liquefied Natural Gas processing and port facilities on Curtis Island within" the Great Barrier Reef World Heritage Area (see Appendix 2, World Heritage Committee 35 COM 7B.10). Following an UNESCO/IUCN reactive monitoring mission (the mission) to the Great Barrier Reef in March 2012 and release of the mission's report in June 2012 the World Heritage Committee at its 2012 annual meeting noted "with great concern the potentially significant impact on the property's Outstanding Universal Value resulting from the unprecedented scale of coastal development currently being proposed within and affecting the property" (see Appendix 2, World Heritage Committee 36 COM 7B.8). The Committee requested the Australian government to address eight detailed recommendations and a further 14 from the mission (see section 3.2).

At its 37th meeting in June 2013 the Committee reviewed progress by the Australian government in meeting the Committee's recommendations, welcomed progress on some recommendations, but noted the limited progress made in implementing key requests. The committee sought commitment in three areas relating to coastal development approvals and legislation protecting the property. The Australian government was requested to provide an update report on the state of conservation of the property by 1 February 2014 (see Appendix 2, World Heritage Committee 37 COM 7B.10).

The Australian government has prepared two State Party reports (2012 and 2013) for the consideration of the World Heritage Committee in response to decision 35 COM 7B.10 and 36 COM 7B.8. In June 2013 the Committee requested the Australian government to submit, "by 1 February 2014, an updated report on the state of conservation of the property, including on the implementation of actions outlined above as well as on the other points raised in the 2012 mission report, for examination by the World Heritage Committee at its 38th session in 2014, with a view to considering, in the absence of substantial progress, the inscription of the property on the List of World Heritage in Danger.;" (WHC 37 COM 7B.10).

In November 2013 two draft strategic assessments and program reports were released for public comment, namely:

Draft Great Barrier Reef Region Strategic Assessment and Program Report prepared by the Great Barrier Reef Marine Park Authority; and

Draft Great Barrier Reef Coastal Zone Strategic Assessment and Program Report prepared by the Queensland government.

The submission period for these documents closes on January 31, 2014.

¹ The World Heritage Committee consists of representatives from 21 of the States Parties to the Convention and is responsible for the implementation of UNESCO's World Heritage Convention. It has the final say on whether a property is inscribed on the World Heritage List. It examines reports on the state of conservation of inscribed properties and asks States Parties to take action when properties are not being properly managed. It also decides on the inscription or deletion of properties on the List of World Heritage in Danger. <http://whc.unesco.org/en/committee>

Appendix 2: Recent recommendations of the World Heritage Committee relating to the Great Barrier Reef World Heritage Area

Decision: 35 COM 7B.10

10. Great Barrier Reef (Australia) (N 154)
Decision: 35 COM 7B.10

The World Heritage Committee,

1. Having examined Document WHC-11/35.COM/7B.Add,
2. Notes with extreme concern the approval of Liquefied Natural Gas processing and port facilities on Curtis Island within the property;
3. Urges the State Party to undertake a comprehensive strategic assessment of the entire property, identifying planned and potential future development that could impact the Outstanding Universal Value to enable a long-term plan for sustainable development that will protect the Outstanding Universal Value of the property;
4. Regrets that the State Party did not inform the Committee as per paragraph 172 of the *Operational Guidelines* and requests the State Party to report, in accordance with paragraph 172, its intention to undertake or to authorize any new development that may affect the Outstanding Universal Value of the property before making decisions that would be difficult to reverse;
5. Also requests the State Party to invite a World Heritage Centre / IUCN reactive monitoring mission as soon as possible to consider the state of conservation of the property as a whole, and to contribute to the strategic assessment process;
6. Welcomes the State Party's commitment to improve the property's resilience and its ability to adapt to climate change and other forms of environmental degradation following the extreme weather events;
7. Further requests the State Party to submit to the World Heritage Centre, by **1 February 2012**, a report on the course of action taken in response to this decision for examination by the World Heritage Committee at its 36th session in 2012.

Decision: 36 COM 7B.8

8. Great Barrier Reef (Australia) (N 154)
Decision: 36 COM 7B.8

The World Heritage Committee,

1. Having examined Document WHC-12/36.COM/7B.Add,
2. Recalling Decision 35 COM 7B.10, adopted at its 35th session (UNESCO, 2011),
3. Welcomes the initial positive results of the Reef Plan and associated measures to address major long-term impacts on the property from poor water quality, and requests the State Party, in collaboration with its partners, to maintain, and increase where necessary financial investment and sustain the positive trend beyond 2013;
4. Takes note of the findings of the joint World Heritage Centre/IUCN reactive monitoring mission to the property undertaken in March 2012, and also requests the State Party to address the mission recommendations in its future protection and management of the property;
5. Notes with great concern the potentially significant impact on the property's Outstanding Universal Value resulting from the unprecedented scale of coastal development currently being proposed within and affecting the property, and further requests the State Party to not permit any new port development or associated infrastructure outside of the existing and long-established major port areas within or adjoining the property, and to ensure that development is not permitted if it would impact individually or cumulatively on the Outstanding Universal Value of the property;

Appendix 2. (continued)

6. Requests furthermore the State Party to complete the Strategic Assessment and resulting long-term plan for the sustainable development of the property for consideration by the World Heritage Committee at its 39th session in 2015, and to Decisions report – 36th session of the World Heritage Committee (Saint-Petersburg, 2012) page 58 ensure that the assessment and long-term plan are completed against a number of defined criteria for success, fully address direct, indirect and cumulative impacts on the reef and lead to concrete measures to ensure the overall conservation of the Outstanding Universal Value of the property;
7. Urges the State Party to establish the Outstanding Universal Value of the property as a clearly defined and central element within the protection and management system for the property, and to include an explicit assessment of Outstanding Universal Value within future Great Barrier Reef Outlook Reports;
8. Recommends the State Party, in collaboration with its partners, to sustain and increase its efforts and available resources to conserve the property, and to develop and adopt clearly defined and scientifically justified targets for improving its state of conservation and enhancing its resilience, and ensure that plans, policies and development proposals affecting the property demonstrate a positive contribution to the achievement of those targets, and an overall net benefit to the protection of Outstanding Universal Value;
9. Requests moreover the State Party to undertake an independent review of the management arrangements for Gladstone Harbour, that will result in the optimization of port development and operation in Gladstone Harbour and on Curtis Island, consistent with the highest internationally recognized standards for best practice commensurate with iconic World Heritage status;
10. Finally requests the State Party to submit to the World Heritage Centre, by **1 February 2013**, an updated report on the state of conservation of the property, including on the implementation of actions outlined above and in the mission report, for consideration by the World Heritage Committee at its 37th session in 2013, **with a view to consider, in the absence of substantial progress, the possible inscription of the property on the List of World Heritage in Danger;**
11. Decides to also consider a further report from the State Party on the state of conservation of the property, the findings of the second Great Barrier Reef Outlook Report, and the anticipated outcomes of the completed Strategic Environmental Assessment and related long term plan for sustainable development at its 39th session in 2015.

Decision: 37 COM 7B.10

10. Great Barrier Reef (Australia) (N 154)

Decision: 37 COM 7B.10

The World Heritage Committee,

1. Having examined Document WHC-13/37.COM/7B,
2. Recalling Decision **36 COM 7B.8**, adopted at its 36th session (Saint-Petersburg, 2012),
3. Welcomes the progress made by the State Party with the Strategic Assessment and reiterates its request to the State Party to ensure that the assessment and the resulting long-term plan for the sustainable development of the property are completed against defined criteria for success, fully address direct, indirect and cumulative impacts on the reef and lead to concrete measures to ensure the conservation of the Outstanding Universal Value (OUV) of the property;
4. Also welcomes requests the establishment of an independent review of the management arrangements for Gladstone Harbour, and that these efforts result in the optimization of port development and operation in Gladstone Harbour and on Curtis Island, as well as other existing port developments, consistent with the highest internationally recognized standards for best practice commensurate with iconic World Heritage status;
5. Also welcomes the renewed commitment for the Reef Water Quality Protection Plan and associated Reef Rescue measures and the positive results indicated in the Second Reef Plan Record Card;

Appendix 2. (continued)

6. Notes with concern urges the limited progress made by the State Party in implementing key requests made by the Committee (Decision **36 COM 7B.8**) and the recommendations of the March 2012 joint World Heritage Centre/IUCN reactive monitoring mission as well as on-going coastal development on the Reef, and the State Party to strengthen its efforts in order to fully implement the Committee requests and mission recommendations that have not yet or only partially been implemented, including by making commitments to:
 - a) Ensure rigorously that development is not permitted if it would impact individually or cumulatively on the OUV of the property, or compromise the Strategic Assessment and resulting long-term plan for the sustainable development of the property,
 - b) Ensure that no port developments or associated port infrastructure are permitted outside the existing and long-established major port areas within or adjoining the property,
 - c) Ensure that the legislation protecting the property remains strong and adequate to maintain and enhance its OUV;
7. Considers that the above-mentioned issues represent a potential danger to the OUV of the property in line with paragraph 180 of the *Operational Guidelines*;
8. Further requests the State Party to submit to the World Heritage Centre, by **1 February 2014**, an updated report on the state of conservation of the property, including on the implementation of actions outlined above as well as on the other points raised in the 2012 mission report, for examination by the World Heritage Committee at its 38th session in 2014, **with a view to considering, in the absence of substantial progress, the inscription of the property on the List of World Heritage in Danger.**

Appendix 3: Recommendations of Mission Report

Reactive Monitoring Mission to Great Barrier Reef (Australia), 6th to 14th March 2012.

The mission considers that the State Party should take urgent measures to implement the following recommendations immediately to prevent a further erosion of the OUV and address important threats to the property:

- R1:** Sustain beyond 2013, and on a long-term basis, the current financial investment in the progressive and highly important Reef Water Quality Protection Plan and associated Reef Rescue measures, and where necessary increase this investment, to address impacts of water quality in the catchments that drain into the Great Barrier Reef, and ensure that these programmes and related planning policies consider water quality impacts from all uses within the catchments.
- R2:** Not permit any new port development or associated infrastructure outside of the existing and long-established major port areas within and adjoining the property. It is essential that development is not permitted if it would impact individually or cumulatively on OUV, including the integrity of the property. This measure should apply both within and in the adjacent areas to the property. This measure should take immediate effect and requires full application until the Strategic Assessment and the resulting long-term plan for the sustainable development of the property has been completed, and has been considered by the World Heritage Committee at its 39th session in 2015.
- R3:** Commission an independent review of all environmental concerns of consented developments in Gladstone Harbour and on Curtis Island, and the implications of the consented developments in Gladstone Harbour and on Curtis Island for Traditional Owners and the local community dependent on the resources of the area. The review should be undertaken by internationally recognized and widely respected scientific experts and conducted in an independent and transparent manner. The review should:
- Consider all previous review findings and all information used as a basis for the current approvals for development in Gladstone Harbour and on Curtis Island;
 - Address the current and future planning and management of the Port of Gladstone and development of Curtis Island;
 - Lead to clear recommendations for the optimization of port development and operation, including supporting activities and infrastructure, and according to the highest internationally recognized standards for best practice;
 - Provide lessons learned for the development and operation of other port areas within and adjacent to the property;
 - Lead to the implementation of concrete action to address issues identified in the review, as soon as possible and before any other major port development is commenced.
- R4:** Ensure that any development, including ports and other types of development, as well as all associated infrastructure and supporting activities are carried out consistent with the highest international standards of best practice, commensurate with status of an iconic World Heritage property, and enabling the State Party to continue to provide global leadership for the conservation and sustainable development of multiple use marine protected areas.
- R5:** Complete the Strategic Assessment and resulting long-term plan for the sustainable development of the property for consideration by the World Heritage Committee at its 39th session in 2015. The assessment and long-term plan should be completed in a coordinated and fully consultative process, against a number of defined criteria for success, and considering the conclusions and recommendations of the mission as set out in this report. Expectations of the Strategic Assessment include that it will lead to:
- A long-term plan with agreed leadership at Federal and State levels, that addresses the entire property and the adjacent areas where activities can affect the OUV of the property, and ensures that any development that is approved results in an overall net benefit for the property;
 - Explicit incorporation of all elements that make up the OUV of the property, and in particular the long-term

Appendix 3. (continued)

conservation of the integrity of the property, into the decision making process regarding all development and use that may negatively impact the property, both within the boundaries of the World Heritage area and in areas adjacent to the property;

- Improved effectiveness of the overall protection, planning and management of the OUV of the property as a whole, and the catchments, and coastal and marine areas that are intimately linked to it, including if necessary legal/statutory reforms to strengthen protection and management;
- A clear and target-driven framework to support planning and assessment of development proposals to protect OUV, and restore it where necessary, and to ensure resilience of the site, including the consideration of cumulative impacts;
- A clear analysis and related policies and strategies that will sustain long-term sustainable development, compatible with the protection of OUV, including consideration of the all economic sectors, including sustainable tourism and recreation and commercial fishing, as well as coastal development;
- Spatial policies that will identify appropriate and limited locations and standards for coastal development, and also identify areas that should not be subject to development, and which will provide greater business certainty regarding development proposals and community confidence and understanding of future development scenarios;
- Increased public confidence in their ability to engage with and influence policy and development decisions, including independent mechanisms to scrutinize and advise on the assessment of impacts of development;
- Support for new and enhanced policies and measures to regulate and manage shipping, and provide appropriate emergency planning and response;
- Appropriate systems to secure that, where development and use is permitted it will lead to net benefits to the property as a whole, including from contributions from developers to mitigate impacts of development;
- Measures, such as legislative change to enhance compliance, that may increase the results achieved from the funding available for management, and to also increase overall levels of funding where required to provide for effective protection and management.

R6: Include, in the future editions of the Outlook Report for the Great Barrier Reef, and commencing with the version to be published in 2014, a specific assessment on the condition, trends, threats and prospects for the OUV of Great Barrier Reef World Heritage Area. The assessment should be benchmarked at the date of inscription of the property in 1981, and its results should be reported to the World Heritage Committee for consideration at its 39th session in 2015.

R7: Ensure that any determination made for applications under the EPBC Act, considering this is the principal legislation to ensure development does not negatively impact the values and integrity of the property, includes for each application:

- a) A thorough assessment, supported by a detailed statement of reasons, and appropriate independent review input, on how the proposal will ensure conservation of each of the components that make up the OUV of the property, and avoid impacts upon it;
- b) A thorough consideration of the combined, cumulative and possible consequential impacts of development, infrastructure and associated activities on the OUV as material considerations in determining all applications, benchmarked on the date of inscription of the property in 1981;
- c) Detailed assessment of alternative options for all aspects of a development proposal, including supporting infrastructure and activities. This assessment should consider in detail the environmental, social and economic costs and benefits and lead to a clear indication of the net benefit of the development to the values and integrity of the property.

Appendix 3. (continued)

- R8:** Adopt the highest level of precaution in decision-making regarding development proposals with potential to impact the property, and to Prevent any approval of major projects that may compromise the outcomes of the Strategic Assessment, until the Strategic Assessment is completed and its resulting plan for the long-term sustainable development for the property has been considered by the World Heritage Committee. During this period, the State Party is requested to ensure no developments are permitted which create individual, cumulative or combined impacts on the OUV of the Great Barrier Reef World Heritage area and its long-term conservation.
- R9:** Ensure all components of the OUV of the Great Barrier Reef are a clearly defined and form a central element within the protection and management system for the property as well as the catchments and ecosystems that surround it. The OUV of the property should be a principal reference for all plans and legislation relating to the protection and management of the property as a whole, and in particular for legislation in relation to development within or in areas adjacent to the property. All the elements that constitute the OUV of the property should be included in the framework for future monitoring and reporting on the State of Conservation of the property to the World Heritage Committee.
- R10:** Develop and adopt, at the level of the Ministerial Forum, clearly defined and scientifically justified targets for improving the State of Conservation of the OUV of the Great Barrier Reef World Heritage Area, including for enhanced resilience of the property, and in particular for the conservation, and where necessary restoration, of the inshore areas of the property that are under greatest pressure. All plans, policies and development proposals affecting the property should demonstrate a positive contribution to the achievement of those targets.
- R11:** Commission an independent review, undertaken by internationally recognized and widely respected scientific experts, of the overall institutional and legal mechanisms that provide coordinated planning, protection and management of the Great Barrier Reef World Heritage Area as a whole. The results of the review should be reported to the Great Barrier Reef Ministerial Forum and provide input to the Strategic Assessment to which the State Party has committed. The review should address enhancement of the implementation of the Great Barrier Reef Intergovernmental Agreement, assessment of the effectiveness of legal protection, institutional and management planning arrangements for the property, and include specific attention to the areas of the property which are not managed by the Great Barrier Reef Marine Park Authority, as well as all adjacent marine, coastal and land areas. This review should be provided for consideration at the 37th session of the World Heritage Committee and subsequently lead to the implementation of concrete measures to address identified weaknesses, under the scrutiny of the Great Barrier Reef Ministerial Forum.
- R12:** Ensure increased resources from both State and Federal Governments for the protection and management of the property, in particular to cover growing costs associated with effective responses to key threats and increasing demand for use of both within the property and its adjacent areas that affect it. Resources allocated to the research, monitoring and surveillance of the property should consistently reflect the actual increase of costs associated with such activities.
- R13:** Develop a fully integrated approach to the planning, regulation and management of ports and shipping activity affecting the property, including via Shipping Policy for the property, the proposed Ports Strategy of Queensland, and individual Port Plans, that will ensure that ports and shipping activity does not negatively impact the OUV, including the integrity, of the property, and meets the highest international standards in its planning, regulation, assessment and operation.
- R14:** The mission recommends the State Party to strengthen the sharing of its best practices and success stories, in particular those related to the spatial and temporal management for tourism, recreation and fishing, the framework developed for surveillance, compliance and monitoring of the property as well as the community engagement programmes, with other World Heritage sites facing similar management challenges but lacking the capacity to deal with them. Recognising the excellence of many aspects of the management of the property that is derived from over 35 years of experience, this support should enhance the leadership role of the State Party to support World Heritage Sites to be drivers for positive change globally, and in excellence in marine protected area management in particular.

Finally the mission recalls the obligation of the State Party to report to the World Heritage Centre any new plans and proposals for developments that may impact the OUV of the property, consistent with paragraph 172 of the Operational Guidelines to the World Heritage Convention, and prior to their determination. This has been done regularly by the State Party since the 35th Session of the Committee, and the mission notes that in future, and at least until the World Heritage Committee has considered the completed Strategic Assessment and the resulting long term plan for the sustainable development of the property at its 39th session in 2015, these reports should additionally include an executive summary detailing the outcomes of the assessments mentioned in Recommendation 9 of the mission report and confirming that the proposal will not individually or cumulatively impact on the OUV of the property. The report to the 39th session of the World Heritage Committee should be supported by a further World Heritage Centre/IUCN monitoring mission to the property.

Appendix 4: Information about WWF-Australia and the Australian Marine Conservation Society

Both WWF-Australia (WWF) and the Australian Marine Conservation Society (AMCS) have a long history in contributing to ensuring the long term protection of the Great Barrier Reef. AMCS, along with other Queensland environment organisations, established the original Save the Barrier Reef Campaign in the late 1960s, while since the early 2000s WWF has led successful campaigns to significantly increase the level of protection afforded to areas of the Great Barrier Reef Marine Park and increased investment in programs to cut chemical and sediment pollution from out-dated farm practices.

Currently, WWF is a member of a number of consultative fora organised by the Great Barrier Reef Marine Park Authority (GBRMPA) and the Queensland government including GBRMPA's Ecosystem Reef Advisory Committee (RAC), Coast and Catchment RAC and Strategic Assessment Technical Workshop, and the Queensland government's Stakeholder Reference Group. The AMCS is a member of GBRMPA's Ecosystem RAC and the Australian government's NE Water Space Working Group which is contributing to the development of the North East Shipping Management Plan.

Since October 2012 submissions and reports have been made on the following by both WWF and AMCS.

- The Terms of Reference for the Strategic Assessments being undertaken by GBRMPA and the Queensland Government.
- Draft Great Barrier Reef Ports Strategy 2012-2022.
- Scorecard – Australia's management of the Great Barrier Reef World Heritage Area in response to UNESCO. January 2013.
- Report to UNESCO World Heritage Committee, Status of Implementation of Recommendations in World Heritage Committee Decision 36 COM 7B.8, Great Barrier Reef (Australia) and the March 2012 Reactive Monitoring Mission. February 2013.
- Abbott Point Cumulative Impact Assessment.
- Draft Coastal Protection State Planning Regulatory Provision
- Draft Proposed State Interests – Part 1 of the State Planning Policy
- Inquiry into Queensland's Agriculture and Resource Industries by the Agriculture, Resource and Environment Committee of the Queensland Parliament.
- Comments on Public Environment Report (PER) for capital dredging program at Abbot Point.
- Identification and Protection of Special Areas and Particularly Sensitive Sea Areas. The need to evaluate the effectiveness of PSSAs and their APMs, a case study of the Great Barrier Reef. Report to the International Maritime Organisation, Marine Environment Protection Committee.
- Analysis of Australian Government February 2013 State Party Report on the State of Conservation of the Great Barrier Reef World Heritage Area (Australia).
- Independent Review of the Port of Gladstone.
- Environmental Impact Statement for Terminal 0 at Abbot Point.
- Environment Protection and Biodiversity Conservation Amendment (Great Barrier Reef) Bill 2013.
- Draft Position Statement by GBRMPA. Ports in the Great Barrier Reef World Heritage Area.
- Environmental Impact Statement for Townsville Port Expansion Project.
- Safer Shipping for the Great Barrier Reef. Recommendations by WWF-Australia and the Australian Marine Conservation Society.

Appendix 4. (continued)

- Science Declaration.
- Updated Scorecard – Australia's management of the Great Barrier Reef World Heritage Area.
- Summary Report to 37th Session of the World Heritage Committee in Phnom Penh, Cambodia from 16 - 27 June 2013. Update on Implementation of Recommendations of World Heritage Committee Decision: 36 COM 7B.8, Great Barrier Reef (Australia) (N 154).
- Draft referral guidelines on Outstanding Universal Value of the Great Barrier Reef World Heritage Area. Submission on draft North East Shipping Management Plan.
- Draft Queensland Ports Strategy.
- Draft Great Barrier Reef Coastal Zone Strategic Assessment and Program Report.
- Draft Great Barrier Reef Region Strategic Assessment and Program Report.

Appendix 5: Legal advice by Environmental Defenders Office (Queensland) January 2014



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28 January 2014

Mr Richard Leck
Great Barrier Reef Coastal Campaign Manager
WWF Australia
By email only: RLeck@wwf.org.au

Dear Mr Leck,

Legislative Protection of the Great Barrier Reef ('GBR') World Heritage Area, Australia

Date of law 20 December 2013

Thank you for your instructions to provide advice on the legislative protection of the GBR. You have requested we provide legal advice on the failures of the current regulatory framework in protecting the OUV of the GBR. This legal analysis covers relevant existing and proposed Queensland legislation, and considers the Draft Coastal Zone Strategic Assessment Program Report ("DCZPR") in light of World Heritage Committee Recommendations and the Reactive Monitoring Mission Recommendations. It incorporates and updates our earlier advices dated 24 January 2013 and others. We also set out recent and proposed changes by the Commonwealth Government relevant to the GBR.

In summary, the Queensland legislation outlined throughout the DCZPR does not ensure GBR protection and many recent changes actively impede GBR protection. The proposed delegation of approval powers are of great concern for GBR protection. The Commonwealth Government plans to devolve "the broadest range"¹ of decision-making approval powers to Queensland by September 2014,² which is likely to allow Queensland to approve actions that may have significant impacts on the GBR.

The DCZPR is misleading in that it fails to address the impacts of recent legislative changes such as weaker protection of native vegetation and the protected area estate, and how ecologically sustainable development ("ESD") does not underpin decision-making on port development or other major developments.

Yours faithfully

A handwritten signature in black ink that reads 'Jo-Anne Bragg'.

Jo-Anne Bragg
Principal Solicitor
Environmental Defenders Office (Qld) Inc

Appendix 5. (continued)

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Abbreviations and Acronyms used in this advice

EHP.....	Department of Environment and Heritage Protection (Queensland)
DCZPR.....	Draft Coastal Zone Strategic Assessment Program Report (prepared by Queensland Government)
DCSAR.....	Draft Coastal Strategic Assessment Report (prepared by Queensland Government)
DSDIP.....	Department of State Development, Infrastructure and Planning
EA.....	Environmental Authority
EIS.....	Environmental Impact Statement
EP Act.....	<i>Environmental Protection Act 1994</i> (Qld)
EPBC Act.....	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
GBR.....	Great Barrier Reef
GBRWHA.....	Great Barrier Reef World Heritage Area
GBRMP.....	Great Barrier Reef Marine Park
GBRMPA.....	Great Barrier Reef Marine Park Authority
LNG.....	Liquefied Natural Gas
MR.....	Reactive Monitoring Mission Recommendation (number)
MNES.....	Matter of National Environmental Significance
MSES.....	Matter of State Environmental Significance
NCA.....	<i>Nature Conservation Act 1992</i> (Qld)
OUV.....	Outstanding Universal Value
RMM.....	Reactive Monitoring Mission
SDAP.....	State Development Assessment Provisions
SDPWO Act.....	<i>State Development and Public Works Organisation Act 1971</i> (Qld)
SPP.....	State Planning Policy
SPA.....	<i>Sustainable Planning Act 2009</i> (Qld)
SKM Review....	Sinclair Knight Mertz review of the Strategic Assessment Draft Report
VMA.....	<i>Vegetation Management Act 1999</i> (Qld)
WHC.....	World Heritage Committee
UNESCO.....	United Nations Educational, Scientific and Cultural Organization

Appendix 5. (continued)

Introductory Note: Qld legislation facilitates impacts on the GBR and does not protect the Outstanding Universal Value of the GBR

Whilst the UN Mission Report did correctly note that the “EPBC Act is the principal legislation to ensure development does not negatively impact the values and the integrity of the [GBR]”³ it must also be noted that it is Queensland’s legislation which actively facilitates the activities affecting the GBR (port development, agriculture, mining etc.). Many Queensland laws have purposes and provisions that are contrary to the purposes of the EPBC Act and contain no requirements to prohibit or even restrict negative impacts on the OUV of the GBR, whether individually or cumulatively. Furthermore, the Commonwealth Government intends to transfer approval powers to Queensland under the EPBC Act in 2014, removing any effective Commonwealth oversight there might have been of development impacting on the GBR.⁴

Our advice focuses on the Draft Coastal Zone Strategic Assessment Program Report (“DCZPR”), prepared by the Queensland Department of State Development, Infrastructure and Planning (“DSDIP”).

Absent from the DCZPR is a discussion of a whole layer of impacts on the GBR driven by Queensland legislation and which sit outside the EPBC Act concept of MNES.⁵

The Strategic Assessment should be a response to the WHC’s recommendations to provide a ‘cumulative assessment’ of the GBR to inform a long-term sustainability plan, not to satisfy narrow legislative requirements of the EPBC Act merely because that was a convenient regulatory framework available.

To this end, our advice adopts an ‘outcome driven’ focus and looks at the entire regulatory framework (State and Commonwealth) relating to the GBR and whether it is capable of providing the basis for a long-term sustainability plan for the GBR. References to the independent review of the DCZPR by SKM and commissioned by the Commonwealth Department of Environment are noted where appropriate.

SUMMARY TABLE OF LEGISLATION - QUEENSLAND

The following is a summary table of legislation and regulation in Queensland relevant to GBR protection.

QUEENSLAND STATE GOVERNMENT LEGISLATION	RELEVANT CHANGES/NEW PROVISIONS	RELEVANT PROPOSED CHANGE
Planning and Development Legislation and Regulation		
<i>Sustainable Planning Act 2009 (Qld)</i>	Yes	Yes
<i>State Planning Policy</i>	Yes	No
<i>State Development and Public Works Organisation Act 1971 (Qld)</i>	Yes	No

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Appendix 5. (continued)

QUEENSLAND STATE GOVERNMENT LEGISLATION	RELEVANT CHANGES/NEW PROVISIONS	RELEVANT PROPOSED CHANGE
<i>Transport Infrastructure Act 1994 (Qld)</i>	No	No
<i>Environment Protection Act 1994 (Qld)</i>	Yes	No
<i>Economic Development Act 2012 (Qld)</i>	Yes	No
Management Legislation and Regulation		
<i>Coastal Protection and Management Act 1995 (Qld)</i>	Yes	No
<i>Nature Conservation Act 1992 (Qld)</i>	Yes	Yes
<i>Marine Parks Act 2004 (Qld)</i>	Minor changes not reviewed	No
<i>Fisheries Act 1994 (Qld)</i>	Minor changes not reviewed	No
<i>Regional Planning Interests Bill 2013 (Qld)</i>		Yes
<i>Vegetation Management Act 1999 (Qld)</i>	Yes	No
<i>Transport Operations (Marine Pollution) Act 1995 (Qld)</i>	No	No
<i>Wet Tropics World Heritage Protection and Management Act 1993 (Qld)</i>	No	No
<i>Wild Rivers Act 2005 (Qld)</i>	Yes	Yes
Supporting Policies and Plans - non-statutory		
<i>The Great Barrier Reef Ports Strategy (October 2012)</i>	No	No ⁶
<i>Draft Queensland Ports Strategy</i>	No	Yes
<i>Environmental Offsets Policy</i>	No	Yes
<i>Building Nature's Resilience: A biodiversity Strategy for Queensland</i>	The Strategy has been removed as a Qld Govt policy and not replaced	

Appendix 5. (continued)

This brief advice does not describe the legislation in detail as we are aware such description will or has been provided to UNESCO by the Australian or Queensland governments. We have divided up the legislation under 16 separate legal issues, though some legislation is relevant under more than one issue.

QUEENSLAND LEGISLATIVE FRAMEWORK

1. Port Development

The Queensland Government's proposal for future port development risks further damage to the OUV of the GBR. Port expansions, including associated dredging and dumping of spoil are of significant concern to the WHC, particularly in long established (and adjoining) major port areas.⁷

The GBRMPA outlines a long list of impacts to the marine environment associated with the operation of port facilities. These include, but are not limited to: removal of existing habitat, such as seagrass; seabed disturbance; cumulative loss of species; degradation of water quality; increased underwater noise; injury of mortality to marine species, including threatened species; and increase in carbon dioxide emissions.⁸

The failings of the draft Queensland Ports Strategy

The key issue with respect to port development in Queensland will likely be the adequacy (or, rather inadequacy) of the final Queensland Ports Strategy, which will provide the platform for port development along the coast. As the Queensland Government acknowledges, that will be the key document to inform, at a broad level, what types of port development are allowed along the coast (including most of the GBR zone).

The draft strategy proposes the creation of five Priority Port Development Areas (PPDAs) around five existing ports, four of which are on the GBR coastline being Mackay/Hay Point, Gladstone, Townsville and Abbot Point. Problematically, the Draft Ports Strategy provides these ports with a 'licence to grow'⁹ and contemplates capital dredging and expansion within the PPDAs. The current draft port strategy is inconsistent with a suite of WHC recommendations including WHC 5.¹⁰ In particular:

1. Whilst there will be no further dredging outside of PPDAs, there are very broad exemptions for major projects which have already commenced to the planning (EIS) stage (see section on 'fast tracking of major projects' for examples);
2. The time frame of the Strategy is far too short (10 years) and not in keeping with the 25 year strategic assessment timeline;
3. The Ports Strategy is being completed before the Strategic Assessment and Long Term plan for managing the GBR is complete;
4. There is no requirement that port development be in accordance with the principles of ESD; and
5. The Draft Strategy does not adequately deal with the cumulative and combined impacts of port development in the strategy, as requested by the WHC.

Example: Proposed restriction on dredging has no effect on certain major projects

The prohibition on capital dredging outside the established port areas does not apply to any projects currently the subject of an active EIS or that are currently declared ‘coordinated projects’ by the Queensland Government. For example, dredging associated with the massive Aquis Resort and casino complex in Cairns as well as the proposed coal export terminal on the Fitzroy River would be exempt from the prohibition on capital dredging outside PPDA’s.¹¹ It does not appear that the prohibition would affect the recently approved (EPBC 2011/6213); capital dredging program for the Abbot Point port expansion.¹²

The State Planning Policy protects ports, not the OUV of the GBR

In December 2013 the Queensland government released the State Planning Policy (SPP), which includes a State Interest called ‘Strategic Ports’.¹³ This means that the Queensland Government sees ports as a planning priority area for Queensland. It sees them as a strategic asset in which the State Government (as opposed to the Local Government) has a strategic interest. The strategic ports under the SPP currently include 15 ports,¹⁴ most (but not all) of these are in the GBR zone. The effect of declaring these ports under the SPP is ultimately to protect them from (and enhance them with) associated development in the surrounding Local Government Area. As stated above, it will be the final version of the Queensland Ports Strategy (and Land Use Plans¹⁵ for each major port) which will ultimately set the framework for port development not the local planning schemes. The SPP focuses on protecting ports as functioning ports, rather than considering the impacts of port development or port activities.¹⁶

Problematically, neither the associated port development permitted by the SPP nor the draft Ports Strategy contain clear requirements to protect OUV of the GBR. The DCZPR claims that: *the Queensland Ports Strategy will be the... blueprint for managing and improving the efficient and environmental management of the state’s port network.*¹⁷ If this is to be the case, then that ‘blueprint’ is seriously flawed for the reasons outlined above.

The SKM Review highlighted the lack of detail in the DCZPR about Ports.¹⁸ Not only is more detail required about how to implement this, but specific commitments not to harm OUV (individually or cumulatively) are required in all master planning documents and legislation concerning the GBR.

Significant improvements need to be made to the draft ports strategy, the SPP and legislation which governs port development such as the *Transport Infrastructure Act 1994* (Qld) and the legislation that facilitates major projects on the coast: the SDPWO Act. Neither of these Acts requires OUV to be protected, nor requires crucial practical detail on how OUV will be protected, nor require the principles of ESD to be applied in the decision-making.

In relation to the Draft Queensland Ports Strategy, we note that UNESCO has clearly stated it has concerns about *any* development affecting the GBR (not just capital dredging within PPDA’s).¹⁹ WHC 5 requested that the parties not undertake any development which would individually or cumulatively impact on the OUV of the property. Neither the Draft Queensland Ports Strategy nor the SPP reflect this commitment and are therefore inconsistent with WHC 5.

MR 9 recommends that the OUV of the property be clearly defined in all plans and legislation concerning development within or adjacent to the property. Neither the Draft Queensland Ports Strategy, the Transport Infrastructure Act, the SDPWO Act or the SPP reflect this.

2. Ecological Sustainable Development

The Queensland Government's approach to the principles of Ecological Sustainable Development (ESD) is very troubling.

ESD is a concept which has been well embedded in State and Commonwealth laws in Australia since 1992. In its National Strategy for ESD, the Commonwealth Government defined ESD as:

“development which aims to meet the needs of Australians today, while conserving our ecosystems for the benefit of future generations.”²⁰

The principles of ESD have since been further developed in Australian law and are now embedded in five key principles under section 3A of the EPBC Act.²¹ Under a long standing national agreement, the Queensland Government must use four of these principles²² to inform its own policy making and program implementation.²³ However, since coming to office in March 2012, there has been hardly any reference let alone any implementation anywhere in Queensland Government legislation, policies or programs to these principles of ESD. In fact, the Government has deliberately moved to reshape the language of environmental policy away from ESD (which ‘stifles’ development). Alternative phrases have been coined such as “environmental *prosperity*”²⁴ and “sustainable *economic* development.”²⁵

Legislative failures regarding ESD

There is still legislation in Queensland (mostly drafted in the early 1990s) which requires the State to apply some (but not all) of the principles of ESD. The best two examples of that are SPA and the EP Act. Apart from SPA and the EP Act, there has been a failure to introduce and implement ESD in all other planning legislation:

1. For most major projects affecting the GBR (port expansions, dredging, infrastructure, new resorts/casinos etc.) the prevailing legislation is the SDPWO Act – an Act where the Coordinator-General has unfettered power to approve projects, impose conditions, speed up processes all without being required to consider the principles of ESD.
2. SPA is due to be replaced in July 2014 and there are strong indications that the new – *Planning for Queensland Development Act*²⁶ – will not integrate the principles of ESD nor place environment at the forefront of decision making.²⁷ The *Transport Infrastructure Act 1994* (Qld), the main Act dealing with Priority Port infrastructure (including ports on the GBR), does not have ESD as the object of the legislation. The word ‘sustainability’ does not appear once in that entire Act. The purpose in respect of ports is “*to establish a regime under which a ports system is provided and can be managed within an overall strategic framework*”²⁸
3. There is no ESD either in the new State Planning Policy (SPP) which seeks to regulate port and coastal development, which is said to provide: “*a comprehensive set of principles which underpin Queensland’s planning system to guide local government and the state government in land use planning and development assessment.*”²⁹ ESD is not mentioned once in the entire SPP, despite a ‘requirement’ that the SPP advance the purposes of SPA which includes ‘ecological sustainability’.³⁰
4. Recent changes to the *Nature Conservation Act 1992* (Qld) totally bypassed ‘ecologically sustainable use’ of nature to allow for “the use and enjoyment of protected areas” and the social, cultural and commercial use of protected areas (national parks). See EDO Qld’s analysis of the Bill at the time for further information.³¹

It is therefore misleading for the DCZPR to state that: “the underlying policy intent of the Queensland Government Program is to achieve ESD throughout the GBR coastal zone” and that “the program delivers upon the principles of ESD.”³² Whilst the SKM Review correctly identified ESD as an issue,³³ it failed to set out how Queensland has not been applying the principles of ESD and has in fact been contradicting the principles of ESD for larger projects.

Administrative Failures regarding ESD

Firstly, both the current and former Queensland Governments have displayed a willingness to use special legislation which bypasses the normal legislative processes under the EP Act which includes ESD as part of the objects.³⁴ There is little utility in having ESD as part of any Act, if the Government can simply make ‘special legislation’ for that particular project.

Example: Curtis Island development ignores ESD

Queensland’s Coordinator General approved the LNG processing plant and export facility (the Curtis LNG Project) on the GBR in June 2010 on the basis that significant environmental information would still be required.

“Taking into account the lack of suitable presentation of field development plans, I cannot be certain of the extent of disturbance which the project will have on each class of biodiversity status. In addition, I have not been presented with sufficient information on proposed activity locations, and associated ecological impacts, to enable determination of specific impacts on environmental values, and I therefore have developed a set of conditions which can lead to the approval for a gas field development as the conditions are fulfilled...”³⁵

This is but one clear example of where Queensland does not adopt the precautionary principle, as ESD is not currently a requirement under SDPWO Act, which overrides the EP Act and SPA.

3. Vegetation Management

The *Vegetation Management Act 1999* (Qld) (“VMA”) was recently amended to significantly reduce vegetation protection in GBR catchment areas.³⁶ Protections for regrowth vegetation 50 metres from certain watercourses in three (out of five) of GBR catchments will remain in place.³⁷ However, the changes significantly weaken protection for vegetation more broadly in all five GBR catchments and thus protection of the GBR water quality. Many hundreds of thousands of hectares of regrowth vegetation are now vulnerable to clearing.³⁸

In the DCZPR, the Queensland Government promoted the benefits of the 2006 prohibition on broad-scale clearing,³⁹ however the recent changes in 2013 go a long way to undoing much of that protection. The amendments:

1. permit clearing of ‘high value regrowth’ vegetation on freehold and indigenous land;
2. allow for clearing of native vegetation for a wide range of new ‘relevant purposes’ including allowing clearing for ‘high value agriculture’, ‘irrigated high value agriculture’, and allowing for ‘necessary environmental clearing;’
3. introduce *self-assessable vegetation clearing codes* for ‘maintaining fences or firebreaks’; ‘fodder harvesting’; ‘property infrastructure’; ‘thinning’; and ‘managing encroachments’;⁴⁰ and

Appendix 5. (continued)

4. were supported by were supported by official Queensland Government comments that the changes were about ‘restoring the balance’ to the agricultural sector and “...represent the most significant reforms to legislation affecting agricultural production in decades.”⁴¹

The SKM Review noted that the vegetation framework applies only to development and agriculture and that “exemptions for mining and Coordinated Projects [still] apply.”⁴²

Also in 2013, in an effort to streamline laws for mining and agriculture, the Government removed the whole-of-state requirement for a *riverine protection permit* under the *Water Act 2000* (Qld) to destroy vegetation in a watercourse or spring.⁴³ Whilst 50 metre ‘buffer zones’ in certain catchments may still apply, there are reduced protections for watercourse clearing in other areas which may impact on the OUV of the GBR.

The DCZPR briefly acknowledges only some of these recent changes⁴⁴ but is misleading in that it does not address and explain the full impacts and extent of the changes. Expanding the range of purposes for which clearing can occur has exposed a wide range of threatened species to clearing – including several types of vulnerable and endangered plants – which currently occur in mature bushland and regrowing bushland. WWF has written extensive report on the impacts of the changes.⁴⁵ The SKM Review urges the Government to be more forthcoming on this issue in the DCZPR, in that the VMA “is described as the prime means of preserving MNES in the [GBR coastal zone], but recent amendments to the Act, which reduce the protection afforded to vegetation are not discussed.”⁴⁶

Example: Clearing native vegetation for agricultural purposes

A farmer in North Queensland wants to clear 30,000 hectares of protected (native) vegetation to plant bananas. He considers his plan to be ‘high value agriculture’. Before the changes to the law in 2013, the farmer could not clear simply to establish an agricultural business. Clearing could only occur for things like fodder harvesting, thinning or clearing of an encroachment.⁴⁷

Under the current law, the farmer puts in an application for the clearing and also puts together a short ‘development plan’ setting out how the land will be suitable for banana cultivation.

The State Government is satisfied that the application meets SDAP Module 8 – Clearing Native Vegetation⁴⁸ for which there is no specific requirement to consider the OUV of the Reef.

If the Queensland Government has considered the development plan meets the requirements that the land is suitable for agriculture and that there is no suitable alternative site, then the land can be cleared despite the consequential impacts.

4. Agricultural Run-Off

Agricultural ERAs introduced in 2009

The best available science says about 70 to 80% reduction of nitrogen load from cane farms is required to allow GBR recovery. In September 2009, the Queensland Government enacted the *Great Barrier Reef Protection Amendment Act 2009*, which introduced a “Reef Protection Package” with the object of reducing the impact of agricultural activities on the quality of water entering the GBR.⁴⁹ Since the change of state government in March 2012, Chapter 4A regulations have been largely suspended pending delivery of voluntary BMPs (Best Management Practices) by the cane and grazing industries.⁵⁰

Appendix 5. (continued)

As part of the package, a new Chapter 4A EP Act introduced the concept of an ‘agricultural ERA’, which is (i) commercial sugar cane growing; or (ii) (beef) cattle grazing carried out on an agricultural property of more than 2000ha in any of the three priority catchments: Wet Tropics, Mackay-Whitsunday, Burdekin.

Persons carrying out an agricultural ERA are not allowed to apply more than an ‘optimum amount’ of nitrogen or phosphorus to the soil unless they are applying an amount in accordance with an accredited Environmental Risk Management Plan (ERMP). It is an offence to apply nitrogen or phosphorus in excess of the optimum amount, except in accordance with an accredited ERMP. They are also required to keep records and relevant primary documents pertaining to application of agricultural chemicals; fertilisers; and soil conditioners; as well as results of soil tests; and the ‘optimum amount’ of nitrogen and phosphorus to be applied to the soil.

Persons growing sugar cane on more than 70ha in the Wet Tropics or (beef) cattle grazing on more than 2000ha in the Burdekin *must* have an accredited ERMP for their property. The Minister may also direct that any person carrying out commercial sugar cane growing, or a (beef) cattle grazing operation in the priority catchments must prepare an ERMP for their property. Persons required to prepare an ERMP must also report annually to EHP about the implementation of the ERMP.

Issues with Chapter 4A Regulations

As mentioned, the Chapter 4A regulations have been effectively suspended pending delivery of voluntary BMPs, which have failed to deliver the same outcomes as the Chapter 4A regulations due to their lack of enforcement. Other reasons why the Chapter 4A Regulations have failed to deliver outcomes are:

1. The chief regulatory mechanism of Chapter 4A is the offence of applying more than the ‘optimum amount’ of nitrogen and phosphorus to the soil, but the ‘optimum amount’ is only designed to eliminate excessive unnecessary over-fertilisation;
2. The calculation of the optimum amount is based on the industry endorsed BMP (Six Easy Steps), a conservative calculation mechanism devised in the mid-1990’s to curb the application of vastly excessive amounts of fertiliser; and
3. Even if all farmers adopted the BMP it will not achieve sufficient reduction in the nitrogen load from cane farms to allow GBR recovery—the best available science says about 70 to 80% reduction is required. 100% adoption of the BMP would reduce the nitrogen load by 14 - 30% which would be a substantial improvement.

Suggestions for improvement

At present regulations are not being enforced due to a lack of political will to regulate,⁵¹ valuable data is not being collected, and there is a complete lack of political will to bring about the real change that would lead to a 70 to 80% decrease in the GBR’s nitrogen load from cane and beef production. Suggestions to improve the existing regulatory mechanisms include (amongst others):

1. improving enforcement of activities causing the harm;
2. re-examining application allowances – revising the ‘optimum amount’ of fertiliser to block and sub-block realistic yields and tailoring chemical use to local environmental conditions under an integrated regional, preventative strategy with strict audit and enforcement of compliance; and

Appendix 5. (continued)

3. bringing in industries (and catchments) that have been left out of the current regulatory regime.

This re-examination and improvement needs to be done with what is in the best interests of the GBR, not only what is acceptable to growers, graziers (some of whom would be happy to use less fertiliser and pesticide) and industry bodies.

5. National Parks and Protected Areas

In the past year, the State Government introduced amendments to the *NCA* which weakened protection of protected areas, including the national parks and other protected areas in the GBRWHA in Queensland's jurisdiction. EDO Qld's recent submission sets out the following relevant changes to the protected area estate in Queensland:⁵²

1. There has been a reduction of the categories of 'protected areas,' which means Queensland's protected area categories are inconsistent from internationally renowned IUCN categories;
2. There has been a removal of the requirement to publicly notify draft management plans for national parks (contrary to what the DCZPR says);⁵³
3. The objects of the *NCA* have been significantly changed to make recreational and commercial use of parks more readily available;
4. 'Ecotourism facilities' can be developed in protected areas, even though such development may be inconsistent with the principles of ESD or the cardinal principle of national park management;
5. Activities such as 'emergency grazing' in national parks are proposed as well as grazing on national reserve system (NRS) properties (national parks which haven't yet been gazetted);⁵⁴
6. A confidential draft of Queensland's new offsets policy⁵⁵ contemplates significant impacts being made on protected areas (including national parks and nature refuges in the GBR) and significant impacts on protected areas could be 'offset';⁵⁶ and
7. There has been no confirmation by the Queensland Government whether its review of protected areas will result in revoking protections for existing protected areas.⁵⁷ The DCZPR does not mention this 'review,' the terms of reference for the review, nor what is expected in terms of an increase/decrease in the national parks estate.

Hypothetical example of tourist resort in a GBR national park

Smith Pty Ltd is a business that wants to conduct ecotourism on an island that is a national park in the GBRWHA. The company submits a proposal for an 'eco-lodge' and jetty for pleasure boats to be built on the island. After assessing the application, the Government approves the eco-lodge and Jetty, giving Smith Pty Ltd a 30-year lease over the island. Development like this has never been permitted before in a National Park in Queensland and is now permitted under the recent changes to the *NCA*.

In respect of the DCZPR, the 'avoid' component of the Framework (the Protected Area Estate) suggests there will be no development on these areas⁵⁸ – this is incorrect. Even in national parks, the highest category of protected areas, not all activities are avoided (for example, the legislation allows CSG infrastructure (pipelines) and electricity infrastructure).⁵⁹ The DCZPR is inconsistent with this as it suggests that its management principles ensure that park use is "nature-based and ecologically sustainable."⁶⁰ The DCZPR does not make clear that not all 'protected areas' are national parks with high protection – 'protected areas' also includes land where high impact activities are allowed

Appendix 5. (continued)

including mining and grazing. We note both the Queensland and Commonwealth governments have recently approved mining in nature refuges,⁶¹ which are essentially private national parks.

The DCZPR states that Queensland “continues to add to its protected area estate over time”.⁶² However, no data is provided in respect of how the protected area estate has increased in the GBR or what the specific commitments are to increase the protected area estate in the GBRWHA or its catchments.⁶³ The SKM Review identifies some shortcomings of the DCZPR⁶⁴ and requested further information including precise figures on the size and proportion of the protected state in the GBRWHA.⁶⁵ However the bulk of recent changes to the NCA that affect the protection of the GBR protected area estate were not picked up in the SKM Review.⁶⁶

Opening up the protected area estate for development is contrary to a suite of WHC recommendations. For example, the Monitoring Mission recommended that any development be carried out in accordance with the highest international standards of best practice⁶⁷ and that the highest level of precaution in decision making regarding development proposals be adopted.⁶⁸ Reducing legislative protections in GBR protected areas is contrary to these recommendations.

More areas in, adjacent to and in the catchments of, the GBRWHA should be classified as national parks and afforded the highest level of protection. Queensland and GBRMPA should develop a plan for increasing the protected area estate, including mapping of ‘no go’ zones for development in the GBRWHA, its coastline and catchments. The DCZPR should clearly set out how many protected areas have been gazetted and when. The DCZPR should also clearly set out the ‘scientific review’ that is being undertaken and its potential effects on the GBR protected areas.

Example of the lack of commitment to new national parks⁶⁹

Queensland State government has stepped back from creating national parks and is allowing logging in areas once set aside for national parks. About two million hectares of environmentally sensitive land had been put aside by the previous government with a majority of funding from the Commonwealth National Reserve System. A leaked email in February 2013 noted that the Agriculture Minister had approved the logging in these areas (including areas across the State such as North Queensland) and they would no longer be set aside for national parks.

6. Changes to Planning Laws

General coastal development is regulated under SPA, the main law governing land use planning and development assessment in Queensland. The purpose of that law is to ‘seek to achieve ecological sustainability’,⁷⁰ which approximates to the concept of ESD. Key recent policies made under SPA pertaining to the coast do not provide sufficient coastal protection. For example, the single State Planning Policy (SPP) came into effect on 2 December 2013.⁷¹ It replaced 13 State Planning Policies, as well as the Coastal State Planning Regulatory Provision (‘Coastal SPRP’).⁷² The 16 State Interests contained in the SPP conflict with each other, and in many cases the ecological policies are more generally worded compared to the economic elements.⁷³ Select examples of issues with the new SPP and SDAPs include:

1. The new State Development and Assessment Provisions (“SDAP”) modules consider Matters of State Environmental Significance (MSES), however there is no express consideration of OUV. The SDAP permits dredging⁷⁴ for reclamation of land below tidal water,⁷⁵ dumping of dredged spoil on land and at sea,⁷⁶ and dumping of spoil from artificial waterways into coastal waters for certain purposes.⁷⁷

Appendix 5. (continued)

2. Unlike the previous SPP, the new SPP does not provide a clear prohibition on the dumping of *contaminated* dredged material.⁷⁸
3. For development in wetland protection areas in GBR catchments, there is a 'self-assessable development code' which sets out the 'performance outcomes' and 'acceptable outcomes', however the SPP does not provide an absolute prohibition on development in a wetland protection area;⁷⁹ and
4. The SPP does not provide strong protection for all categories of protected wildlife.⁸⁰ The effect of this is that local government will not be required to consider all categories of protected wildlife when developing their planning schemes.
5. Climate change is not addressed in the SPP.

There has also been a removal of EHP's decision-making powers. The introduction of a Single Assessment and Referral Agency (SARA) on 1 July 2013 effectively centralised decision making to DSDIP on development assessment applications and ended the "concurrence" power of the EHP and other referral agencies. This has removed EHP's decision-making powers, for example their jurisdiction pertaining to coastal protection matters, to reject or condition certain development applications under SPA. This represents a major power shift in decision-making for development in Queensland, centralising decision making powers to DSDIP and away from EHP. Development proposals, for example resorts on the coast could irreversibly damage areas of high ecological significance, are now decided by SARA/DSDIP which has economic development as its driver and not EHP, which was concerned with environmental protection.

Strong constraints on urban development outside urban footprints are no longer in effect for three regional planning areas which affect the GBR.⁸¹ New regional plans for areas on the GBR coastline clearly encourage an increase in development, agriculture and mining activities.⁸² For example, for Cape York, at the northern end of the GBR, a draft of the new regional plan (the Draft Cape York Regional Plan) proposes to open up Cape York to development and resource activities.

Amendments to the *Coastal Protection and Management Act 1995* now allow occupation and use of State tidal land for tidal works carried out in compliance with an IDAS code,⁸³ whereas previously, occupation and use for this purpose was only allowed with a development permit. This amendment allows for less oversight of such works being undertaken in tidal land in the GBR coastal zone.⁸⁴

The DCZPR provides a short description of the urban and coastal planning system in Queensland,⁸⁵ however the effect of the above significant changes on planning and development decisions on the GBR coast is not clearly identified or explained in the DCZPR. The cumulative impacts of coastal development and planning decisions are not addressed in the DCZPR. The effect of new planning and development legislation to be finalised and implemented in 2014,⁸⁶ which provides the foundation for coastal development decisions on the GBR for the next 25 years but which is not expected to retain ESD as the objective, cannot yet be understood.

The WHC expressed with great concern the potentially significant impact on the OUV resulting from the unprecedented scale of coastal development.⁸⁷ The RMM recommended that the strategic assessment should lead to the explicit incorporation of OUV in decision-making processes for areas adjacent to the property⁸⁸ and improved protection for the catchments and coastal areas (including necessary legal/statutory reforms to strengthen protection and management) – the DCZPR and the DCSAR do not satisfy these requirements. Urgent reform is needed to improve Queensland's planning legislation to satisfy the concerns of the WHC, for example:

1. Review of the SPP to ensure it provides protection for water quality, biodiversity, coastal environment from competing state interests of development, mining, and port development;

2. Reinstate the power of EHP to refuse development applications and ensure EHP is adequately funded to consider such applications;
3. Ensure ESD remains the object of the new planning legislation and that public involvement in the planning process is not diminished (MR 5(7));
4. The SDPWO Act be amended to ensure judicial review of all decisions and that ESD are the objects of that Act.

7. Major Projects

Major project development is a key issue as it was an initial driver for UNESCO's attention to the plight of the GBR. The WHC noted "with extreme concern" the approval of the LNG processing and port facilities on Curtis Island.⁸⁹ The Mission Report specifically requested that no developments be permitted which create individual, cumulative or combined impacts on the OUV of the GBR.⁹⁰ Such recommendations have clearly been ignored – refer to the example later in this section.

There are currently 29 Coordinated Projects undergoing the environmental assessment process in Queensland. Almost half of these proposed developments have the potential to directly impact on the OUV of the GBR including the Aquis Resort in Cairns,⁹¹ the Cairns Shipping Development,⁹² the Capricorn Integrated Resort at Yeppoon,⁹³ the Dudgeon Point Coal Terminals at Hay Point,⁹⁴ the Fitzroy Terminal⁹⁵ and the Townsville Port Expansion.⁹⁶

'Prescribed project' declarations allow the Coordinator-General - a powerful senior public servant within DSDIP - to make decisions where he believes individual departments (like EHP) are taking too long to finalise approvals or conditions.⁹⁷ Since 2012, the Queensland Government has declared 9 major projects to be 'prescribed projects' under the SDPWO Act,⁹⁸ including coal mines in the GBR catchments with its coal to be shipped through Abbot Point.⁹⁹ For example on 23 December 2013, the Queensland Government declared the LNG facility on Curtis Island to be a 'prescribed project'.¹⁰⁰ Two other recently declared prescribed projects are major resort projects in the GBR zone: Great Keppel Island Resort and the Ella Bay Resort.¹⁰¹ The provisions in the SDPWO Act had historically been used for infrastructure which was 'critical' to the running of the State (as opposed to mining and resort developments), such as the South East Queensland Water Grid project in 2006.

Recent changes to the SDPWOA mean that it is in the Coordinator General's ultimate discretion whether it should be publically notified that an EIS is required for the project.¹⁰² Decisions made by the Coordinator General on the environmental coordination of projects cannot be challenged via the normal judicial review of executive decisions.¹⁰³

Given such flagrant refusal to implement WHC recommendations WHC 5 and MR 8, an independent review of all current and proposed major projects with the potential to cause harm to the OUV of the GBR is urgently needed (not just for Gladstone Harbour). Development on major projects with the potential to cause such harm, should be halted until after the completion of the strategic assessment and long term sustainability plan for the GBR, in accordance with WHC recommendations.

Example: Queensland continuing to approve development in the GBRWHA

The Queensland Government's contempt for the recommendations of the WHC and the RMM is obvious from the following recent approvals by the Queensland Government of projects on or adjacent to the GBRWHA.¹⁰⁴

Curtis Island: Arrow LNG Plant (gazetted as Shell Australia LNG Project): approved with conditions on 10 September 2013; Shute Harbour Marina on the Whitsundays in the GBRWHA: approved with conditions on 9 December 2013; Great Keppel Island Resort at Yeppoon: approved with conditions on 1 March 2013; and Ella Bay south of Cairns, adjacent to Ella Bay National Park and the GBRWHA: approved with conditions 20 November 2012.

8. Reduced protection of rivers flowing to the GBR

At the date of this advice, the Stewart River and the Lockhart River, both GBR catchments, are protected from many types of development and resource extraction through declarations as Wild Rivers under the *Wild Rivers Act 2005* (Qld). Additionally, the SPP provides for high preservation areas of declared wild river areas as a Matter of State Environmental Significance (MSES), which in turn formed part of the Biodiversity state interest. However the protection for these GBR catchments is expected to be lost within the coming months, upon the finalisation of the Cape York Regional Plan in mid-2014.¹⁰⁵ On 28 November 2013, the Queensland Environment Minister formally commenced the removal of the protection by issuing a Revocation Proposal Notice to revoke the Wild River declarations providing protection for the Lockhart and Stewart Rivers.¹⁰⁶

With information currently available in respect of proposed regulations of mining and resource activities in the Lockhart basin, the regulatory proposals will not provide the same level of protection as the Wild Rivers declaration.¹⁰⁷ There are no equivalent proposals to protect the Stewart basin after the wild river declaration is revoked.¹⁰⁸ In fact, the Cape York Regional Plan proposes to set aside most of the Stewart basin as a 'general use area'. In terms of development activities, after the Lockhart and Stewart Basins wild river declarations are revoked then several protections in planning laws and policies will be lost.¹⁰⁹ The proposed revocations of protection, nor the inadequate regulations only partially relating to these catchments, are identified in the DCZPR, a fact which was noted in the SKM Review.¹¹⁰

The *Water Act 2000* (Qld) has also been amended.¹¹¹ The requirement to obtain a permit to clear vegetation from watercourses was removed from that Act. That change makes large quantities of vegetation throughout Queensland vulnerable to clearing and consequently will also affect water quality in some GBR catchments.

The RMM recommended that all components of the OUV of the GBR are clearly defined and form a central element within the protection and management system for the property as well as the catchments and ecosystems that surround it. It also recommended that OUV be a principal reference for legislation in relation to development within or in areas adjacent to the property.¹¹² By dismantling protections for the Lockhart and Stewart basins, there is inadequate protection of GBR catchments and MR9 is not addressed. MR5 is not addressed as the DCZPR does not consider the impacts of the new changes and increased development on these catchments.

The Draft Program must accurately reflect the lost protections of these GBR catchment areas. The wild river declarations for the Lockhart and Stewart basins should remain in place and the Qld Government should not formally revoke their protection

9. Cumulative Impacts

The Mission Report and WHC Recommendations require the state party to prohibit development if it would impact individually or cumulative on the OUV. The DCZPR does not provide any details on cumulative impact assessment, including the timeframe or clear objectives.¹¹³ The DCZPR indicates¹¹⁴ that Qld will work closely with the Commonwealth and GBRMPA to ‘improve understanding of cumulative impacts within and adjacent to the GBR’ and ‘provide clearer guidance on how proponents and decision makers should address cumulative impacts in impact assessments.’ We note the Qld Government’s timetable is for Queensland to have approval powers for actions impacting on MNES by September 2014,¹¹⁵ however the DCZPR does not indicate any commitments to implement cumulative assessment requirements before that time.

There is no legislative or policy frameworks that consider cumulative impacts, with the narrow exception of the Reef Water Quality Program. The DCZPR misleadingly suggests that the Draft Ports Strategy provides assessment of cumulative impacts, when it clearly does not.¹¹⁶ Figure 4.1¹¹⁷ of the DCZPR is misleading in suggesting that cumulative impacts on MNES are ‘partially effective’. Most concerning is the limitation of the commitment to developing cumulative impact ‘guidelines’ for ‘proponents to consider’.¹¹⁸ ‘Discretionary guidelines for development proponents’ is not what the WHC recommended. Furthermore, guidelines are generally unenforceable and are discretionary in the way in which they may be satisfied.

Reform is needed to satisfy the concerns set out in the Mission Report and WHC Recommendations. There must be a legislative requirement for decision makers in Qld legislation (that will seek to be accredited to approve actions impacting GBR) and Commonwealth legislation to assess projects for their cumulative impacts and to protect OUV, not simply a commitment to provide guidelines on cumulative impacts.

10. Offsets and Conditions

Some projects, such as the Curtis Island LNG facility, ought to be rejected at the outset, not approved and conditioned. There appears to be a culture of approving with conditions and yet without a culture of enforcing those conditions.

Throughout the DCZPR, there is an underlying approach of “avoid, mitigate, offset.” In this context, “mitigate” refers to the development assessment process where conditions are placed on individual development approvals to minimise impacts.¹¹⁹ There are serious problems with Queensland developing appropriate conditions.¹²⁰ For example, a whistle blower said of the assessment process for a \$20 billion coal seam gas project, “We were only given a matter of days to prepare conditions for that report. We were actually not given any time to do any reading or assessment of the material. We were just instructed to write conditions...”¹²¹ Yet under an approval bilateral agreement due in September 2014, Queensland intends to approve and condition projects on the GBR without Commonwealth oversight. This commitment to an approval bilateral agreement has full political support from the Queensland and Commonwealth government via a Memorandum of Understanding.¹²²

Whilst conditions to mitigate impacts are obviously an important element of approvals, they do not result in developments not having impacts on the OUV of the GBR. The DCZPR does not adequately

Appendix 5. (continued)

address this issue. Furthermore, we note there is no mention of mitigation of climate change in the DCZPR, which reflects the Queensland Government’s position that “the Government cannot do anything about climate change.”¹²³

The WHC requested there not be any development if it would impact individually or cumulatively on the OUV of the GBR or compromise the SA.¹²⁴ However in December 2013, the Commonwealth approved four major developments within the World Heritage Area of the GBR, including capital dredging program at Abbot Point, a terminal expansion at Abbot Point, a LNG Facility on Curtis Island and a Gas Transmission Pipeline to Curtis Island – all after and contrary to the WHC recommendations.

Imposing conditions that attempt to ‘offset’ the impacts allows inappropriate development to proceed. If approval powers are delegated to Queensland to approve actions impacting MNES and the GBR, Queensland will seek to apply its own offsets policy including for projects affecting the GBR, in place of the Commonwealth offsets policy. The DCZPR does not contemplate the true effect of the new policy. It is a major problem in the DCZPR and DCSAR that the Queensland’s offsets strategy is not detailed.

EDO Qld has viewed the draft Queensland Offsets Framework (which is not yet government policy) and we consider it falls well short of best practice,¹²⁵ is not scientifically based and is of a lower standard than the Commonwealth’s offsets policy, despite the DCZPR suggesting that the new policy will seek to ensure alignment with the Commonwealth Government’s offsets policy. The SKM Review identifies the issue that a new policy is still being developed and further notes that the assessment of ‘partially effective’ for offsets is not substantiated by hard evidence in the DCSAR.¹²⁶ MR 5(9) required the strategic assessment to lead to appropriate systems to secure that where development is permitted it will lead to net benefits of the property as a whole. In failing to offer a best practice offsets policy, the DCZPR fails to satisfy the Mission’s recommendation.

Even if the Commonwealth offsets policy is applied (which is superior to the draft Queensland Offsets Framework), this does not guarantee an overall net benefit to the GBR. For example, ‘environmental equivalence’ is difficult to achieve and projects are often approved in which the offsets do not achieve environmental equivalence. A sample of offset conditions for various projects in or impacting on the GBRWHA are set out below, with a brief analysis of whether their offsets conditions satisfy best practice.

Are Best Practice Offsets Requirements Met?	Gladstone Ports Western Dredge Project EPBC 2009/4904	Queensland Curtis LNG Project EPBC 2008/4402	Great Keppel Island Tourism and Marina EPBC 2010/5521
1. Offsets should not undermine existing environmental standards	Not analysed.	1, 2, 3 Not met.	Not analysed.
2. Offsets approved only after all feasible and cost effective measures have been exhausted			
3. Offsets result in no net loss to GBR resilience			
4. Environmental equivalence between offset and the development’s damage to the environment	Partly. A plan for seagrass conservation.	No. Glaring lack of environmental equivalence.	Yes. Research is one outcome that lacks equivalence.
5. No time lags between development damage and offset	No.	No.	No.

Appendix 5. (continued)

Are Best Practice Offsets Requirements Met?	Gladstone Ports Western Dredge Project EPBC 2009/4904	Queensland Curtis LNG Project EPBC 2008/4402	Great Keppel Island Tourism and Marina EPBC 2010/5521
benefit (i.e. offsets in advance)	Lag between dredging starting & offsets strategy approval.	Significant time lags and uncertainty.	Development could go ahead with offset site not secured.
6. Offsets underpinned by both clearly enforceable conditions and clearly secure legal agreements	Unclear. Ministerial discretion to approval variation of offset plan. How 3000 ha offset protected under State law unclear.	No. Large scope of proponent discretion and Ministerial discretion.	No Possibly another site may be chosen.
7. Offsets required to be independently monitored, evaluated with good real time public access to information.	No. But Department can require independent audit. Some useful reports required to be online.	No. But Department can require independent audit. Some useful reports required to be online.	No Independent audit of compliance every 3 years and annual compliance report on website.

WHC 8 recommended that the state party ensure that plans, policies and development proposals affecting the property demonstrate a net benefit to the protection of OUV. The draft Queensland Offsets Framework falls short of this requirement and the Commonwealth offsets policy needs improvement. Projects that have significant impacts on the OUV of the GBR should be prohibited. The conditions and offsets used to justify development impacting on the OUV is difficult to enforce and ultimately unsuccessful in protecting the GBR from the impacts.

11. Threatened Species

Queensland has the most native mammals, the second highest number of threatened species, and high numbers of threatened species on the GBR coast.¹²⁷ One of the biggest drivers of species loss is destruction of or impacts on habitat (refer to Vegetation changes above). Recent amendments to the protective legislation for threatened species, the NCA, now allow protected areas to be used for purposes that are not “ecologically sustainable.”¹²⁸ The amendments also combined protected areas and in some cases eradicated protection completely.

Significant changes will soon be introduced to the Protected Plants framework in Queensland in 2013.¹²⁹ According to the trigger map for protected plants¹³⁰ vast amounts of land in and near GBR catchments can soon be cleared without requiring a flora survey at all. Previously, a flora survey was required to “identify threatened plants before undertaking any clearing activity, on any area of land, unless the clearing is for public safety or fire management.”¹³¹

Despite these changes, the DCZPR:

1. does not mention the impact of these new laws ‘opening up’ what once were protected areas on the GBR coastline in Queensland and state waters, yet scores Queensland ‘very effective’ for avoiding protected areas for threatened ecological communities and migratory species;¹³²
2. summary of effectiveness is not a true reflection of the vast number of threatened species listed and continuing to be listed; and
3. does not acknowledge that not all categories of protected wildlife will be protected.

Weakening protection of threatened species is contrary to WHC recommendations,¹³³ which require a commitment to ensure legislation protecting the property remains strong and adequate to maintain and enhance its OUV. Reform is needed of the NCA to achieve adequate protection. The NCA should be amended to ensure all protected areas are adequately protected in perpetuity. The protection of all threatened species could be improved by clear commitments to designate more protected areas where there is threatened species habitat, and by considering and adopting other States' protection schemes and programs that are effective.

In terms of the DCZPR, the terminology should be amended to reflect specific language used under NCA. There should be an objective in the DCZPR to protect of all categories of protected species under the NCA.

12. Public Participation

Public interest legal proceedings in environment and planning laws – whereby community members bring proceedings to protect the environment and their communities – promotes good decision-making, increases the enforcement of environmental and planning laws and generally contributes to the achievement of ESD. It is often the only means available to citizens in challenging the powerful interests of government and the private sector. There are several features of Queensland laws (and the Commonwealth more recently) that affect public participation:

1. The legislation for 'Coordinated Projects,' the largest development and mining projects undertaken in Queensland and along the GBR coast (for example, the Fitzroy Terminal and the Wongai Project north of Cooktown)¹³⁴ do not allow any appeal rights or statutory judicial review of decisions by the Coordinator General;¹³⁵
2. Changes in 2012 to costs provisions in SPA now expose community groups to costs orders, even if the group or individual is acting in the public interest to protect the environment. Many communities concerned about the impacts of a development or mining proposal do not have the resources to compete with wealthy developers;¹³⁶
3. State and Commonwealth Governments have recently removed all funding for Environmental Community Legal Centres, such as EDO Qld, that represent community members acting in the public interest to protect the GBR, and which engage in law reform activities to promote legislative protection of the GBR;¹³⁷
4. Queensland has proposed the removal of public objection and appeal rights with respect to all mining projects and limit rights to only 'affected landholders';¹³⁸
5. The *Regional Interests Planning Bill 2013*¹³⁹ denies third parties right to appeal on land use decisions. The new law only allows 'affected landholders' to appeal against a decision to allow mining activities in the region, even if acting to protect a Strategic Environment Area, for example, on the Lockhart River (a GBR catchment). EDO Qld and EDO NQ have serious concerns if this bill is passed and have made submission to a parliamentary committee.¹⁴⁰
6. There is often no mandatory public consultation process for many types of development in Queensland that may affect the GBR (for example, small scale mining and CSG exploration activities, ecotourism facilities, grazing);
7. The Queensland Government has shown a willingness to 'rush through bills' without undertaking a public consultation by way of a public discussion paper on the policy behind the Bills;¹⁴¹

8. The Government recently removed the requirement to publicly notify national park management plans (December 2013), which is not reflected in the DCZPR.¹⁴²

The DCZPR refers to public participation in the Coordinated Project EIS process.¹⁴³ The SKM Review does not acknowledge the significant current and proposed restrictions on the public's ability to engage in decision-making. These bare references fall short of satisfying Recommendation 5(7) of the Monitoring Mission.

Law reform addressing each of the matters set out above is required to reinstate or improve the public's influence in decisions-making concerning the GBR and satisfy MR 5(7). At the very least, Queensland should ensure third party and public interest provisions remain (and not remove existing public appeal rights) in all legislation that will impact on the GBR, including all planning and environmental laws in Qld, introduce mandatory public consultation process on all development proposals in the GBR zone including proposed development to be built in national parks, remove barriers to access to justice such as free and available public information and legal standing for judicial review, and remove costs order risks for public interest litigants.

13. Mining and Gas Projects

Certain large scale coal and gas projects have been accelerated in Queensland.¹⁴⁴ There are many mineral deposits in the GBR catchment area particularly in the Burdekin and Fitzroy basins, and many applications for exploratory resource activities in areas adjacent to the GBR coast.¹⁴⁵ The proposed increases in production of coal and gas are the key justifications of port expansions on the GBR coastline, directly impacting on the GBR and indirectly impacting on the GBR through greenhouse gas emissions.¹⁴⁶

The Queensland Government has recently announced its intention to re-commence uranium mining in Queensland, bringing an end to a 30 year moratorium on uranium mining in the state.¹⁴⁷ Queensland Mines Minister Andrew Cripps has not ruled out using the port of Townsville to export uranium once the uranium industry becomes commercially viable.¹⁴⁸

The Draft Cape York Regional Plan to be finalised in June 2014, will open up Cape York to mining and agricultural activities. Protective legislation for the Lockhart and Stewart Basins (GBR catchments) is currently being removed, yet the protection of these rivers is misleadingly lauded in the DCZPR as being 'protected'.¹⁴⁹

In November 2013, the Queensland Government extended a pilot pollution trading system for four mines in the Fitzroy catchment to release excess mine water for the 2013-2014 wet season.¹⁵⁰ The program includes a lessening of water quality standards for receiving waters and less mine responsiveness required to the annual review of the Water Management Plan.¹⁵¹

Other recent amendments create a default position of standard conditions for projects requiring an EA under the EP Act. A proponent simply needs to justify why standard conditions – not tailored conditions – will suffice.¹⁵²

Release of contaminated water in GBR catchments was made easier by recent amendments to the EP Act. From 11 December 2012, Temporary Emission Licences ('TELS') may be applied for and must be decided within 24 hours.¹⁵³ There were existing provisions for emergency directions.¹⁵⁴ However, TELs are available not merely for emergencies as commonly understood, but also for 'applicable

Appendix 5. (continued)

events' that were not foreseen when conditions were imposed on an environmental authority or development approval.¹⁵⁵ So environment authority holders under the EP Act, for example mining companies, can now argue that they had not foreseen flood or rain leading to contaminated water in their mines, even if they knew, or ought to have known of such a possibility and ought to have spent money planning to handle the event without releasing contaminants.¹⁵⁶

Theoretical example: Angel Fish Tourist Resort seeks a TEL for contaminated water release

Angel Fish Tourist Resort (*'Angel Fish'*) in the Central Queensland area holds an environmental authority under the EP Act for a sewage treatment plant. At a time of heavy rain at the height of the tourist season the sewage system stops working and the holding pond is full to the brim. Angel Fish seeks a Temporary Emission Licence (*'TEL'*) permission from EHP to release the contaminated water to the river. Angel Fish claims any other solution, such as road removal of the contaminated water, will interfere with tourists using the resort and damage the economy.¹⁵⁷ Angel Fish can apply for a TEL and try to argue an 'applicable event' has occurred due to rain being heavier than usual. The administering authority, EHP, will only have a rushed and inadequate 24 hours to make a decision. The standard criteria under the EP Act are not all relevant under the amendments. The economic impact of not granting the TEL is relevant under the amendments, even if the problem is due to poor environmental planning by Angel Fish. So the TEL amendments make it more likely that contaminated water will be approved for release into a river in the GBR catchment.

Cumulative impacts from GBR catchments should be an essential part of the strategic assessment, however none of the above issues have been significantly addressed in the DCZPR.¹⁵⁸ This is contrary to WHC6 which requested that the strategic assessment 'fully addresses the direct, indirect and cumulative impacts' on the GBR. It is unclear how WHC5 has been implemented, as there is no requirement to address the cumulative impacts of resource activities proximate to GBR catchments when approving such activities. The EP Act should be amended to require a cumulative impact assessment of resource activities proximate to GBR catchments.

14. Approving Classes of Actions

The legal mechanism by which the Commonwealth has chosen to undertake a strategic assessment also opens the door for the Minister to approve certain types of actions not needing individual approvals if undertaken in accordance with the Program.¹⁵⁹ This mechanism might replace the need for individual activities to obtain Commonwealth approval under national environment law.¹⁶⁰ The DCZPR is clear that a section 146 strategic assessment of the GBR coastal zone is the legislative mechanism in which the assessment is being undertaken.¹⁶¹

There is an insufficient level of detail in the DCZPR and DCSAR and the analysis of impacts in these reports is far too general to allow it to be used for the purpose of allowing individual activities to occur without the need for project-by-project assessment and approval. Yet there is no clear statement in the DCZPR that the Minister does not intend on using the Program to endorse that certain actions will not require individual approvals under Part 9 EPBC Act, if taken in accordance with the Program. The DCZPR is silent in respect of the potential for this to happen.¹⁶²

This is not what was envisaged by WHC as the underlying purpose, and it would not allay the WHC's concerns about the scale of development impacting the GBR. We note the Mission Report specifically

requests that there must be a thorough assessment and thorough consideration of the combined, cumulative and possible consequential impacts for **each** EPBC Act application.¹⁶³

The DCZPR should make clear that the overriding object of the Strategic Assessment is to inform a long term sustainability plan for the GBR and not for another purpose under Part 10 Division 1 EPBC Act, such as allowing actions to not require individual approvals.

15. Enforcement and compliance

The Queensland Government has not allocated sufficient resources (and political will) to enforcement and compliance of environmental matters in Queensland. In order to protect GBR, the WHC has urged the Commonwealth and State Governments to: “sustain *and increase* [their] efforts and available resources to conserve the property.”¹⁶⁴ The UNESCO Mission Report also called for an increase in “overall levels of funding” to provide for “effective protection and management” of the GBR.¹⁶⁵ Whilst funding has increased in some areas (Reef Rescue commitments) it is clear that decreases have occurred in other key areas resulting in a net loss.

It is widely known that since 2012, funding has been severely cut to key Queensland government agencies (like EHP, DNRM and DNPRSR) that assess and approve activities that impact on the GBR. Excusing its actions as part of a ‘fiscal repair agenda’,¹⁶⁶ EHP, the main agency charged with enforcing breaches of environmental law in Queensland, has considerably scaled back its operations choosing to focus on education, industry partnerships and only regulating ‘high risk’ activities.¹⁶⁷ The problem with this approach is that the vast majority of illegal operators either do not operate with a permit (illegal dumping, unauthorised development or vegetation clearing), or submit false documentation to the regulator knowing that the commercial benefits from the crime will likely outweigh the risks of getting caught and/or any fine that might be imposed.¹⁶⁸ Additionally, severe public service staff cuts of approximately 15-20% across the Queensland State public service during 2012 are likely to hamper ongoing essential legislative implementation and enforcement.¹⁶⁹

Example: Recent cuts to Environmental Staff

In October 2013, EHP continued its plan of downsizing and ‘outsourcing’ responsibilities. The Department cut a total of 30 staff in the areas of water quality, koala research and conservation. The Environment Minister said this move was in line with the Government’s agenda of shifting environmental responsibilities to ‘a range of partners’ including (under-resourced) local councils.¹⁷⁰

Silencing the public interest

Queensland (and Commonwealth) Governments have cut all funding to community environmental legal centres (like EDO Queensland and EDO North Queensland), a recent move justified by Government that independent environmental legal centres should not be engaged in ‘law reform’ or ‘advocacy’ or generally using their funding to challenge the *status quo*.¹⁷¹ The Queensland Government changed the legal costs rules in Queensland’s Planning and Environment Court in 2012, meaning community groups acting in the public interest to enforce the law are now at a far higher risk of having to pay their costs and those of the companies they are trying to stop. Many people will not take the risk on what they perceive to be unauthorised developments or environmental wrongs.¹⁷²

Self-regulation and de-regulation

The Queensland Government has an arbitrary target to achieve a 20% reduction of regulation by 2018.¹⁷³ The introduction of ‘self-regulation’ (in particular for vegetation clearing), and in some instances, removing regulation altogether (the protected plant changes) are a worrying trend. The disinclination of the Queensland Government to apply the legislative provisions of Chapter 4A of the EP Act - relating to agricultural run-off into the reef - is also very concerning. Instead, the Queensland Government has opted for industry-led partnerships and self-monitoring and assessment of activities, in an effort to cut costs and encourage economic investment in the State. Since March 2012, all Departments have been told to cut costs and reduce ‘green tape’ for industries particularly those involved in the Government’s ‘four pillars’ – mining, agriculture, construction and tourism.¹⁷⁴ In many instances, de-regulation targets are based purely on reducing numbers of provisions and ‘pieces of paper’ rather than outcomes. Flexible guidelines and ‘easy to change’ regulations rather than clear protection commitments are now the Government’s approach.¹⁷⁵

A relaxed approach to enforcement

Enforcement and compliance activity has decreased remarkably, with the total number fines halving the last two years from \$2.2 million in 2012¹⁷⁶ to \$1 million in 2013.¹⁷⁷ EHP says it has adopted a new ‘high risk’ focus – moving away from setting and applying standards and increasing monitoring and responding to high risk sites.¹⁷⁸ EHP does not make prosecution data publicly available, only watered down ‘prosecution bulletins’ which serve little more than a marketing purpose.¹⁷⁹ EHP no longer publishes details of individual prosecutions in their annual reports¹⁸⁰, only a brief paragraph on the total fines they have raised.

Example: lack of investigation of major incidents

In May 2013, a major incident occurred in the Jackson oil fields south-west of Brisbane. An oil well lost about 300 barrels of oil a day over five days, resulting in a leak of about 240,000 litres of oil (purported to be the fourth largest land-based oil spill in Australian history). EHP did not send an officer to urgently inspect the site but merely relied on information provided by the resource company and later a public servant from another department.¹⁸¹

EHP has also drafted new ‘enforcement guidelines’ which reflect their new ‘business friendly’ approach to enforcement. The guidelines are supposed to indicate when EHP will act to enforce the law, and what action they will take (fines, court action etc.). Those guidelines take a much weaker approach than the previous guidelines, and place a great deal of discretion in the Department (i.e. the Minister) as to whether to take action at all. The result has been a general reluctance to act on key issues, even those that risk serious damage to the GBR.

Example: Nitrogen and metal pollutants pose ongoing risk to the GBR

An overflowing tailings dam containing toxic metals from the Yabalu nickel refinery in Townsville has and continues to pose a risk that it will spill into the Great Barrier Reef.¹⁸² The risk of toxic overflow largely depends on changes in extreme weather conditions for North Queensland but the Queensland Government has continued to extend the timeframe for the refinery operators to deal with toxic water. In January 2014, the Queensland Government gave the refinery **another 12 months** to meet environmental standards.¹⁸³ A major storm could jeopardise the situation and cause irreparable harm to the GBR.

16. Uranium Mining

30 year ban on uranium mining lifted and not mentioned in DCZPR

Queensland has had a ban on uranium mining for almost 20 years. Yet, in 2013, the Queensland Government announced it would be lifting that ban.¹⁸⁴ The Government's aim is to have a framework in place for uranium mining by July 2014.¹⁸⁵ It is estimated that Queensland has approximately 40,000 tonnes of "reasonably assured and inferred [uranium] resources"¹⁸⁶ equating to almost \$10 billion in value. Most of those deposits are in North and North West Queensland, with one existing uranium mine - the Ben Lomond mine, located 50km from Townsville.

Shipping uranium through the Great Barrier Reef

The Queensland Minister for Natural Resources and Mines, has not confirmed where uranium will be shipped from. As Australia has no nuclear power plants, all uranium (except small amounts used for domestic health purposes) will be exported overseas to countries that use nuclear power (India, Japan, USA for instance). The Minister has however hinted that Adelaide and Darwin are viable port options but they are considerable distances from the far North Queensland deposits. The Minister is quoted as saying: "once the uranium industry becomes commercially viable" then a case may be made to have a licensed port off the East coast of Queensland – at the Port of Townsville – meaning that uranium would be shipped uranium through the GBR.¹⁸⁷

Problems with the proposed uranium framework

Firstly, the DCZPR has not considered the risks to the reef posed by lifting the ban on uranium activities. The Terms of Reference for the DCZSAR did not include 'nuclear activities' or 'water resources' even though they are both listed MNES under the EPBC Act.¹⁸⁸ There can be no justification for nuclear activities (or water resources for that matter) to be excluded in the Strategic Assessment. The Terms of Reference for the coastal component was only approved by the Commonwealth Government on 30 August 2013 but the Queensland Government announced its plans to lift the ban on uranium mining almost a year earlier in October 2012. This is simply not acceptable. Given the potential health and environmental risks and the exceptionally strong public interest in the GBR and nuclear actions, uranium mining must be included in the final assessment in order to inform the long term sustainability plan.

Secondly, according to the State Government's 'Action Plan to Recommence Uranium Mining',¹⁸⁹ the existing legislative framework¹⁹⁰ will be used to assess and approve mining leases to extract uranium. EDO Qld has serious issues with that framework, including a recent proposal to remove long standing community objection rights and only allow those landholders 'directly affected' to oppose the building of the mine.¹⁹¹ This is problematic because landholders 'directly affected' by mining must be approached to negotiate a conduct and compensation agreement – the terms of which may include conditions (in return for money) not to legally object to the mine. In our view, the existing legislative framework is simply not sophisticated enough to assess and approve uranium mining, particularly without third party (expert) objection and appeal rights to scrutinise the process.

Thirdly, there is the crucial question of whether Queensland will have the requisite expertise (including resources) to devote to the assessment, conditioning and management of nuclear activities.¹⁹² Lastly, the State Government has shown a willingness to bypass public consultation and normal democratic processes where particularly controversial mining projects are involved.¹⁹³

Appendix 5. (continued)

Example – Uranium mining in Queensland

The Ben Lomond mine – which used to be operational – is located 50 kilometres west of Townsville. It is located in the Burdekin catchment of the GBR and is estimated to contain around 3600tonnes of U3O8.¹⁹⁴

The Valhalla uranium deposit 40 kms north-west of Mt Isa, contains an approximate 24 765 tonnes of uranium.¹⁹⁵ This is almost 8 times the amount of the Ben Lomond mine.

The State Government is not ruling out shipping Uranium through the GBR from the port of Townsville. The Strategic Assessment for the Reef, to inform a long term plan makes no mention of uranium mining or how it will be regulated to protect the OUV of the reef.

Reaction from IUCN to uranium activities near the reef

Tim Badman from IUCN who advises the WHC on matters relating to the GBR has said that uranium mining “would be a new threat to the GBR”¹⁹⁶ and that uranium mining and transportation is a “surprising activity to find in any natural world heritage site”.¹⁹⁷ At the very least it is disturbing to us that Queensland has not included uranium activities in its draft strategic assessment for the coastal zone. An in-depth analysis and assessment of the risks to the reef caused by nuclear activities must be undertaken and submitted to the Commonwealth Government and then WHC for consideration before any long term plan for the GBR can be finalised.

SUMMARY TABLE OF LEGISLATION - COMMONWEALTH

COMMONWEALTH GOVERNMENT LEGISLATION	RELEVANT CHANGES/NEW PROVISIONS	RELEVANT PROPOSED CHANGE
<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>	Yes	Yes
<i>Great Barrier Reef Marine Park Act 1975 (Cth)</i>	No	Yes
<i>Environment Protection (Sea Dumping) Act 1981 (Cth)</i>	No	No

COMMONWEALTH LEGISLATION

A brief summary of relevant changes to (and new statutory agreements made under) the main Commonwealth environmental protection legislation, the EPBC Act, is below. We note this has not been analysed in the context of the Marine component of the Draft Strategic Assessment and Program Reports.

Under the EPBC Act, the Commonwealth is currently responsible for approving major projects that have significant impacts on the GBRWHA. Major project development is a key issue for the WHC. The Mission Report specifically requested that no developments be permitted which create individual, cumulative or combined impacts on the OUV of the GBR.¹⁹⁸ On 10 December 2013, the Commonwealth ignored the requests of the WHC and approved four major projects at Abbot Point and Curtis Island/Gladstone involving capital dredging, port terminal expansion, an LNG facility on Curtis Island and a pipeline from Curtis Island to Gladstone.¹⁹⁹

Whilst we have not provided an analysis of Australia's climate change policies, we note that State Parties to the World Heritage Convention, including the Commonwealth Government, "must endeavour, both individually and in co-operation with other State Parties, to ensure that emissions of greenhouse gases and other pollutants are controlled so as to minimise the potential deterioration of the GBRWHA".²⁰⁰

17. Commonwealth's delegation of assessment and approval powers to Queensland

Whilst not strictly a legislative change, there has been an exercise of the Commonwealth Environment Minister's powers under the EPBC Act to enter into bilateral agreements, which govern how assessment and approvals of actions impacting MNES and the GBR are undertaken.

Powers for Queensland to assess actions impacting MNES and the GBR

In December 2013, the Queensland Government and Commonwealth Governments entered into a statutory agreement (assessment bilateral agreement)²⁰¹ which has given Queensland powers to assess all MNES.²⁰² Relevantly, the agreement means the Commonwealth has transferred responsibility for the assessment of actions in Queensland and state waters that are in the GBRMP.²⁰³ Up until December 2013, the power to assess actions in Queensland land and state waters in the GBRMP remained with the Commonwealth.²⁰⁴ This was in accordance with recommendations made by the Uranium Mining Implementation Committee in March 2013.²⁰⁵

Proposed powers for Queensland to approve impacts on MNES

In October 2013, the Queensland and Commonwealth Governments formally agreed that the Commonwealth's powers to approve actions under the EPBC Act would be transferred to Queensland by September 2014 by way of a statutory agreement (approval bilateral agreement).²⁰⁶ If an approval bilateral agreement is made, the Commonwealth would no longer approve those developments that have significant impacts on MNES. The political will to advance the transfer of approval powers are set out in a Memorandum of Understanding (MoU) between Queensland and the Commonwealth.²⁰⁷ The MoU provides that a draft agreement setting out the approvals and standards is expected by April 2014. Such an agreement would require a specific reference to the approval of actions on land or in state waters in the GBRMP.²⁰⁸

18. No requirement to consider conservation advice

A change to environmental laws currently before the Senate²⁰⁹ could potentially prevent legal challenges to the Commonwealth Government's decisions in December 2013 to approve various GBR projects including the Abbot Point coal terminal expansion in north Queensland, the \$20 billion Arrow Liquefied Natural Gas Facility on Curtis Island and the transmission pipeline to Curtis Island. If the amendments pass the Senate, it would mean that if the Minister was required to consider an "approved conservation advice" when approving these projects and he failed to consider such advice, this avenue for appeal would be shut down. This would dilute a requirement to consider scientific advice and removes accountability of the Minister and department for failing to follow the law, is contrary to best practice and inconsistent with the achievement of the objects of the EPBC Act.²¹⁰

19. Further protection for dugongs and turtles

The aforementioned Bill also increases the financial penalties for various offences and civil penalty provisions relating to protected dugongs, marine turtles as well as the leatherback turtle species, and is a welcome measure.²¹¹

20. Bill giving legislative force to WHC's recommendations not passed

The industrialisation of Gladstone, for example Curtis Island and other areas along the coast, has intensified under the existing Commonwealth legislation, highlighting the need for the EPBC Act to be amended and strengthened. Since our advice dated 24 January 2013, proposed amendments to Commonwealth legislation²¹² to competently²¹³ implement UNESCO recommendations to protect the GBR have been tabled by the Green party in the Commonwealth Senate.²¹⁴ The proposed amendments to the EPBC Act included clear-cut fresh duties on decision-makers, for example, prohibition on development of existing ports if that action would impact individually or cumulatively on the world heritage values of the GBRWHA.

The Commonwealth government and the opposition did not support the proposed amendments, which would have delivered stronger protection for the GBR by implementing the WHC's recommendations. The Commonwealth government instead merely developed information sheets²¹⁵ and interim guidelines²¹⁶ about 'outstanding universal values', but those are not legally binding under the EPBC Act and do not change the law.

21. Addition of a new MNES in the EPBC Act, the 'water trigger'

In June 2013, amendments to the EPBC Act came into effect to create a new MNES, being water resources in relation to coal seam gas and large coal mining development. This followed on from changes to the EPBC Act in 2012 which established an Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development from whom the Commonwealth Minister could obtain advice.²¹⁷ We note that there are mines in the GBR catchments and we consider this amendment to be beneficial for the GBR.

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The effect of the addition of a new MNES means that if an action involving coal seam gas development or large coal mining development has (or will have, or is likely to have) a significant impact on a water resource, then the EPBC Act is triggered. The assessment of the impacts can be undertaken by the Queensland Government pursuant to the assessment bilateral agreement (see below), however the Commonwealth cannot delegate its powers to Queensland to approve such actions unless the EPBC Act is amended.²¹⁸

Endnotes

¹ Clause 4, Assessment Bilateral Agreement between Commonwealth and Queensland, 13 December 2013, available here: <http://www.environment.gov.au/topics/environment-protection/environment-assessments/bilateral-agreements/qld>

² Memorandum of Understanding between Commonwealth of Australia and the Queensland State Government, 18 October 2013, clause 5.1.1, available here: <http://www.environment.gov.au/system/files/pages/71679b88-a037-420d-966f-1f5b7047ea83/files/onestopshop-mou-qld.pdf>

³ See Mission Report recommendation #7 at page 7.

⁴ See the Memorandum of Understanding signed by the Queensland and Commonwealth Governments in October 2013 under the EPBC Act: <http://www.environment.gov.au/system/files/pages/71679b88-a037-420d-966f-1f5b7047ea83/files/onestopshop-mou-qld.pdf> This agreement expected to be finalised in 2014 will be called 'the approval bilateral.'

⁵ It is crucial to note at the outset of this advice that the Strategic Assessment is being undertaken under section 146 EPBC Act and, according to the Terms of Reference, is limited to identifying and providing a management framework for most (but not all) MNES under that Act. This is a fundamental flaw in providing a platform for a long-term plan for the GBR for three main reasons:

- MNES – as narrowly defined in the Terms of Reference for the Strategic Assessment – do not currently include nuclear activities (e.g. uranium mining and transportation) or the impact of coal seam gas and coal mining on water resources. Activities of the latter category currently take place within GBR catchments or in the GBR zone itself.
- Whilst MNES under the EPBC Act cover significant impacts on many endangered species, sensitive areas and potentially damaging activities, the EPBC Act does not comprehensively address all of the activities and pressures affecting the GBR. There are many more species, national parks and other areas that contribute to the OUV of the GBR which are not included in the definition of MNES and which are dealt with poorly under Queensland law.
- The EPBC Act is concerned with 'significant' impacts on the world heritage values of the GBRWHA at the time those individual actions are being assessed. The EPBC Act does not capture actions or impacts on the GBRWHA that are not 'significant'. The GBRWHA is not in and of itself a MNES. There is no scope for an assessment of the cumulative impacts of all activities or impacts on the OUV of the GBR. Ongoing agricultural activities in the GBR catchments affecting the health of the GBR are a prime example of this 'death by a thousand cuts' phenomenon.

⁶ The consultation on the Great Barrier Reef Ports Strategy apparently informed the current Draft Queensland Ports Strategy: <http://www.dsdp.qld.gov.au/infrastructure-and-planning/great-barrier-reef-ports-strategy.html>

⁷ See Mission Report recommendation #2 at page 6.

⁸ See: http://www.gbrmpa.gov.au/_data/assets/pdf_file/0019/28810/Ports-challenges-for-the-Great-Barrier-Reef.pdf.

⁹ The Honourable Jeff Seeney MP, Deputy Premier and Minister for State Development, Infrastructure and Planning, Foreword to the *Draft Ports Strategy*, page 3, DSIP: <http://www.dsdp.qld.gov.au/resources/plan/draft-qps-consultation.pdf>

¹⁰ EDO Qld made a lengthy submission on the Draft Ports Strategy highlighting various failures of the draft. See our submission for further details: <http://www.edo.org.au/edogld/wp-content/uploads/2013/12/EDO-Qld-Submission-on-Draft-Ports-Strategy-13.12.13.pdf>

¹¹ For a list of current EIS processes that would be exempt from the prohibition on capital dredging, see here: Department of State Development, Infrastructure and Planning, Current EIS projects, Queensland Government <<http://www.dsdp.qld.gov.au/assessments-and-approvals/current-eis-projects.html>>

¹² Draft Queensland Ports Strategy, page 18.

¹³ State Planning Policy, pages 42-43.

¹⁴ Including Abbot Point, Brisbane, Bundaberg, Cairns, Cape, Gladstone, Hay Point, Karumba, Lucinda, Mackay, Mourilyan, Rockhampton, Thursday Island, Townsville and Weipa.

¹⁵ Land Use Plans are developed under the *Transport Infrastructure Act 1994* (Qld). Each port has a Land Use Plan. The purpose of the Plan is to provide a long term framework for managing development at that port. Here is an example of a Land Use Plan: http://www.gpcl.com.au/Portals/0/pdf/Port_Land_Plan/2012_LAND_USE_PLAN.pdf

¹⁶ According to the SPP, local government planning schemes in and around these port areas must: facilitate development surrounding the port that is compatible with, depends upon or gains significant economic advantage from being in proximity to a strategic port, or supports the strategic port's role as a freight and logistics hub; protect strategic ports from development which may adversely affect the safety, viability or efficiency of existing and future port operations, ensure sensitive development is appropriately sited and designed to mitigate adverse impacts on the development from environmental emissions generated by port operations, identify and protect key transport corridors (including freight corridors) linking strategic ports to the broader transport network, and consider statutory land use plans for strategic ports and the findings of planning and environmental investigations undertaken in relation to strategic ports.

¹⁷ DCZPR, paragraph 4.2.2.2, page 64

¹⁸ "More detail on port development was expected, particularly in light of the World Heritage Committee's concerns about port expansions throughout the Great Barrier Reef Coastal Zone. Port development and associated activities such as shipping and dredging are given limited description and assessment within the documents." (page 14) And "The description of the Queensland Government's commitment to limit future port developments to the existing port limits until 2022 should be explained in more detail, as readers may incorrectly interpret this as meaning that no new port expansion projects will

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occur during this period... The majority of concerns raised regarding port expansions on the Great Barrier Reef have occurred in response to proposals to increase capacity within existing port limits. Also, the Program life is stated to be 25 years, which is longer than the currency of the 2022 port commitment." (page 14)

¹⁹ Fanny Douvere and Tim Badman, 'Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)' (Report, UNESCO, June 2012) at 53.

²⁰ National Strategy for Ecologically Sustainable Development, prepared by the Ecologically Sustainable Development Steering Committee and endorsed by the Council of Australian Governments, December, 1992, available here:

<http://www.environment.gov.au/node/13029#WIESD>

²¹ EPBC Act, section 3A provides: The following principles are principles of ecologically sustainable development: (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations; (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation [the precautionary principle]; (c) the principle of inter-generational equity--that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations; (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making; and (e) improved valuation, pricing and incentive mechanisms should be promoted.

²² (b)-(e) but not (a)

²³ Intergovernmental Agreement on the Environment at section 3.5, available here:

<http://www.environment.gov.au/node/13008>

²⁴ Regional Planning Interests Bill 2013 section 3(1)(a)

<https://www.legislation.qld.gov.au/Bills/54PDF/2013/RegionalPlanningB13.pdf>

²⁵ Minister for the Environment, Hon. AC POWELL during introduction of Protected Plant Changes 16 Oct 2013-- Nature Conservation (Protected Plants) and other legislation amendment Bill 2013 at page 3308:

http://www.parliament.qld.gov.au/documents/hansard/2013/2013_10_16_WEEKLY.pdf#xml=http://www.parliament.qld.gov.au/internetsearch/isvsquery/2d8f75e4-37a6-4936-9764-76fc94f6093c/6/hilite/

²⁶ For public information available on upcoming Planning reform in Queensland, see here:

<http://www.dsdp.qld.gov.au/about-planning/planning-reform.html>

²⁷ In relation to the new Act, the Government has said: "The purpose of the new legislation will be to enable development.

We need to drive a major transformation of the state's planning system and culture from its current approach, which is actually stifling development" (http://www.lgnews.com.au/new-laws-needed-to-deliver-queensland-planning-reform/#.UuH_4P1-Vg). In 2013, EDO Qld, a member of the planning forum for the new Act, wrote to the Deputy Premier asking for public consultation to occur. The Premier declined, saying there would be no community consultation process, only industry-led discussion. Despite the Queensland Government holding up SPA as a beacon of ESD implementation in the DCZPR and the DCSAR, the Deputy Premier said "there were fundamental flaws with the process-driven planning system." A copy of EDO's letter is [here](#) and the Deputy Premier's letter in reply is [here](#).

²⁸ *Transport Infrastructure Act 1994* (Qld) section 2(2)(e).

²⁹ State Planning Policy, page 4 <http://www.dsdp.qld.gov.au/resources/policy/state-planning/state-planning-policy.pdf>

³⁰ *Sustainable Planning Act 2009* (Qld) s 22(b) and s 5

³¹ <http://www.edo.org.au/edoqld/wp-content/uploads/2013/12/2013-09-13-FINAL-EDO-submission-on-NCOLA-No.2.pdf>

³² See also DCSAR at pages 306 and 307 which (very loosely) describes the way in which "the Queensland Government Program achieves the principles of ESD."

³³ SKM Review at page 8 states: "It is not clear how the principles of ESD are applied in the program" and "The precautionary principle is noted as being enshrined in [SPA] further explanation would be helpful on how it is applied."

³⁴ See for example, allowing sand mining to continue on North Stradbroke Island until 2035 without any public consultation or right of review or appeal: <http://www.abc.net.au/news/2013-10-30/parliamentary-committee-weighs-economy-and-ecology/5058758>. EDO Qld made a submission and attended a parliamentary inquiry, submitting that it was an undemocratic approach to side-stepping legislative protections: <http://www.parliament.qld.gov.au/documents/committees/AREC/2013/16-NorthStradrokeIsland/submissions/123-EDOOLD.pdf>

³⁵ Coordinator General's EIS report on Queensland Curtis LNG Project at pages 93-94. Available at: <http://www.dsdp.qld.gov.au/resources/project/queensland-curtis-liquefied-natural-gas-project/queensland-curtis-lng-project-cg-report.pdf>

³⁶ By the *Vegetation Management Framework Amendment Act 2013* No. 24. Most provisions commenced on 2 December 2013 and others on 23 May 2013.

³⁷ *Vegetation Management Act 1999* (Qld) section 22A(2B)(b), section 20ANA and the Schedule (Dictionary). The new definition of 'regrowth watercourse area' means an area located within 50m of a watercourse located in the Burdekin, Mackay Whitsunday or Wet Tropics catchments identified on the vegetation management watercourse map.

³⁸ See, for instance, the analysis of vegetation management framework changes by Taylor, M.F.J. 2013. *Bushland at risk of renewed clearing in Queensland*. WWF-Australia, Sydney. Available at:

http://awsassets.wwf.org.au/downloads/f1012_bushland_at_risk_of_renewed_clearing_in_queensland_9may13.pdf

³⁹ DCZPR Page 6: "ending broad scale clearing in 2006 has halted the decline in threatened species habitat and was a landmark reform that will have long-lasting positive impacts for threatened species."

⁴⁰ If any of these activities comply with a code, then a permit is not required merely 'notification' of the clearing to the relevant department.

⁴¹ Andrew Cripps, Minister for Natural Resources and Mines second reading speech on Vegetation Management Framework Amendment Bill 2013 at 769: <http://www.parliament.qld.gov.au/documents/tableOffice/BillMaterial/130320/vegetation.pdf>

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⁴² SKM Review, page 21

⁴³ See the *Land, Water and Other Legislation Amendment Act 2013* (Qld).

⁴⁴ DCZPR, page 7.

⁴⁵ Taylor, M.F.J. 2013. *Bushland at risk of renewed clearing in Queensland*. WWF-Australia, Sydney.

⁴⁶ SKM Review, page 18.

⁴⁷ See 'relevant purposes' for clearing in Vegetation Management Act 1999 (Qld) section 22A.

⁴⁸ <http://www.dsdip.qld.gov.au/resources/policy/sdap/sdap-module-8.pdf>

⁴⁹ The package comprised of a new Chapter 4A Environmental Protection Act 1994 (EPA) and amendments to the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* and its Regulation of 1999. For further discussion of the amendments, see here: Juliette King, Frances Alexander, Jon Brodie, 'Regulation of Pesticides in Australia: The Great Barrier Reef as a case study for evaluating effectiveness' (2013) 180 *Agriculture, Ecosystems and Environment* 54 at 58.

⁵⁰ As EHP outlines: "under the BMP system, industry is responsible for benchmarking the performance of its producers.":

<http://www.qld.gov.au/environment/agriculture/sustainable-farming/reef-legislation/>

⁵¹ See for example, the Queensland Environment Minister's media statement 19 November 2012, available here:

<http://statements.qld.gov.au/Statement/2012/11/19/newman-government-working-with-canegrowers-to-protect-the-great-barrier-reef>

⁵² For details on the changes, see EDO Qld's submission, available here: <http://www.edo.org.au/edoqld/wp-content/uploads/2013/12/2013-09-13-FINAL-EDO-submission-on-NCOLA-No.2.pdf>

⁵³ DCZPR page 46.

⁵⁴ *Nature Conservation Act 1994* (Qld), sections 173R – 173S.

⁵⁵ Targeted consultation undertaken by EHP in 2013 on a draft marked 'confidential and not government policy'.

⁵⁶ The Qld Govt is seeking accreditation of its approval laws under the EPBC Act, which if granted would allow Qld to assess and approve actions on land and in Qld state waters that have significant impacts on the Great Barrier Reef (currently such approval rests with the Commonwealth Government). The Qld Govt is seeking the Commonwealth to accredit the policy (once it is finalised) for use in approving developments impacting the GBR. This means that Qld will be able to approve significant impacts on protected areas using offset ratios for protected areas.

⁵⁷ See quote from national parks minister: "We're doing a full scientific review of 12.5 million hectares of land and that process will be taking the appropriate period of time, because we're talking about a lot of land right throughout Queensland." From article here: <http://www.abc.net.au/news/2013-05-02/qld-government-urged-to-convert-land-into-national-park/4665148>.

Additionally, see here: "Mr Dickson said the former Labor Government locked up huge tracts of land in a tokenistic bid to reach a percentage target which had nothing to do with land quality."

<http://statements.qld.gov.au/Statement/2013/6/2/national-park-estate-review-to-strengthen-quality-land-protections>

⁵⁸ DCZPR 3.3, page 34, page 46.

⁵⁹ See *Nature Conservation Act 1994* (Qld) section 27

⁶⁰ DCZPR p.46

⁶¹ (for example in August 2013, Queensland approved a huge open cut coal mine over the Bimblebox nature reserve. For details on the state approval under Queensland legislation, see here: <http://www.dsdip.qld.gov.au/assessments-and-approvals/galilee-coal-project.html> For information on the nature refuge set to be destroyed, see here: <http://www.abc.net.au/news/2013-12-23/bimblebox-nature-reserve/5172742>

⁶² DCZPR 3.3, page 34. However we note that since March 2012, there have been minimal changes to the protected area estate in Queensland (an increase of about 0.03% land area of Queensland).

⁶³ Source: NPAQ

⁶⁴ "The protected area estate is described as being the 'cornerstone of protection for MNES' (page 229 of the DCSAR). However, the environmental benefits of protected areas are partly dependent upon the scale and effectiveness of management activities, including fire management, pest management, patrols to achieve compliance with legislation and adapting management to the results of natural resource monitoring. There is little context provided on the magnitude of management activities within protected areas, and no assessment of the adequacy of existing management activities in achieving the benefits or outcomes assumed by the establishment of protected areas." (SKM page 16)

⁶⁵ "It is recommended that the Assessment Report include data on ... the number, total area (ha) and % total area of the Great Barrier Reef Coastal Zone gazetted as National Parks, Nature Refuges, State Forests and other land use tenures in conservation areas... This would provide greater confidence in the report's assessments, underpin a more informed view of the adequacy of the various land use tenures, and better inform the assessment of future condition and trend." SKM Review, page 19.

⁶⁶ The SKM Review has not raised how several categories [IUCN categories] of parks were removed in favour of new 'regional parks' with increasing tourism and recreation (rather than conservation) focus. They also did not mention the July 2013 allowance of emergency grazing in national parks and on National Reserve System properties (national parks in waiting) they also fail to mention the Qld Govt has commissioned a review of national parks dedicated since 2002 which has the potential to result in the removal of many thousands of hectares for other uses such as recreation, mining, development and grazing.

⁶⁷ MR 4

⁶⁸ MR 8.

⁶⁹ Williams B., "State Government plans to allow logging in areas earmarked for national parks," *The Courier Mail*, February 27, 2013, available here: <http://www.couriermail.com.au/news/queensland/the-state-government-plans-to-allow-logging-in-areas-earmarked-for-national-parks/story-e6freoof-1226586385161>

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⁷⁰ SPA s 3.

⁷¹ The SPP is arranged around 16 separate 'State Interests', the most relevant of which are: Biodiversity; Healthy Waters; and Coastal Protection.

⁷² The Coastal SPRP came into effect on 26 April 2013. It was not materially different to the *draft Coastal SPRP* dated 8 October 2012 referred to in the EDO advice dated 24 January 2013. We note that the Coastal State Planning Regulatory Provision ('Coastal SPRP') effectively replaced the earlier Coastal SPP (SPP 3/11: Coastal Protection) whilst the new SPP was being drafted. An analysis of the Coastal SPRP and the older Coastal SPP was included in our correspondence to you dated 10 June 2013 and is not included in the current analysis.

⁷³ We note that general statements will be given less weight than more specific statements in resolving policy intent when a planning scheme or development application is under consideration.

⁷⁴ In accordance with the National Assessment Guidelines for Dredging, SDAP Module 10, PO4.

⁷⁵ SDAP Module 10, Performance Outcome 13. <http://www.dsdip.qld.gov.au/resources/policy/sdap/sdap-module-10.pdf>

⁷⁶ SDAP module 10, AO 4.

⁷⁷ SDAP Module 10, PO2.

⁷⁸ Compared with the prior "SPP 3/11 Coastal Protection".

⁷⁹ SPP Part 5, page 53. For example, PO1 provides "development cannot be carried out in a wetland in a wetland protection area, *unless there are no feasible alternatives*" (emphasis added).

⁸⁰ In respect of wildlife, MSES covers 'threatened wildlife' and 'special least concern animal': SPP, page 64

⁸¹ In the Far North Queensland Regional Plan, State Planning Regulatory Provisions that constrained urban development outside the urban footprint were repealed on 26 October 2012. For the Wide Bay Burnett Regional Plan, at the southern-most reach of the GBR, the State Planning Regulatory Provisions that constrained urban development outside the urban footprint were allowed to lapse on 16 May 2012. For the Mackay, Isaac and Whitsunday Regional Plan, the State Planning Regulatory Provisions that constrained urban development outside the urban footprint were allowed to lapse on 11 July 2012. See, Department of State Development, Infrastructure and Planning, Queensland Government, *Regional Planning* <<http://www.dsdip.qld.gov.au/regional-planning/>>.

⁸² The Draft Cape York Regional Plan for public consultation is available here: <http://www.dsdip.qld.gov.au/regional-planning/cape-york-regional-plan.html> alongside the Draft Strategy for Delivering Water Resource Management in Cape York. The new Central Queensland Regional Plan was approved and took effect in October 2013.

⁸³ *Waste Reduction and Recycling and Other Legislation Amendment Act 2013* amended the *Coastal Protection and Management Act 1995* (Qld) section 123.

⁸⁴ The changes also introduce the power for self-assessable IDAS codes to be made under the *Coastal Protection and Management Act 1995* (Qld), see section 167.

⁸⁵ See DCZPR 3-35 to 3-40

⁸⁶ The proposed '*Planning for Queensland's Development Act 2014*' will repeal and replace the existing planning legislation, SPA. It is expected that the new planning legislation will remove ESD as the objects of the Act.

⁸⁷ WHC5

⁸⁸ MR 5(2)

⁸⁹ WHC Decision: 35 COM 7B.10: available at: <http://whc.unesco.org/en/decisions/4418>

⁹⁰ MR 8.

⁹¹ For detailed project information: <http://www.dsdip.qld.gov.au/aquic>

⁹² For detailed project information: <http://www.dsdip.qld.gov.au/assessments-and-approvals/cairns-shipping-development-project.html>

⁹³ For detailed project information: <http://www.dsdip.qld.gov.au/capricorn-integrated-resort>

⁹⁴ For detailed project information: <http://www.dsdip.qld.gov.au/assessments-and-approvals/dudgeon-point-coal-terminals-project.html>

⁹⁵ For detailed project information: <http://www.dsdip.qld.gov.au/assessments-and-approvals/fitzroy-terminal-project.html>

⁹⁶ For detailed project information: <http://www.dsdip.qld.gov.au/assessments-and-approvals/townsville-port-expansion.html>

⁹⁷ See Part 5A of the SDPWO Act.

⁹⁸ <http://www.dsdip.qld.gov.au/infrastructure-delivery/list-of-prescribed-and-critical-infrastructure-projects.html>. This is separate to the 'Coordinated Project' declaration which occurs when a major project is first proposed so the Coordinator-General can oversee the environmental assessment process.

⁹⁹ It must be noted that two of the prescribed projects are set to be some of the biggest coal mines ever seen in Australia (Alpha and Kevin's Corner) with production to begin in 2015/16. Whilst these mines and several others occur inland from the reef zone they are still within the GBR catchments and the coal will be shipped to Abbot Point on the Great Barrier Reef. Notably, the Wiggins Island Coal Export Terminal (Gladstone) has also recently been declared a prescribed project so development can be fast tracked.

¹⁰⁰ <http://www.dsdip.qld.gov.au/infrastructure-delivery/list-of-prescribed-and-critical-infrastructure-projects.html>

¹⁰¹ Reference required.

¹⁰² SDPWOA, section 29(1), amended by the *Economic Development Act 2012* (Qld) No 43.

¹⁰³ SDPWO Act, section 27AD.

¹⁰⁴ For further details on these projects: <http://www.dsdip.qld.gov.au/assessments-and-approvals/completed-eis-projects.html>

¹⁰⁵ DSDIP, "The region's wild river declarations are to be formally revoked by the Department of Environment and Heritage Protection with commencement of the final regional plan." Available here: <http://www.dsdip.qld.gov.au/regional-planning/cape-york-regional-plan.html>

¹⁰⁶ Revocation Proposal Notice under the *Wild Rivers Act 2005* (Qld) section 32, for the Lockhart, Archer, Stewart and Wenlock Basins Wild River Declarations, available here: <http://www.ehp.qld.gov.au/wildrivers/pdf/cape-york-wild-river-revocation-proposal-notice.pdf>

¹⁰⁷ The Cape York Regional Plan identifies the of the Lockhart basin as a ‘Strategic Environmental Area.’ New legislation before Parliament (Regional Interests Planning Bill) will require resource proponents to satisfy ‘co-existence criteria’ in order to undertake resource activities in the Lockhart Strategic Environmental Area. The co-existence criteria is not publically available, however it is expected it will require the impacts of the resource activity to not have ‘widespread and irreversible impacts’ on the values of the area. This is a high level of environmental harm and is a higher level than the definition of “serious environmental harm” under section 17 EP Act.

¹⁰⁸ The Stewart Basin wild river area is not mapped in the Draft Cape York Regional Plan as a Strategic Environmental Area, and therefore the new Regional Planning Interests Bill will have no application.

¹⁰⁹ For example, consideration of relevant SDAP provisions for assessment of activities in wild river areas, and any additional layer of protection afforded to wild rivers by virtue of their status as MSES.

¹¹⁰ SKM Review p.22

¹¹¹ See section 3 of this advice detailing the changes to the *Water Act 2000* (Qld).

¹¹² MR9.

¹¹³ This was also noted in the SKM Review, see for example pages 16 and 25.

¹¹⁴ See for example, the DCZPR: “There is no...regionally based cumulative impact assessment. The Australian and Queensland governments will work together to develop guidelines for proponents assessing cumulative impacts for EPBC Act approvals, including those that impact on the GBRWHA.” (para 4.2.3, page 4-65)

¹¹⁵ Under an approval bilateral agreement t (cross reference to Cth issues)

¹¹⁶ See for example, 3-37. In fact, the example given of Port Hay land use plan suggests that a “desired” environmental outcome is the potential cumulative impacts are simply measured for future port expansion – ‘cumulative’ is considered in context of the local area, not on the cumulative impacts on the Reef.

¹¹⁷ DCZPR 4-58

¹¹⁸ DCZPR 5-74

¹¹⁹ (para 3.5, page 3-37)

¹²⁰ These concerns have been addressed elsewhere, see for example a submission by the Australian Network of Environmental Defenders Offices (ANEDO) on the Queensland assessment bilateral agreement, available here:

<http://www.environment.gov.au/submissions/bilateral-agreements/qld/queensland-environmental-defenders-office.pdf>

¹²¹ Four Corners, 1 April 2013, transcript available here: <http://www.abc.net.au/4corners/stories/2013/04/01/3725150.htm>

¹²² Qld-Cth MOU, available here: <http://www.environment.gov.au/system/files/pages/71679b88-a037-420d-966f-1f5b7047ea83/files/onestopshop-mou-qld.pdf>

¹²³ Quote from EHP representative at IUCN briefing, 6 December 2013.

¹²⁴ WHC 2, WHC 37COM 7B.10, MR 2

¹²⁵ For example, the draft offsets policy does not adopt the Commonwealth's Significant Impact Guidelines, it does not require environmental/ecological equivalence for offsets, it allows for offsets for impacts that are significant enough to warrant offsets in the “protected area estate” (e.g. national parks, nature refuges and allowing a 1:10 ratio), it fails to provide any scientific basis for a maximum capped ratio of 1:4 (protected areas have a higher ratio) - which is obviously inflexible for species that require a higher ratio, it allows for offsets in protected areas including areas already set aside for offsets. Once an area has been gazetted as an offset area (e.g. as a nature refuge or area of high conservation value), that protection can be removed to allow development on that area and a further offset imposed and it allows for staged offsets where impacts of the entire project are unknown.

¹²⁶ SKM Review, page 19

¹²⁷ Select examples from the Australian State of Environment 2011 Report: Around 70% native mammals live in Qld (page 602); Qld last place in terms of management effectiveness compared with other jurisdictions, with only 20%, ACT has 99% (page 653); Qld is close second for most threatened species – 345 out of 1449. (page 654); Threatened species in Qld are generally on the increase (page. 595); Of Qld Frog species, 5 are extinct, 6 vulnerable, 15 endangered, 3 critically endangered, which are the highest numbers in Australia (page 220); Geographical distribution of all terrestrial species listed as threatened under EPBC Act – highest numbers occur down east coast, which includes is in GBR catchments/ coastal zone (page 593); Declines in the state of regional ecosystems is continuing. (page 585).

¹²⁸ NCA Amendment Bill 2013 (No.2) (Qld)

¹²⁹ For a more detailed analysis of these proposed changes, see EDO Qld’s submission, available here: <http://www.edo.org.au/edoqld/news/protected-plant-changes-december-2013/>

¹³⁰ EHP’s Flora Survey Trigger Map available here: <http://www.ehp.qld.gov.au/licences-permits/plants-animals/documents/flora-survey-trigger-map.pdf>

¹³¹ Review of the Protected Plants Legislative Framework under the Nature Conservation Act 1992 Decision Regulatory Impact Statement at page 9. <http://www.ehp.qld.gov.au/licences-permits/plants-animals/documents/decision-ris-plants.pdf>

¹³² DCZPR (referring to the DCSAR) at page 58.

¹³³ WHC7, See also WHC 37COM 7B.10 6(c).

¹³⁴ A Coordinated Projects map, showing all past and current Coordinated Projects on the GBR coastline, see here: <http://www.dsdp.qld.gov.au/assessments-and-approvals/coordinated-projects-map.html>

¹³⁵ SDPWO Act, section 27AD.

¹³⁶ For further commentary, see for example: <http://theconversation.com/scales-of-justice-tipping-against-the-community-in-queensland-10171>

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- ¹³⁷ <http://www.theaustralian.com.au/news/latest-news/qld-community-legal-aid-funding-slashed/story-fn3dxiwe-1226418183026> and more recently: <http://www.theguardian.com/environment/2013/dec/18/coalition-cuts-all-government-funding-to-environmental-legal-aid-centres>
- ¹³⁸ See an 'early' discussion paper on mining reform (at pages 6-8): <http://mines.industry.qld.gov.au/assets/mines-pdf/alluvial-mining-discussion-paper.pdf>
- ¹³⁹ Currently before a Parliamentary Committee of State Development, Infrastructure and Industry Committee: <http://www.parliament.qld.gov.au/work-of-committees/committees/SDIIC/inquiries/current-inquiries/14-RegPlanInterests>
- ¹⁴⁰ EDO Qld and EDO NQ's joint submission available here: <http://www.parliament.qld.gov.au/documents/committees/SDIIC/2013/14-RegPlanInterests/submissions/057.pdf>
- ¹⁴¹ Two recent examples are the Stradbroke Island mining bill and the Regional Planning Interests Bill.
- ¹⁴² DCZPR page 46: "Management plans or statements for each park, including any new protected areas, outline their management. The public is invited to provide input whenever a plan or statement is being prepared."
- ¹⁴³ DCZPR page 38: "This [Coordinated Project EIS process] includes managing a comprehensive environmental impact assessment process which provides a rigorous assessment including public participation, resulting in strict conditions to manage and mitigate environmental impacts."
- ¹⁴⁴ See for example, declared 'prescribed projects' (fast-tracked development) in last 12 months including Alpha and Kevin's Corner coal mines, which will be some of the biggest coal mines in the world. <http://www.dsdip.qld.gov.au/infrastructure-delivery/list-of-prescribed-and-critical-infrastructure-projects.html> Coal mines and gas development are driving the push for port expansion on the GBR coastline.
- ¹⁴⁵ See DNRM's Interactive Map for current extraction and exploration permits: <https://webgis.dme.qld.gov.au/webgis/webqmin/viewer.htm> There are significant coal mines and many deposits in the GBR catchment already, see for instance, Abbott Point: http://mines.industry.qld.gov.au/assets/coal-pdf/cen_qld_coal_map_10.pdf
- ¹⁴⁶ For example, in late 2013 the Queensland Government released the Galilee Basin Development Strategy, which the Govt stated is to "help open up the Galilee Basin to mining" and "reinforces the government's commitment to implementing easier approvals and less red tape for mining proponents". Available here: <http://www.dsdip.qld.gov.au/resources/plan/galilee-basin-strategy.pdf>.
- ¹⁴⁷ <http://www.abc.net.au/news/2012-10-22/qld-government-lifts-uranium-mining-ban/4326912>
- ¹⁴⁸ <http://www.abc.net.au/news/2013-04-22/potential-uranium-port-sparks-fears-for-barrier-reef/4643832>
- ¹⁴⁹ DCZPR, page 32.
- ¹⁵⁰ In November 2013, the Queensland Government expanded the coal mine water release pilot to include all mines in the Fitzroy Basin. This will enable all mines with legacy water issues to deal with those problems over the 2013-14 wet season"
- ¹⁵¹ See comparison of the Environmental Authority under the EP Act held by the Goonyella Riverside Mine as at 14 August 2012, conditions W12 W31 and as amended in November 2012, conditions W12 W36-38. Department of Environment and Heritage Protection, *Goonyella Riverside & Broadmeadow Environmental Authority Comparison* (November 2012) <<http://www.ehp.qld.gov.au/land/mining/pdf/ea-comparison-goonyella.pdf>>.
- ¹⁵² Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012
- ¹⁵³ *EP Act* s 357C.
- ¹⁵⁴ *EP Act* s 467.
- ¹⁵⁵ *EP Act* s 357A.
- ¹⁵⁶ In granting a TEL, the EHP must 'have regard' to, among other things, 'the likelihood of environmental harm', human 'health safety or wellbeing', and the 'public interest' *EP Act* s 357D(e)-(h). These are appropriate considerations. However, while for most decisions under the EP Act the 'standard criteria', including the principles of ecological sustainable development are relevant criteria, this is not so for TELs. *EP Act* s 357. In granting a TEL, the EP Act makes relevant 'the potential economic impact of granting or not granting the licence.' *EP Act* s 357D (b). This should not be included as one of the criteria listed in EP Act s. 357D at all, as it goes against encouragement of industry best practice standards.
- ¹⁵⁷ Prior to TEL amendments to the EP Act, assuming EHP emergency powers were not used, Angel Fish's application would have been assessed against, amongst other criteria, the standard criteria under the EP Act. EHP would have had at least 20 business days to consider the application and make a decision.
- ¹⁵⁸ Passing reference is made to the growth of mining and gas: DCSAR page 160, "With growth in the mining and coal seam gas industry, there has been an increase in proposals to expand Queensland's long established major trading ports and to establish new trading ports"; and also at page 164 DCSAR.
- ¹⁵⁹ EPBC Act, Part 10 Div 1 (section 146).
- ¹⁶⁰ For a list of other strategic assessments under section 146 EPBC Act, see here: <http://www.environment.gov.au/topics/environment-protection/environment-assessments/strategic-assessments>
- ¹⁶¹ DCZPR at page 18.
- ¹⁶² It may be that a section 146 EPBC Act Strategic Assessment agreement was needed to simply manage the process with the Qld State Government – if so, this should be made clear.
- ¹⁶³ MR 7.
- ¹⁶⁴ WHC 8
- ¹⁶⁵ MR 5(10)
- ¹⁶⁶ See for instance, EHP's 2012-2013 Annual Report at page 9: <http://www.ehp.qld.gov.au/about/corporatedocs/pdf/annualreport-2012-13.pdf>
- ¹⁶⁷ See EHP's regulatory strategy (2013): <http://www.ehp.qld.gov.au/management/planning-guidelines/policies/pdf/regulatory-strategy.pdf>

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¹⁶⁸ See the recent case of *DERM v envirosolve*: <http://www.couriermail.com.au/news/queensland/envirosolve-directors-robert-williams-and-jason-williams-should-be-jailed-for-failing-to-pay-340000-fines-court-hears/story-e6freoof-1226128113955>. Ironically, with a few exceptions the largest and biggest resource companies, which receive a large chunk of the regulator's attention have the resources to employ highly skilled environmental specialists to ensure compliance with their operating conditions.

¹⁶⁹ Many long term (expert) environmental staff 'voluntarily' left the Queensland Government to work for industry in 2012. A large portion of those 'took voluntary redundancies'. Figures at the time put total job losses close to 14,000 people across Queensland's public service. In the environmental arena, changes of departments make figures difficult to quantify but as at September 2012, approximately 220 staff were said to be cut from EHP, 130 from DNPRSR and 360 from the Department of Natural Resources and Mines. Brisbane Times, *Job Cuts by Portfolio* (11 September 2012)

<<http://www.brisbanetimes.com.au/queensland/list-job-cuts-by-portfolio-20120911-25px8.html>>.

¹⁷⁰ <http://www.brisbanetimes.com.au/queensland/environment-minister-defends-redundancies-20131023-2w1v3.html>

¹⁷¹ We note that other groups who had their funding cut in 2014 were the Public Interest Advocacy Centre and the National Aboriginal and Torres Strait Islander Legal Services.

¹⁷² EDO Qld made a submission and appeared before a parliamentary committee on these cost changes at the time they were proposed arguing it was clearly not in the public interest: <http://www.parliament.qld.gov.au/work-of-committees/committees/SDIIC/inquiries/past-inquiries/05-Sustainable-Planning>

¹⁷³ For more information on Queensland Government's approach to reducing red tape (20% less regulation by 2018):

<http://www.treasury.qld.gov.au/office/services/regulatory-reform/reducing-the-regulatory-burden.shtml>

¹⁷⁴ Recent examples of de-regulation impacting on the environment include: Protected Plants changes to make it easier to trade in and harvest protected plants; Removal of corporate liability penalties for environmental crimes; Total overhaul of the EP Act to speed up mining and gas approvals and remove regulation for small miners; Removal of 'onerous' vegetation clearing offence provisions and introducing new purposes for clearing vegetation ('high value agriculture' and 'necessary environmental clearing'); Reducing major project EIS time frames from 24 months to 18 months; and removing the requirement for National Park Management Plans to be publicly advertised.

¹⁷⁵ See for instance Regional Planning Interests Bill 2013 and our submission available here: . See also MQRA paper – envisaging much of the detail in regulations not the Act itself. EDO Qld has called the Government out on producing mere 'skeleton acts' without clear environmental protections, public appeal rights, public rights to access information and important decision making criteria.

¹⁷⁶ Department of Environment and Heritage Protection, *Annual Report 2011-2012* page 19. Available at:

<https://www.ehp.qld.gov.au/about/corporatedocs/pdf/annualreport-2011-12.pdf>

¹⁷⁷ Department of Environment and Heritage Protection, *Annual Report 2012-2013* at page 23. Available at:

<http://www.ehp.qld.gov.au/about/corporatedocs/annual-report.html>

¹⁷⁸ See for instance February 2013 presentation by Acting director of enforcement at EHP, Kelli Ready available at:

<http://www.wriq.com.au/wp-content/uploads/2013/01/EHP-WRIQ-Presentation-Enforcement-Feb-5-2013.pdf>

¹⁷⁹ See bulletins here: <http://www.ehp.qld.gov.au/management/planning-guidelines/prosecution-bulletins.html>

¹⁸⁰ See for instance the report of the former Department of Environment and Resource Management (DERM) in 2011:

<http://nprsr.qld.gov.au/about/pdf/annual-report-derm-10-11.pdf> at pages 196 - 197

¹⁸¹ <http://www.abc.net.au/radionational/programs/breakfast/oil-spill/4747030>

¹⁸² <http://www.theaustralian.com.au/news/investigations/clive-palmers-toxic-dam-at-risk-of-overflow/story-fnk76wj3-1226755314529#mm-premium>

¹⁸³ <http://www.abc.net.au/am/content/2013/s3923908.htm>

¹⁸⁴ <http://mines.industry.qld.gov.au/mining/uranium.htm>

¹⁸⁵ Queensland Government, An action plan to recommence uranium mining in Queensland – Delivering a best practice framework: <http://mines.industry.qld.gov.au/assets/Uranium-mining/uranium-action-plan.pdf> at page 1.

¹⁸⁶ <http://www.aurora.org.au/Content/DepositsQld.aspx>

¹⁸⁷ <http://www.abc.net.au/news/2013-04-22/potential-uranium-port-sparks-fears-for-barrier-reef/4643832>

¹⁸⁸ EPBC Act, Part 3.

¹⁸⁹ Queensland Department of Natural Resources and Mines, "Action plan to recommence uranium mining in Queensland", available here: <http://mines.industry.qld.gov.au/mining/uranium.htm>

¹⁹⁰ *Mineral Resources Act 1989* (Qld) (MRA) and the EP Act. In addition, a wide range of associated activities can be authorised under the MRA (power lines, accommodation, loading facilities, roads etc). The MRA was passed in 1989 and has operated predominately in respect of the administration of coal, nickel, bauxite and other 'minerals' which pose a far less complex threat to human and environmental health than uranium.

¹⁹¹ See small scale alluvial discussion paper <http://mines.industry.qld.gov.au/mining/775.htm> Pages 6-8.

¹⁹² See section 15 of this advice on Enforcement and Compliance, including the issues with under-resourcing and the new enforcement and compliance approach.

¹⁹³ See for example, the recent (and highly controversial) extension of sand mining on North Stradbroke Island, next to a Ramsar wetland. The Government's approach of attaching operating conditions to a law itself was unprecedented and denied community rights of review including statutory judicial review rights.

¹⁹⁴ <http://www.world-nuclear.org/info/Country-Profiles/Countries-A-F/Appendices/Australia-s-U-deposits-and-Prospective-Mines/>

¹⁹⁵ <http://www.world-nuclear.org/info/Country-Profiles/Countries-A-F/Appendices/Australia-s-U-deposits-and-Prospective-Mines/>

¹⁹⁶ <http://www.radionz.co.nz/news/world/133412/uranium-exports-mooted-across-great-barrier-reef>

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¹⁹⁷ <http://www.abc.net.au/news/2013-04-22/potential-uranium-port-sparks-fears-for-barrier-reef/4643832>

¹⁹⁸ MR 8.

¹⁹⁹ The Abbot Point Terminal 0, 2 & 3 Capital Dredging proposal (EPBC 2011/6213); the Abbot Point Coal Terminal 0 proposal (EPBC 2011/6194); the Arrow Gas Transmission Pipeline, Gladstone to Curtis Island (EPBC 2009/5008); and the Arrow LNG Facility, Curtis Island, Gladstone (EPBC 2009/5007).

²⁰⁰ For a detailed analysis of the Commonwealth's international obligations with respect to climate change and its effects on the GBR, see the report prepared by the Sydney Centre for International and Global Law, Faculty of Law, University of Sydney, "Global Climate Change and the Great Barrier Reef: Australia's Obligations under the World Heritage Convention", 21 February 2004, available here:

http://d3n8a8pro7vhm.cloudfront.net/edonsw/pages/329/attachments/original/1380678132/EDO_NSW_Submissions3.pdf

²⁰¹ EPBC Act, section 47.

²⁰² The Australian Network of Environmental Defenders Offices made a detailed submission on the assessment bilateral agreement, available here: <http://www.environment.gov.au/node/34993>

²⁰³ Queensland Bilateral Assessment Agreement, clause 12.4.

²⁰⁴ By virtue of EPBC Act, section 49(1A).

²⁰⁵ Recommendation 4.2 of the "Action plan to recommence uranium mining in Queensland", available here:

<http://mines.industry.qld.gov.au/assets/Uranium-mining/uranium-action-plan.pdf>

²⁰⁶ EPBC Act, section 46. A section 45(3) EPBC Act 'notice of intent' to develop a draft approval bilateral agreement was signed by the Commonwealth Minister for the Environment on 29 October 2013, available here:

<http://www.environment.gov.au/system/files/pages/b44206bc-d8e5-450b-a05e-4d7c26d8afa1/files/noi-draft-bilateral-agreement-qld-env-approval.pdf>

²⁰⁷ Qld-Cth MOU, available here: <http://www.environment.gov.au/system/files/pages/71679b88-a037-420d-966f-1f5b7047ea83/files/onestopshop-mou-qld.pdf>

²⁰⁸ EPBC Act, section 49(1A).

²⁰⁹ Environment Legislation Amendment Bill 2013. In addition to increasing penalties for offences relating to turtles and dugongs, the Bill also allows an 'approved conservation advice,' a mandatory requirement to be considered in various decisions in the EPBC Act, to effectively be ignored for decisions made prior to 31 December 2013 (not considering an approved conservation advice will not be available as a ground for judicial review for all decisions prior to 31 December 2013). It is relevant only to any decisions made prior to 31 December 2013 in which judicial review was still available. It does not have prospective application.

²¹⁰ For more detailed information, see a submission prepared by the Australian Network of Environmental Defenders Officers, available here (Submission 12):

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Environment_Legislation_Amendment_Bill_2013/Submissions

²¹¹ We note that to have practical success, the Bill will need to be complemented by other measures, for example, practical enforcement measures to catch and prosecute offenders, together with community education about the importance of these species and the need to protect them. We further note that the Bill does not increase penalties for offences and contraventions relating to other listed threatened, migratory or marine species under the EPBC Act or other protected species under the GBRMP Act. The increase in penalties should apply to all threatened species protected by the EPBC Act and the GBRMP Act. For more detailed information, see a submission prepared by the Australian Network of Environmental Defenders Officers, available here (Submission 12):

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Environment_Legislation_Amendment_Bill_2013/Submissions

²¹² *Environment Protection and Biodiversity Conservation Act 1999* (Cth) or 'EPBC Act (Cth)'

²¹³ See WWF Submission 29 prepared by lawyer Jo Bragg, available here:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed_inquiries/2010-13/greatbarrierreef2013/submissions

²¹⁴ *Environment Protection and Biodiversity Conservation Amendment (Great Barrier Reef) Bill 2013* (Cth)

http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s915

²¹⁵ For example see <http://www.environment.gov.au/heritage/places/world/great-barrier-reef/pubs/outstanding-values-factsheet.pdf>

²¹⁶ <http://www.environment.gov.au/epbc/publications/pubs/gbr-interim-guidelines.pdf>

²¹⁷ *Environment Protection and Biodiversity Conservation Amendment (Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Act 2012* (Cth)

²¹⁸ EPBC Act, section 29 and 46.



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