



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,
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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TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
1 Context	5
2 Status of Great Barrier Reef World Heritage Area	6
3 Scorecard on implementation of World Heritage Committee and mission recommendations	8
3.1 Methodology	8
3.2 Commentary on implementation of recommendations	8
4 Recommended immediate actions	23
5 References	24
APPENDICES	24
1: World Heritage Committee decision 35 COM 7B.10	25
2.: World Heritage Committee decision 36 COM 7B.8	26
3: Recommendations of Mission Report, Reactive Monitoring Mission to Great Barrier Reef (Australia), 6th to 14th March 2012.	27
4: Environmental Defenders Office Queensland. Legislative Protection of the Great Barrier Reef World Heritage Area, Australia.	30

EXECUTIVE SUMMARY

In June 2011 UNESCO's World Heritage Committee 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. Following an UNESCO/IUCN reactive monitoring 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".

The Committee requested the Australian government to address eight detailed recommendations and a further 14 from the mission, and to report on progress with the recommendations by 1 February, 2013. The Committee also noted that, "in the absence of substantial progress, the possible inscription of the property on the List of World Heritage in Danger".

This report provides a third-party summary assessment of the progress made by the Australian and Queensland governments in addressing the World Heritage Committee and mission's recommendations. The following scorecard has been prepared to communicate the results of this analysis.

WORLD HERITAGE COMMITTEE RECOMMENDATIONS	GRADE AUST GOV	GRADE QLD GOV
POLLUTION FROM CATCHMENTS Maintain and increase funding for Reef Water Quality Protection Plan beyond 2013.		
PORTS No new port developments outside existing major ports; no new development impacting on World Heritage values of the Reef.		
PLAN FOR A SUSTAINABLE FUTURE Complete a Strategic Assessment of the Reef and use this to develop by early 2015 a long-term plan for a sustainable future of the GBR World Heritage Area.		
PROTECTING WORLD HERITAGE VALUES Identify, benchmark, protect and regularly report on the World Heritage values of the Reef.		
INVESTMENT AND MANAGEMENT TARGETS Sustain and increase action and investment to protect the Reef, develop and adopt clearly defined and scientific conservation targets, and ensure future development contributes positively to Reef health.		
GLADSTONE HARBOUR Undertake an independent review of the management arrangements for Gladstone Harbour.		
SHIPPING Improve shipping management to ensure no impacts on World Heritage values of the Reef.		
 Good progress or completed  Some concerns  Major concern, either no or insignificant progress, or actions contrary to recommendations		

EXECUTIVE SUMMARY (continued)

During 2012 a number of important scientific and technical reports have been released that provide updated understanding of the status of the Great Barrier Reef World Heritage Area and present and future threats. These reports emphasise an alarming decline in the Reef's coral cover, continuing serious concerns about the status of key inshore habitats and species, and significant loss and degradation of coastal ecosystems critical to the health of the Reef.

Compounding these symptoms of an ecosystem in trouble is an unprecedented expansion along the Great Barrier Reef coastline of coastal ports and industrial development accompanied by a projected near doubling in shipping, major coastal reclamation works, and massive seabed dredging and dredge spoil disposal – all either immediately adjacent to, or within the World Heritage Area.

To assure the Australian and international communities that these threats and issues confronting the Reef are being taken seriously, WWF Australia and the Australian Marine Conservation Society recommend the following immediate measures should be implemented prior to the next World Heritage Committee meeting in June 2013 in Phnom Penh, Cambodia.

1. Commitment by the Australian government to a renewed Reef Rescue program with an initial investment of at least \$500 million over the next 7 years (to 2020).
2. A policy of no new major ports along the Great Barrier Reef World Heritage Area coastline for at least the next 25 years (2012–2037).
3. A joint Queensland/Australian Government review to:
 - a) Recommend actions needed to accommodate projected additional export demand by more fully utilising existing port infrastructure.
 - b) Quantify economic, social and environmental cost-benefits of consolidating development at existing ports, rather than greenfield development.
 - c) Report prior to the completion of the Strategic Assessment and implementation of agreed program reforms.
4. A moratorium on all development proposals in existing Great Barrier Reef port areas until completion of the Strategic Assessment and implementation of agreed program reforms.
5. Establishment of an independent review of the management arrangements for Gladstone Harbour.
6. The Australian government to:
 - a) Not devolve or delegate environmental approval powers for actions likely to have significant impacts on the Great Barrier Reef World Heritage Area or Matters of National Environmental Significance.
 - b) Not fast-track assessment processes for actions likely to have a significant impact on the Great Barrier Reef World Heritage Area.
 - c) Determine that any proposed action likely to have a significant impact on the Great Barrier Reef World Heritage Area will require assessment under the Federal EPBC Act, instead of in the manner specified in Schedule 1 of the Assessment Bilateral ^[1] with the Queensland government.
7. The Queensland Government to:
 - a) Ensure any further legislative reforms prior to the completion of the Strategic Assessment include a robust environmental analysis showing that the new laws will not allow development that would impact individually or cumulatively on the Outstanding Universal Value of the Great Barrier Reef World Heritage Area.
 - b) Analyse all legislative reforms that have occurred since April 2012 for their likely impacts on the Great Barrier Reef World Heritage Area's Outstanding Universal Value and amend to address any identified deficiencies.

[1] An Agreement between the Commonwealth and the State of Queensland under Section 45 of the *Environmental Protection and Biodiversity Conservation Act 1999* relating to environmental assessment as amended 14 June 2012, <http://www.environment.gov.au/epbc/assessments/bilateral/pubs/qld-bilateral-agreement-june-2012.pdf>

1. CONTEXT

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 1, 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 has requested the Australian government to address eight detailed recommendations and a further 14 from the mission (see section 3.2).

In January 2012 the Australian government prepared a State Party report for the consideration of the World Heritage Committee in response to decision 35 COM 7B.10. In June 2012 the Committee requested the Australian government to submit, "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;" (WHC 2012, Appendix 2).

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 World Heritage Committee and mission's recommendations (see Appendix 3). Its purpose is to provide a third party analysis of progress, or otherwise in implementing the actions requested by the World Heritage Committee and mission. To support this analysis the Environmental Defenders Office Queensland (EDO Qld)² has provided preliminary legal advice on the consequences for Reef protection of the many recent changes, and some proposed changes, to Queensland legislation by the new Queensland State government and proposed Federal government changes (see Appendix 4).

Both WWF and 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 Australian Marine Conservation Society 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 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.
- Great Barrier Reef Ports Strategy 2012–2022.
- 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.

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>.

² Environmental Defenders Office (Qld) Inc. (EDO Qld) is a non-profit, non-government community legal centre. For over 20 years, EDO Qld has helped people understand and access their legal rights to protect the environment in the public interest.

2. STATUS OF GREAT BARRIER REEF WORLD HERITAGE AREA

This section provides a brief update on key issues for the Great Barrier Reef World Heritage Area following on from the findings of the 2009 Outlook Report (Great Barrier Reef Marine Park Authority, 2009).

During 2012 a number of important reports have been released that provide updated understanding of the status of the World Heritage Area and present and future threats. These include:

- Australian Institute of Marine Science (AIMS) led report on 27-year decline of coral cover on the Great Barrier Reef and its causes (De'ath et al, 2012).
- Draft report from an international expert workshop on crown-of-thorns starfish (COTS) outbreaks (Doherty, 2012).
- GBRMPA Biodiversity Strategy (Great Barrier Reef Marine Park Authority, 2012a).
- GBRMPA Coastal Ecosystems Report (Great Barrier Reef Marine Park Authority, 2012b).
- Australian Transport Safety Bureau (ATSB), Safety issue investigation into Queensland Coastal Pilotage (ATSB, 2012).
- Queensland government Great Barrier Reef Ports Strategy Economic Analysis (DSDIP, 2012).
- Reef Protection Package Impact Statement – 2012 (DERM, 2012)

In summary, these reports highlight the following matters of serious concern.

Coral cover decline. De'ath et al (2012) have analysed the results of surveys undertaken by AIMS of 214 reefs over the period 1985–2012. A major finding of this analysis is that there has been “a major decline in coral cover from 28.0% to 13.8% ($0.53\%y^{-1}$), a loss of 50.7% of initial coral cover. Tropical cyclones, coral predation by crown-of-thorns starfish (COTS)”, and coral bleaching accounted for 48%, 42%, and 10% of the respective estimated losses”.

The authors note, “the relatively pristine northern region showed no overall decline. The estimated rate of increase in coral cover in the absence of cyclones, COTS, and bleaching was $2.85\%y^{-1}$, demonstrating substantial capacity for recovery of reefs. In the absence of COTS, coral cover would increase at $0.89\%y^{-1}$, despite ongoing losses due to cyclones and bleaching. Thus, reducing COTS populations, by improving water quality and developing alternative control measures, could prevent further coral decline and improve the outlook for the Great Barrier Reef” (De'ath et al, 2012).

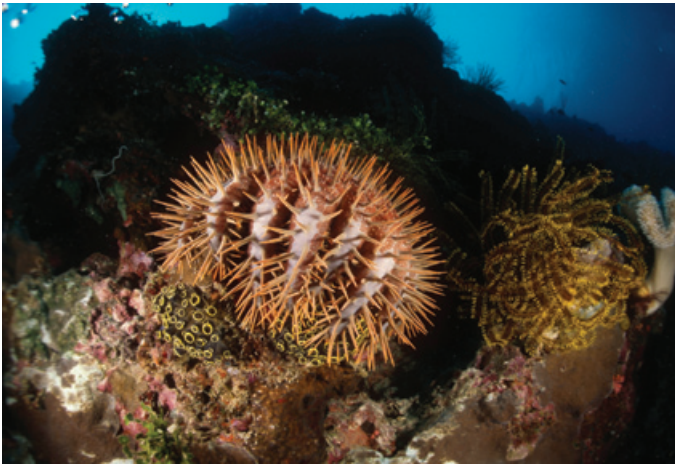
The report's authors also state, “this study shows that more decisive measures to improve water quality are needed, which specifically target COTS larval survival in the high-risk central region where population outbreaks originate. The recent reemergence of COTS outbreaks in that region adds to the urgency to evaluate additional scientific solutions to controlling COTS populations”.

Inshore biodiversity. The draft Great Barrier Reef Biodiversity Conservation Strategy 2012 prepared by GBRMPA highlights serious concerns about the status of key inshore habitats and species including seagrass meadows, inshore dolphins, dugongs, marine turtles and sawfish. The Strategy notes, “A significant majority of the identified at-risk habitats and species in this draft Strategy occur in inshore areas. The vulnerability assessments have identified overwhelming evidence indicating that inshore habitats and species are being impacted by a range of threats including declining water quality due to catchment run-off, loss of habitat due to coastal and port development, some remaining impacts of fishing and climate change. While there have been large-scale projects to better understand biodiversity and habitats of the Great Barrier Reef and significant programs addressing aspects of water quality and specific inshore species, there is an urgent need for a systematic approach to addressing the cumulative impacts on inshore biodiversity” (Great Barrier Reef Marine Park Authority, 2012a).

Coastal ecosystems. In 2012 the GBRMPA released a technical report, *Informing the Outlook for Great Barrier Reef coastal ecosystems* “as the first step toward assessing the coastal ecosystems at various geographic scales and understanding their importance for maintaining the health and resilience of the World Heritage Area” (Great Barrier Reef Marine Park Authority, 2012b).

The report notes, “Great Barrier Reef coastal ecosystems (coastal ecosystems) in and adjacent to the Great Barrier Reef are the critical habitats that connect the land and sea. Healthy coastal ecosystems are critical for the long term health of the reef. ... These coastal ecosystems provide the interconnections that support the physical, biological and biogeochemical process that underpin the ecosystem health of the Great Barrier Reef World Heritage (the World Heritage Area). ...

“The Report has identified a gradient in the differences in loss or modification of coastal ecosystems as one travels from south to north in the Great Barrier Reef catchment. Significantly more coastal ecosystems have been lost or modified in the Burnett Mary, Fitzroy and Mackay Whitsunday regions compared to the Cape York, Wet Tropics or Burdekin Dry Tropics regions. Finer (basin) scale assessments have revealed the pressures on coastal ecosystems is greatest in the coastal zone and in areas within close proximity to the coast with increasing numbers of urban areas and its supporting infrastructure such as roads, rail and ports”.



Crown-of-thorns Starfish, Great Barrier Reef.
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Crown-of-thorns Starfish. There have been three well-documented outbreaks of COTS in the Great Barrier Reef since the 1960s (1966–74, 1979–91, 1994–present). Outbreaks occur three to five years after wet years in the Burdekin and Wet Tropics regions. “Outbreaks are observed first between Cairns and Lizard Island. This is the only place in the GBR where terrestrial run-off floods the shelf after major cyclones. In addition, the trapped waters above Cooktown receive external nutrients from oceanic sources” (Doherty, 2012). Recovery periods for coral reefs following COTS outbreaks are up to 20 years.

The AIMS monitoring indicates that parts of the Great Barrier Reef are currently experiencing continuous chronic levels of COTS infestations <http://data.aims.gov.au/waCOTSPage/cotspage.jsp>. Reports from marine tourist operators and the AIMS long term monitoring program for COTS indicate that a major build-up of COTS began in 2011 in the reefs near Lizard Island following the very wet 2008/09 years.

Water quality. The implementation of the joint Australian-Queensland governments’ Reef Water Quality Protection Plan is monitored by annual Report Cards which describe the on-ground changes to farm practices and model the likely reduction in pollution reaching the Great Barrier Reef. However, there have been numerous delays to these Report Cards, and only the first one has been published in August of 2011. This report only described the 2009 baseline for farm practices and water quality and showed that large numbers of areas under agricultural production were undertaking polluting practices. The next, long overdue report card will only cover actions up to June 2010; it was scheduled to be published in early 2012.

Thus, there is no evidence to show what the effect has been of significant government investment and on-ground actions. There is no data on progress towards the 2013 targets. There is no information comparing the relative effectiveness of targeted incentive payments versus broad scale regulation of minimum standards; nor information on the recent decision

to place regulatory enforcement on hold. With the Reef Plan about to be renewed it is essential to have information on what interventions have been the most successful and so should be the major focus for future investment.

Due to the delay in Report Cards the previous Queensland government issued an Impact Statement for the regulation of the minimum standard in February 2012. It showed that the regulations had achieved a 14% reduction in cane farm nitrogen run-off – the key pollutant damaging the Reef (DERM, 2012). However, the new Queensland Government has placed enforcement of regulations on hold and these gains may be lost.

Ports and shipping. In 2010–11 the total commercial vessel (ship) calls to Great Barrier Reef ports was 4146, while the maximum number of annual calls between 2001 and 2011 was 4487. Depending on the growth in exports, in particular coal, this is predicted to rise to 6100 by 2022 at a 6 per cent per annum growth rate for exports, or 4641 at historical trends in export growth of 3 per cent per annum. The Great Barrier Reef Ports Strategy Economic Analysis (DSDIP, 2012a) notes that, “Some of the available evidence indicates that some of the ports in the GBR region are operating at 45 per cent to 60 per cent capacity. There are possibilities to optimise the capacity utilisation which, with some improvements and proposed expansions, could meet increasing demand for port services (calls)”.

The Australian Transport Safety Bureau investigation into safety issues for Queensland coastal pilotage highlights critical issues around training, passage and safety management planning, fatigue management and incident reporting (ATSB, 2012). A total of 82 licensed coastal pilots were available in 2011; since then 18 have either left or retired. ATSB also noted limited risk event and incident reporting, and that, “collision risk events between piloted ships occurred about once a month”, and that, “the number of grounding or collision risk events was about 10 times the number of reports of such events” (ATSB, 2012).






Coal ship, Great Barrier Reef. © PETER ASQUITH.

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

3.1 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.

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.



3.2 Commentary on implementation of recommendations





The following table includes the recommendations from the World Heritage Committee's 2012 decision 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. 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.
- 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 2013/2014.
- 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:</p> <p>The Reef Water Quality Protection Plan 2009 (Reef Plan) is a joint initiative of the Australian and Queensland governments; whilst each government has responsibility for certain actions the overall development and monitoring of the plan is a joint responsibility. Much of this joint governance has appeared to be well-intentioned, with strong pollution abatement targets set in 2009 for a 50% cut in nutrient pollution by 2013.</p> <p>However the availability of information on outcomes has been disappointing. Despite Reef Plan being in its fifth (and final) year there have been no annual Report Cards published showing outcomes (see water quality section above in section 2). This lack of data makes the effective review and renewal of Reef Plan very challenging even though the new plan needs to be operational by 2014 (with an extension of Reef Rescue (see below) operational by July 2013). Currently insufficient targets have been set post 2013 to prioritise actions and investment; nor is there modelling of improved agricultural practices to show what level of pollution reductions would be achieved.</p> <p>Australian Government response:</p> <p>Reef Rescue is a five year \$200 million program which forms the funding basis for on-farm actions in the Reef Water Quality Protection Plan. The launch of the program and its then relatively significant funding raised expectations, secured important industry support and the engagement of thousands of producers. However, it ends in June 2013. There has been no announcement from the Australian government about maintaining the funding, let alone increasing it.</p> <p>The AIMS coral cover decline paper clearly shows that reducing pollution, and fertiliser in particular, is the key action that can be taken to improve Reef health. This is a powerful argument that the Australian Government must significantly increase funding for Reef Rescue if it really wishes to protect the Outstanding Universal Value of the World Heritage Area.</p> <p>Queensland Government response:</p> <p>The recently elected (March 2012) Queensland government has announced continued annual funding at current levels of \$35 million per annum until 2020. This is a significant commitment to continuation of many important programs; particularly given there has been no matching commitment yet from the Australian government.</p> <p>However, the government has decided not to enforce regulations which require minimum standards for pollution control from key agricultural areas in the Reef's catchments. While the regulations still remain in law, the State is prioritizing voluntary industry 'best management' approaches which are unlikely to be adopted at the same whole-of-catchment scale as the regulations. There is also concern standards of performance will not be as high. Modelling showed that the pollution regulations had already achieved a 14% reduction in the key pollutant, nitrogen; gains which may now be lost.</p> <p>The new voluntary best management practice guidelines will not be operational until 2014. Thus, it is highly unlikely that Reef Plan targets to reduce pesticide and fertiliser pollution by 50% by 2013 will be met.</p> <p>Overall, it cannot be considered that substantial progress has been made and in fact since the mission visit actions to improve water quality have been reduced and deferred.</p>		



#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR1	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>See WHC3 above.</p> <p>Australian Government response:</p> <p>Australian government has made no public commitment to continue or increase its investment in Reef Plan or to take into account other major sources of pollution in the catchment including mining and urban and industrial development.</p> <p>New research from James Cook University indicates that coal dust is dispersed far more widely in the marine environment than previously expected and potentially could affect water quality in the Great Barrier Reef World Heritage Area (Burns & Brinkman, 2011).</p> <p>Queensland Government response:</p> <p>The release of contaminated water in Great Barrier Reef catchments is made easier by Queensland State government amendments to the <i>Environmental Protection Act 1994</i> ('EPAct'), which commenced on 11 December 2012. New Temporary Emission Licences ('TELS') may be applied for and must be decided within 24 hours EP Act, s 357C. See Appendix 4, section 3.1 for more details.</p> <p>A pilot pollution trading system for four mines in the Fitzroy catchment includes a lessening of water quality standards for receiving waters and removes accountability for the mine operator to respond to the annual review of the Water Management Plan (see Appendix 4, section 3.1 for more details). Already the mines have utilised this system for water releases during rainfall events in January 2013. Unfortunately little is known in terms of standards to be met or how the credits might work and therefore the effectiveness of the yet to be designed 'credits' in such a scheme to offset this new pollution.</p>		
WHC5	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>Australian government response:</p> <p>On 4 October 2012 the Australia government approved the new T3 terminal within the World Heritage boundaries at Abbot Point. The Minister's approval cites a number of negative impacts that the development is likely to have on the Reef's Outstanding Universal Value (OUV); the Minister's approval is also subject to 59 conditions including the preparation of a number of management plans and a management and monitoring framework to mitigate the likely impacts. The decision documents can be viewed at: http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=4468</p> <p>Recent development assessment documents, including those for the Abbot Point T3 development and the North Queensland Bulk Ports Public Environment Report for capital dredging associated with the T3 and other development proposals, have not benchmarked their assessment to the retrospective statement of OUV for the Great Barrier Reef World Heritage Area; these recent assessments relate to Matters of National Environmental Significance and World Heritage values under the EPBC Act.</p> <p>In addition a number of applications are being progressed through the EPBC Act processes. Benchmarking of the retrospective 1981 statement of OUV for the World Heritage Area is part of the Strategic Assessment; until this is completed, it will be difficult for any assessment to take into account adequately the OUV for the property.</p>		






#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
		<p>Queensland government response:</p> <p>There is no requirement under Queensland State legislation or subordinate legislation that ensures that terrestrial development is not permitted if it would impact individually or cumulatively on the Outstanding Universal Value, or World Heritage Value of the property. (The only Queensland land use and planning legislation that even refers to OUV is the <i>Wet Tropics World Heritage Protection and Management Act 1993</i> (Qld) which pertains to the Wet Tropics World Heritage Area, not to the Great Barrier Reef.)</p> <p>The draft Queensland Great Barrier Reef Ports Strategy 2012–2022 was released for comment in October 2012. The Strategy proposes preventing “significant” development outside existing Port boundaries only until 2022.</p> <p>www.dsdp.qld.gov.au/resources/plan/great-barrier-reef-ports-strategy.pdf</p> <p>Queensland Deputy Premier’s media release announcing the draft Ports Strategy gave support to development “at several locations such as Balaclava Island and Port Alma in the Port of Gladstone”. This is likely to include the Sea Hill project at North Curtis Island.</p> <p>It is unclear whether the Strategy will prevent construction of the Wongai barge-loaded port on Cape York.</p> <p>In recent years a number of the major Great Barrier Reef ports have extended their boundaries considerably and include areas of significant habitat that contribute to the OUV of the World Heritage Area. There should be a rationalisation of existing port boundaries to exclude these significant sites.</p> <p>In November 2012 the Queensland government released a policy proposed to be made under the <i>Sustainable Planning Act 2009</i> (Qld) contrary to this recommendation. The Proposed State Interests Part 1 of the State Planning Policy November 2012 (‘draft Single State Planning Policy’) is incompatible with this World Heritage Committee recommendation as there is no requirement to constrain new ports to existing port areas. See Appendix 4, section 2.8 for further details.</p> <p>On 21st December 2012 the previous proposal for a multi-cargo facility at Abbot Point was formally withdrawn from the EPBC assessment process.</p> <p>However, on the same date, the Queensland Government called for expressions of interest in building a new terminal at Abbot Point known as ‘AP-X’. The project includes a rail loop, a coal stockpile area, a tug harbour, a 4km rock groyne, at least four ship berths, significant dredging and possible land reclamation.</p> <p>www.dsdp.qld.gov.au/infrastructure-and-planning/abbot-point-expansion-project.html</p>		





#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
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.	<p>Australian government response:</p> <p>On 4 October 2012 the Australia government approved the new T3 terminal within the World Heritage Area boundaries at Abbot Point. The Minister's approval cites a number of negative impacts that the development is likely to have on the Great Barrier Reef's Outstanding Universal Value (OUV); the Minister's approval is also subject to 59 conditions including the preparation of a number of management plans and a management and monitoring framework to mitigate the likely impacts. The decision documents can be viewed at: http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=4468</p> <p>Queensland government response:</p> <p>General coastal development is regulated under the <i>Sustainable Planning Act 2009</i> (Qld). ('<i>Planning Act</i>'), the main law governing land use planning and development assessment in Queensland. The purpose of that law is to "seek to achieve ecological sustainability" s 3 <i>Planning Act</i>, which approximates to the concept of ecologically sustainable development.</p> <p>Key policies made under the Planning Act pertaining to the coast give weak protection to coastal values and to areas of 'high ecological significance'. The <i>Draft Coastal Protection State Planning Regulatory Provision Protecting the Coastal Environment</i> ('Coastal SPRP') came into effect on 8 October 2012 under the Planning Act. It will operate for 12 months unless repealed earlier. The Queensland government's explanation of this Coastal SPRP is that the application of the prior SPP policies was "not sufficiently supportive of the Government's commitment to grow the four pillars of Queensland's economy." (Coastal SPRP 5). See Appendix 4, section 2.2.</p> <p>Land use and development in ports is regulated by the <i>Transport Infrastructure Act 1954</i> (Qld). The main legislation regulating State Development Areas, often adjacent to ports, is the <i>State Development and Public Works Organisation Act</i></p>		





#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
		<p>1971. (Qld) ('SD Act'). These Acts do not protect OUV, nor even oblige all the principles of ESD to be applied in the decision-making pertaining to land use and development.</p> <p>Irrespective of the land use regulation, for many industrial activities and activities that might cause contamination on the coast, an environmental authority is required from the Department of Environment and Heritage Protection ('DEHP') under the <i>Environmental Protection Act 1994</i> (Qld) ('EP Act'); examples includes for dredging, for abrasive blasting, and for chemical production. The purpose of this legislation is 'ecologically sustainable development' EP Act s 3. The character, resilience and values of the receiving environment is one of many standard criteria relevant to deciding environmental authorities EP Act s73A (b) (i) sch 4. However DEHP rarely refuses projects, but usually approves them with conditions even if the projects are in sensitive locations. DEHP loses its decision-making powers as a concurrence agency under the EP Act if the project is declared to be a 'coordinated project' (previous to recent amendments a significant project) under SD Act, s 26. The project may undergo an 'environmental impact statement' SD Act, s26, however the Coordinator General, not DEHP has the power to impose key environmental conditions, SD Act, s 35 37. As the Coordinator General ('CG') makes those decisions under the SD Act, the CG need not apply the principles of ESD nor has any obligation to protect OUV of the property SD Act, s 35.</p> <p>The ban on uranium mining in Queensland was lifted in early November 2012. The Queensland Premier indicated that he expected that the uranium will be exported through one of the Great Barrier Reef ports; Townsville and Abbot Point have been suggested as options.</p>		
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>Australian government response:</p> <p>At its April 2012 meeting, the Council of Australian Governments (COAG) signalled its intent to develop a process for accreditation of state and territory government to conduct approvals under the EPBC Act, i.e. effectively handing over approval powers for Matters of National Environmental Significance (MNES), including Great Barrier Reef relevant projects, and major projects, to the states and territories. This prompted strong expressions of concern from the environmental sector who saw the proposal to hand over approval powers to the states and territories as a significant backwards step. At the December COAG meeting it was not clear what course of action the Federal government intended to take, with some media outlets indicating that Canberra would retain approval powers. Clarity is needed on their position.</p> <p>In October 2012 preliminary cumulative impact assessment (CIA) reports were released for three proposed Abbot Point port developments. Submissions identified a range of weaknesses and limitations of the CIA while acknowledging value of the approach; also this model is voluntary, and not a legally binding process.</p> <p>In January 2013, the Public Environment Report for capital dredging to support development of three terminals at Abbot Point was released for public comment; this is prior to the finalisation of the CIA as well as findings of GBRMPA-led Strategic Assessment project assessing the impacts of dredging.</p> <p>None of these documents have benchmarked their assessments to the 1981 statement of OUV for the Great Barrier Reef World Heritage Area.</p>		






#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
	<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>Queensland government response:</p> <p>The Queensland government proposes to reduce the number of State referral agencies to a single agency in the Department of State Development, Infrastructure and Planning ('DSDIP'). This would remove Queensland Department of Environment and Heritage Protection's ('DEHP's) decision-making powers to reject or condition certain development applications under the Planning Act. DEHP's powers then would be advisory only to DSDIP. See Appendix 4, section 2.7 for more details.</p> <p>Additionally, the Queensland government also proposes to reduce the 13 Queensland State Planning Policies made under the Planning Act, for example on coastal matters, and including the Temporary State Planning Policy 2/12 Planning for Prosperity ('Temporary SPP') made on 24 August 2012 to a single State Planning Policy. In November 2012 the Queensland government commenced public consultation on the Proposed State Interests Part 1 of the State Planning Policy draft for consultation ('draft Single State Planning Policy').</p> <p>The draft Single State Planning Policy includes ten elements of State interest, including four on industry and economic growth and one on Environment and Heritage. There is no mention of the Great Barrier Reef or climate change anywhere in the document. The ten policy elements conflict, and in many cases the ecological policies under Environment and Heritage are more generally worded compared to the economic elements. See Appendix 4, section 2.8 for more details.</p>		
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>	<p>Australian and Queensland governments response:</p> <p>A range of development approvals are being progressed by both the Australian and Queensland governments with new proposals being announced regularly by the Queensland government. Examples include:</p> <ul style="list-style-type: none"> - T3 terminal at Abbot Pt. already approved with conditions; EIS was missing crucial information about migratory bird values. - In December 2012 the Australian government approved Queensland's biggest-ever tourism development, the \$1.4 billion integrated tourism and residential community at Ella Bay, near Innisfail in the state's far north. It is located in ecologically important coastal ecosystems and adjacent to both the Wet Tropics and Great Barrier Reef World Heritage Areas. - Shute Harbour (Whitsunday region) development lease due for renewal by 26 Feb 2013 (Qld Govt. decision). Supplementary EIS in draft form, expected to be released early 2013. - Cairns Shipping Development Project. On 25 September 2012, the Queensland Government declared the project as a "significant project for which an Environmental Impact Statement (EIS) is required", following the submission of an Initial Advice Statement. The Queensland Coordinator-General is managing the State's assessment process; Terms of Reference are available at: www.dsdiq.qld.gov.au/assessments-and-approvals/cairns-shipping-development-project. 		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
		<p>The project was declared a “controlled action” on 5 October 2012 and will therefore require the preparation of an EIS that addresses Australian government guidelines.</p> <ul style="list-style-type: none"> – Public Environment Report for capital dredging to support development of three terminals at Abbot Point released for comment in January 2013. – Arrow Energy’s proposal for a fourth CSG LNG processing facility at Gladstone. 		
WHC6	<p>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 ... 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>Australian and Queensland governments response:</p> <p>Two Strategic Assessments (SAs) are underway; the GBRMPA-led Great Barrier Reef Region SA and Qld government-led coastal zone SA. Both draft SAs are expected to be released for public comment in March 2013.</p> <p>Draft Terms of Reference (TOR) for both Strategic Assessments were released for public comment. A number of issues were raised in submissions some of which were addressed in the final TORs. There was delay in releasing the final TORs which has meant a tightening of the schedule for the preparation of the SAs.</p> <p>The Great Barrier Reef World Heritage Area Comprehensive Strategic Assessment Technical Framework document (provided to Queensland’s Stakeholder Reference Group of which WWF is a member) details the methodology being used for both assessments. The approach appears robust and will be supported by 12 demonstration cases to provide finer detail on the programs’ effectiveness.</p> <p>There have been limited opportunities for input in the scoping and preparation of the SAs; in part this is due to the quite restricted time-frames for their preparation. GBRMPA has organised a series of regional consultative workshops.</p> <p>Australian government response:</p> <p>The Australian government and GBRMPA are allocating significant resources to the preparation of the SA.</p> <p>Queensland government response:</p> <p>The matters to be covered by the Queensland government-led SA are relatively narrow in focus in terms of the scale of the problem.</p> <p>The Queensland government resources for preparation of their SA are quite limited.</p> <p>Note: This assessment is based only on progress with the SA. Little information is available on the work program for the development of the proposed long-term plan. Until the Strategic Assessments are completed it is difficult to gauge how well this recommendation will be addressed.</p>		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR5	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 39 th 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.	See WHC6.		
WHC7	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>Australian government response:</p> <p>Work is underway as part of the GBRMPA-led SA; limited briefings provided to stakeholders.</p> <p>GBRMPA is including an assessment of OUV in scoping for the Great Barrier Reef Outlook Report due in 2014.</p> <p>Queensland government response:</p> <p>While the Queensland coastal zone SA is to include, if required, recommendations to “(c) change the state’s processes for declaring, planning and deciding development including how certain types of development or activity may be specifically prohibited to avoid impacts on MNES, including OUV” (DSDIP, 2012b), the Queensland government has undertaken, and is proposing, a range of regulatory changes that are contrary to this requirement of the Qld SA Terms of Reference (see Appendix 4).</p>		
MR6	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 39 th session in 2015.	<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

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR9	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>See WHC 7.</p> <p>Australian government response:</p> <p>Work underway by GBRMPA though limited documentation available as yet; information included in briefings of GBRMPA Reef Advisory Committees.</p> <p>Queensland government response:</p> <p>While the Queensland coastal zone SA is to include, if required, recommendations to “(c) change the state’s processes for declaring, planning and deciding development including how certain types of development or activity may be specifically prohibited to avoid impacts on MNES, including OUV” (DSDIP, 2012b), the Queensland government has undertaken, and is proposing, a range of regulatory changes that are contrary to this requirement of the Queensland SA Terms of Reference (see Appendix 4).</p>		
WHC8	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>Australian and Queensland governments response:</p> <p>The Great Barrier Reef Ministerial Forum met in December 2012. Resourcing for joint field management and adoption of conservation targets were discussed and agreed. However there are concerns over long term budgets as the Queensland government is considering withdrawing from joint field management funding arrangements from 2013/14. The 1012/13 Federal budget includes a forward estimate commitment of approximately \$28M per annum for GBRMPA to 2015/16.</p> <p>The Forum’s communique states:</p> <p><i>Joint Field Management Program</i></p> <p><i>The joint Field Management Program plans and executes field operations in the Commonwealth and State marine parks and on island national parks within the Great Barrier Reef World Heritage Area. It aims to maintain well-functioning marine and island ecosystems, through the delivery of practical on-ground actions.</i></p> <p><i>Under the Intergovernmental Agreement, funding for field management is shared between the two governments on a 50:50 basis. The Australian and Queensland governments have confirmed their ongoing commitment to support joint field management activities.</i></p> <p><i>In addition to the core funding, both governments have confirmed their commitment to replacing the program’s aging major long distance monitoring and compliance vessel.</i></p> <p>Conservation targets</p> <p><i>Ministers agreed the Australian and Queensland governments would jointly develop an outcomes-based framework to provide a systematic process for continual improvement to the Great Barrier Reef World Heritage Area to include targets to be monitored, reported and adapted over time.</i></p>		



#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
		<p><i>This framework will initially identify agreed outcomes, targets and activities that contribute to protecting the Outstanding Universal Value of the property and identify gaps and trends where new outcomes and targets may direct future management efforts.</i></p> <p><i>Progress on this task will be reported to the next Forum in 2013.</i></p> <p>Communique from the forum is at:</p> <p>www.environment.gov.au/coasts/gbr/agreement.html#communiques</p> <p>Both the Australian and Queensland government refer to net benefit as an outcome for the Great Barrier Reef World Heritage Area , but no detail is available as to how this will be achieved.</p>		
MR10	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.	See WHC8.		
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.		

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
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>There has been no announcement on the recommended independent review. The Australian government is considering options.</p> <p>Queensland government response:</p> <p>The Queensland government is establishing the Healthy Gladstone Harbour Partnership to focus on collaborative monitoring and management. Limited resources (\$250K) are available in the first year for the establishment and work of an Independent Science Panel.</p> <p>www.ehp.qld.gov.au/gladstone/healthy-harbour/index.html</p> <p>In September 2012 the Queensland government announced plans to duplicate the main shipping channel at Gladstone which will involve 12million m³ of dredging. It has been declared a 'Significant Project' and a controlled action under the EPBC Act. EIS process is about to begin.</p>		
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>Proposed review is being considered by the Australian government; however no reference to the review is made in the December 2012 Great Barrier Reef Ministerial Forum communique.</p> <p>The GBRMPA-led SA includes an assessment of the effectiveness of management similar to that included in the 2009 Outlook Report.</p>		N/A



Hay Point, one of the Queensland ports to be further developed. © GREENPEACE/PATRICK HAMILTON.

ADDITIONAL MISSION RECOMMENDATIONS (continued)

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR13	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>Australian government response:</p> <p>North East Shipping Plan underway; limited detail on scope of work is available publicly. Work is being led by Australian Maritime Safety Authority with relevant Queensland and industry agencies involved. There has been delay in finalising the international consultancy on risk assessment.</p> <p>The October 2012 report of the Australian Transport Safety Bureau (ATSB 2012) highlighted serious safety issues in the coastal pilot service and included recommendations for management changes. To date there has been no response from the Australian government to the final ATSB recommendations although the Australian Maritime Safety Authority initiated a range of improvements following the preliminary ATSB report.</p> <p>Queensland government response:</p> <p>The Queensland government released its draft Great Barrier Reef Ports Strategy supported by an Economic Analysis DSDIP (2012a) which estimates that a number of Great Barrier Reef ports are operating at around 50% capacity. Both reports emphasise economic efficiencies that could be gained by utilizing existing facilities more efficiently. This in turn would limit port expansion and so reduce impacts on the World Heritage Area.</p>		

ADDITIONAL MISSION RECOMMENDATIONS (continued)

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
MR15	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 <i>Operational Guidelines</i> 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 39 th 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>Australian government response:</p> <p>Australian government has reviewed and updated their reporting requirements.</p>		N/A



Sediment plumes, Gladstone Harbour. © SIAN BREEN.

The following World Heritage Committee and mission recommendations have not been scored as they are either covered by other recommendations or not relevant to the matters analysed or the time-frame of this report.

#	RECOMMENDATION	ANALYSIS OF RELEVANT ACTIVITIES IN ADDRESSING RECOMMENDATIONS	GRADE AUST GOVT	GRADE QLD GOVT
WHC4	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;	See comments against individual recommendations.		
WHC8	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 37 th 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 ;	Australian and Queensland governments response: Discussions to date indicate that Australian and Queensland governments' response will consist of a report on work-in-progress.		
MR14	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.	Some opportunities exist that allow World Heritage Area property managers to share experience. GBRMPA advising Belize government on their World Heritage Area coral reef site.		

4. RECOMMENDED IMMEDIATE ACTIONS

Given the dramatic decline in coral cover, the emergence of another significant outbreak in Crown-of-thorns Starfish, and the escalating pressures on the Great Barrier Reef World Heritage Area from coastal development, increasing coal and gas exports and climate change, significant additional urgent action is required to genuinely demonstrate “substantial progress” prior to the World Heritage Committee deciding whether or not the Great Barrier Reef should be placed on the List of World Heritage In Danger.

Reducing pollution loads entering the World Heritage Area and so improving water quality has been identified by a range of experts as the key action that can be taken to reverse the decline in Reef coral cover. The only comparable Australian government program to restore a broadscale ecosystem is the Murray-Darling Basin which has funding of \$12 billion http://www.afr.com/p/national/burke_satisfied_bn_will_restore_LeJ5bcOtYOWrlGYW49cWOL.

Immediate measures that should be implemented prior to the next World Heritage Committee meeting in June 2013 in Phnom Penh, Cambodia are:

1. Commitment by the Australian government to a renewed Reef Rescue program with an initial investment of at least \$500 million over the next 7 years (to 2020).
2. A policy of no new major ports along the Great Barrier Reef World Heritage Area coastline for at least the next 25 years (2012–2037).
3. A joint Queensland/Australian government review to:
 - a) Recommend actions needed to accommodate projected additional export demand by more fully utilising existing port infrastructure.
 - b) Quantify economic, social and environmental cost-benefits of consolidating development at existing ports, rather than greenfield development.
 - c) Report prior to the completion of the Strategic Assessment and implementation of agreed program reforms.
4. A moratorium on all development proposals in existing Great Barrier Reef port areas until completion of the Strategic Assessment and implementation of agreed program reforms.
5. Establishment of an independent review of the management arrangements for Gladstone Harbour.
6. The Australian government to:
 - a) Not devolve or delegate environmental approval powers for actions likely to have significant impacts on the Great Barrier Reef World Heritage Area or Matters of National Environmental Significance.
 - b) Not fast-track assessment processes for actions likely to have a significant impact on the Great Barrier Reef World Heritage Area.
 - c) Determine that any proposed action likely to have a significant impact on the Great Barrier Reef World Heritage Area will require assessment under the Federal EPBC Act, instead of in the manner specified in Schedule 1 of the Assessment Bilateral^[1] with the Queensland government.
7. The Queensland Government to:
 - a) Ensure any further legislative reforms prior to the completion of the Strategic Assessment include a robust environmental analysis showing that the new laws will not allow development that would impact individually or cumulatively on the Outstanding Universal Value of the Great Barrier Reef World Heritage Area.
 - b) Analyse all legislative reforms that have occurred since April 2012 for their likely impacts on the Great Barrier Reef World Heritage Area's Outstanding Universal Value and amend to address any identified deficiencies.

[1] An Agreement between the Commonwealth and the State of Queensland under Section 45 of the *Environmental Protection and Biodiversity Conservation Act 1999* relating to environmental assessment as amended 14 June 2012, <http://www.environment.gov.au/epbc/assessments/bilateral/pubs/qld-bilateral-agreement-june-2012.pdf>

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WHC 2011. World Heritage Committee Decision: 35 COM 7B.10. Great Barrier Reef (Australia) (N 154).

WHC 2012. World Heritage Committee Decision: 36 COM 7B.8. Great Barrier Reef (Australia) (N 154).

APPENDICES

1. World Heritage Committee decision 35 COM 7B.10
2. World Heritage Committee decision 36 COM 7B.8
3. Recommendations of Mission Report, Reactive Monitoring Mission to Great Barrier Reef (Australia), 6th to 14th March 2012.
4. Environmental Defenders Office Queensland. Legislative Protection of the Great Barrier Reef World Heritage Area, Australia.

Appendix 1.

Paris, UNESCO Headquarters

Meeting dates – 19-29 June 2011
Final World Heritage Committee Decision on the
Great Barrier Reef World Heritage Area

Excerpt from paper WHC-11/35.COM/20 titled 'DECISIONS ADOPTED BY THE
WORLD HERITAGE COMMITTEE AT ITS 35th SESSION (Paris, 7 July 2011)
– available on the website <http://whc.unesco.org/archive/2011/whc11-35com-20e.pdf>

The following wording is found in section '7B. Reports on the State of conservation of properties inscribed on the World Heritage List' on pp. 55–56 of the above paper:

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.

Appendix 2.

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;
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.

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:
- a) 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;
 - b) Address the current and future planning and management of the Port of Gladstone and development of Curtis Island;
 - c) 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;
 - d) Provide lessons learned for the development and operation of other port areas within and adjacent to the property;
 - e) 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 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;

Appendix 3. (continued)

- 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.

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.

Appendix 3. (continued)

- 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.



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24 January 2013

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

Dear Mr Leck,

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

Date of law 11 January 2013

This legal advice analyses the effectiveness for GBR protection of many recent changes, and some proposed changes, to Queensland legislation by the new Queensland State government and briefly mentions changes proposed by the Commonwealth government.

In summary, not one of the many recent legislative changes by the Queensland government analysed in this advice improves GBR protection and many of those changes actively impede GBR protection. The recent changes simplify and weaken the laws protecting the GBR while the proposed single State Referral Agency would concentrate many key existing State decision-making powers currently held by the Department of Environment and Heritage Protection in the hands of the Department of State Development, Infrastructure and Planning.¹ Severe public service staff cuts of approximately 15-20% across the Queensland State public service during 2012 will hamper ongoing essential legislative implementation and enforcement.²

There are no relevant recent legislative changes by the Commonwealth government. Proposed changes however are of concern for GBR protection. While for now the Commonwealth government has deferred proposals to delegate approvals powers under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ('EPBC Act') to the Queensland State government, the Coalition of Australian Government's agenda still includes regulatory reform to the EPBC Act sought by business organisations which will warrant careful scrutiny.³

¹ See 2.7 of this advice.

² Approximately 220 staff have been cut from the Queensland Department of Environment and Heritage Protection, 130 from National Parks and 360 from 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>>.

³ Council of Australian Governments, Communique, Canberra, December 2012.
<http://www.coag.gov.au/sites/default/files/FINAL%20COMMUNIQUE%20-%207%20DECEMBER%202012.pdf>

Appendix 4. (continued)

Later this year this legal analysis will be expanded to cover all relevant existing and proposed Queensland and Commonwealth legislation, to compare that legislation to detailed criteria relevant to the World Heritage Value and Outstanding Universal Value of the GBR and to make recommendations for improved regulatory regimes to effectively protect the GBR.

Yours faithfully



Jo-Anne Bragg

Principal Solicitor

Environmental Defenders Office (Qld) Inc

Contents of Advice

1. Summary table of legislation Qld
2. Planning and Development Legislation changes and proposed changes
3. Management Legislation changes and proposed changes
4. Summary table of legislation Commonwealth
5. Commonwealth legislation

Appendix 4. (continued)

1 SUMMARY TABLE OF LEGISLATION IN QUEENSLAND

The following is a summary table of legislation and regulation in Queensland relevant to Great Barrier Reef ('GBR') protection. It refers to legislation ('Acts') and lists some key subordinate legislation or regulatory instruments made under those Acts.

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	No
<i>Temporary State Planning Policy 2/12 Planning for Prosperity</i>	Yes	No
<i>Proposed State Interests Part 1 of the State Planning Policy November 2012</i>	No	Yes
<i>Draft Coastal Protection State Planning Regulatory Provision Protecting the Coastal Environment October 2012</i>	Yes	Yes
<i>Sustainable Planning and other Legislation Amendment Act 2012 (Qld)</i>	Yes	No
<i>State Development and Public Works Organisation Act 1971 (Qld)</i>	Yes	No
<i>Transport Infrastructure Act 1994 (Qld)</i>	No	No
<i>Environment Protection Act 1994 (Qld)</i>	Yes	Yes
<i>Economic Development Act 2012 (Qld)</i>	Yes	Yes
Management Legislation and Regulation		
<i>Coastal Protection and Management Act 1995 (Qld)</i>	No	No
<i>Nature Conservation Act 1992 (Qld)</i>	Change not yet reviewed	Change not yet reviewed
<i>Marine Parks Act 2004 (Qld)</i>	No	Change not yet reviewed
<i>Fisheries Act 1994 (Qld)</i>	Change not yet reviewed	No
<i>Vegetation Management Act 1999 (Qld)</i>	No	Yes

Appendix 4. (continued)

QUEENSLAND STATE GOVERNMENT LEGISLATION	RELEVANT CHANGES/NEW PROVISIONS	RELEVANT PROPOSED CHANGE
<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
Supporting Policies and Plans - non-statutory		
<i>The Great Barrier Reef Ports Strategy</i>	Yes	Yes
<i>Building Nature's Resilience: A biodiversity Strategy for Queensland</i>	No	Change not yet reviewed
<i>State Policy for Coastal Management</i>	No	Yes

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 the 'Planning and Development' category and 'Management' category though some legislation is relevant under both categories.

2 PLANNING AND DEVELOPMENT LEGISLATION CHANGES AND PROPOSED CHANGES

2.1 Outstanding Universal Value of GBR needs protection

There is no requirement under Queensland State legislation or subordinate legislation, including the recent changes to that legislation, that ensures that terrestrial development is not permitted if it would impact individually or cumulatively on the Outstanding Universal Value ('OUV'), or World Heritage Value of the GBR. The only Queensland land use and planning legislation that refers to OUV is the *Wet Tropics World Heritage Protection and Management Act 1993 (Qld)* which pertains to the Wet Tropics World Heritage Area, not to the GBR.

Later this year this legal analysis will be expanded to cover all relevant existing and proposed Queensland and Commonwealth legislation, to compare that legislation to detailed criteria relevant to the World Heritage Value and Outstanding Universal Value of the GBR and to make recommendations for improved regulatory regimes to effectively protect the GBR.

2.2 Coastal protection weakened by new regulation

General coastal development is regulated under the *Sustainable Planning Act 2009* (Qld) ('*Planning Act*') - the main law governing land use planning and development assessment in Queensland. The purpose of that law is to 'seek to achieve ecological sustainability',⁴ which approximates to the concept of ecologically sustainable development.

Key recent policies made under the Planning Act pertaining to the coast weaken protection of coastal values and areas of 'high ecological significance'.

The *Draft Coastal Protection State Planning Regulatory Provision Protecting the Coastal Environment* ('*Coastal SPRP*') came into effect on 8 October 2012 under the Planning Act - after the WHC Decision: 36 COM 7B.8.

The Coastal SPRP suspends the operation of the State Planning Policy 3/11 Coastal Protection ('*the prior SPP*') and suspends parts of four regional land use plans, including Far North Queensland and Mackay, Isaac and Whitsunday, made under the Planning Act.

Why was this new Coastal SPRP made? The Queensland government's explanation is that the application of the prior SPP policies 'is not sufficiently supportive of the Government's commitment to grow the four pillars of Queensland's economy.'⁵ Consultants have welcomed the change from an industry perspective as 'a great relief to the development industry, particularly those groups with land, without approvals, in areas that would have potentially been constrained by the prior SPP after many months of lobbying.'⁶

The Coastal SPRP is less protective of the natural environment relating to dredging than the prior SPP as:

- contaminated dredge spoil might now be disposed of in coastal waters (compare Coastal SPRP 2.2 (18)-(22) with prior SPP PO43);
- capital dredging and material disposal no longer requires preparation and implementation of a management plan (compare Coastal SPRP 2.2 (21) maintenance dredging with prior SPP PO44); and
- provisions concerning dredging and disposal are now less comprehensive and less clear (compare Coastal SPRP 2.2 (18)-(22) with prior SPP C 6.5 ann 2 PO 41-45).

⁴ *Planning Act* s 3.

⁵ *Coastal SPRP* 5.

⁶ Place Design Group, *Special: Coastal Management & QLD Coastal Plan Update* (18 October 2012) The Urban Developer <<http://theurbandeveloper.com/features/special-coastal-management>>

Appendix 4. (continued)

Theoretical example Smith Construction

Smith Construction wishes to carry out dredging in Queensland coastal waters for a new proposed maritime development that is likely to have a significant impact on the Great Barrier Reef World Heritage Area. The dredging will disturb sediments and the spoil will be contaminated but there are no land disposal sites at a reasonable price so Smith Construction wishes to dump the spoil in coastal waters.

- Old Prior SPP 3/11 clearly said no to dumping contaminated spoil in coastal waters.
- New Coastal SPRP made 8 October 2012 does not contain a clear no to dumping of contaminated spoil in coastal waters. The new Coastal SPRP made under the *Sustainable Planning Act (2009)* Qld is clearly weaker than the Prior SPP 3/11.

Commonwealth and Queensland regulators have various powers to consider and potentially refuse the proposal. However the Queensland government proposes to reduce the number of State referral agencies to a single agency in the Department of State Development, Infrastructure and Planning and so remove key decision-making powers from the Queensland Department of Environment and Heritage Protection. In short, protection against dredging and dumping of contaminated spoil in coastal waters is weaker since the New Coastal SPRP and likely to weaken even further if the single referral agency proposal is implemented by the Queensland government.

The Coastal SPRP is less protective of ecology than the prior SPP as:

- areas of high ecological significance are now more vulnerable to development (compare Coastal SPRP 1.2 (7), 2.2(10) and 1 with prior SPP B.7, B.9, 1.9, 3.1, 3.2, D.2, E.2, PO18, PO19 and 4.3);
- areas of general ecological significance are now not specifically referred to at all (compare Coastal SPRP with prior SPP 3.5, E2, PO22); and
- all requirements to provide environmental offsetting for development now have been removed (compare Coastal SPRP with prior SPP 3.2, 5.2, D.2, PO19, PO26).

The scope and drafting of the Coastal SPRP is far less protective of the natural environment than the prior SPP as:

- fewer types of development applications will require assessment for coastal protection matters (compare Coastal SPRP 2.1 with prior SPP B.6, B.7, B.8);
- only certain development applications in the narrow coastal management district will require assessment by State and local governments, excluding the many development applications that required assessment by local governments in the far larger coastal zone (compare Coastal SPRP 2.1 (1) with prior SPP B.7);⁷ and

⁷ *Coastal Protection and Management Act 1995* (Qld) sch coastal management district s 15 coastal zone.

Appendix 4. (continued)

- detailed and specific provisions for development assessment are now replaced with shorter, broader outcome type provisions (compare Coastal SPRP 20 pages overall with prior SPP 66 pages overall).

Theoretical Example: Blue Rest New Coastal Subdivision

Mr Smith wants to carry out a residential development and subdivision 'Blue Rest' in Far North Queensland in an erosion prone area within the coastal management district outside existing urban zones. The site includes an area of high ecological significance shown on maps held by EHP. He wants to dump some of the excavated soil in coastal waters as it's cheaper than land based sites. How does this idea shape up under existing laws?

- Old Coastal law SPP 3/11- he could not carry out this development unless for a start, he provided an ecological assessment that showed the area did not have attributes of high ecological significance. Strict provisions limited dumping of spoil from above the high water mark in coastal waters.
- New Coastal SPRP- without any requirement to produce an ecological assessment, he could try to convince/lobby the Department of State Development, Infrastructure and Planning that the area was not worthy of classification as of high ecological significance. Mr. Smith could lodge an application and hope to be allowed to dump spoil in coastal waters as the strict criteria preventing such actions no longer apply.

2.3 Constraints on development outside existing urban footprint weakened

Strong constraints on urban development outside urban footprints are no longer in effect for three regional planning areas which affect the GBR under the Planning Act. 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 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. 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 2012.⁸

For two regional planning areas that affect the GBR, fresh regional planning processes have commenced under the Planning Act. The Cape York regional planning area was designated on 24 August 2012. The Central Queensland regional planning process, encompassing a number of areas including Gladstone was designated on 29 June 2012.

⁸ See, Department of State Development, Infrastructure and Planning, Queensland Government, *Regional Planning* <<http://www.dsdip.qld.gov.au/regional-planning/>>.

2.4 Proposed changes to protection of Reef Rivers

Currently the Stewart River and the Lockhardt River, both part of the GBR catchment are protected from many types of development and resource extraction through declaration as Wild Rivers under the *Wild Rivers Act 2005* (Qld). After 31 July 2012, the Queensland government released an information sheet on the Cape York Regional Planning Process which stated:

*‘Replacement of the Wenlock Basin, Archer Basin, Stewart Basin and Lockhart Basin Wild River Area declarations will occur as part of the regional planning process to enable appropriate development within the region and give local communities greater control of their own economic future’.*⁹

2.5 Sidestepping environmental protection

The new *Economic Development Act 2012* (Qld) (*‘ED Act’*) passed by the Queensland Parliament but not all yet in effect, creates the Minister for Economic Development and governs declarations of priority development areas, and land use planning and development within those areas. ‘The main purpose of this Act is to facilitate economic development, and development for community purposes, in the State’.¹⁰

The environment is relevant to certain decisions under the ED Act, for example amending land use plans,¹¹ but there are no references to ecological sustainability or the environment in the purpose of that Act. By contrast, the *Urban Land Development Authority Act 2007* (Qld) (*‘UD Act’*) which will be repealed and replaced by the *ED Act* when relevant parts of that Act come into effect, included as part of the purpose, facilitating ‘d) planning principles that give effect to ecological sustainability and best practice urban design’.¹² By further contrast the Planning Act the main act that governs land use and development in Queensland as mentioned earlier has a purpose that approximates Ecological Sustainable Development.

2.6 Ports Authorities not obliged to protect OUV when making land use decisions

Land use and development in ports is regulated by the *Transport Infrastructure Act 1954* (Qld). The main legislation regulating State Development Areas, often adjacent to ports, is the *State Development and Public Works Organisation Act 1971* (Qld) (*‘SD Act’*). Those Acts do not protect OUV, nor even oblige all the principles of ESD to be applied in the decision-making pertaining to land use and development.

Irrespective of the land use regulation, for many industrial activities and activities that might cause contamination on the coast, an environmental authority is required from the Department of Environment and Heritage Protection (*‘DEHP’*) under the *Environmental Protection Act 1994* (Qld) (*‘EP Act’*); for example for dredging, for abrasive blasting, for chemical production. The purpose of

⁹ Department of State Development, Infrastructure and Planning, *Regional Planning in Cape York* (Factsheet, 2012) <<http://www.dsdiqld.gov.au/resources/factsheet/regional/cape-york-factsheet.pdf>>, 2.

¹⁰ *ED Act, uncommenced*, s 3.

¹¹ *ED Act, uncommenced*, s 66.

¹² *UD Act* s 3(2).

this legislation is ‘ecologically sustainable development.’¹³ The character, resilience and values of the receiving environment is one of many standard criteria relevant to deciding environmental authorities.¹⁴ Culturally however DEHP rarely refuses projects but usually approves with conditions even if the projects are in sensitive locations.

DEHP loses its decision-making powers as a concurrence agency under the EP Act if the project is declared to be a ‘coordinated project’ (previous to recent amendments a significant project) under SD Act, s 26. The project may undergo an ‘environmental impact statement’,¹⁵ however the Coordinator General, not DEHP has the power to impose key environmental conditions.¹⁶ As the Coordinator General (‘CG’) makes those decisions under the SD Act, the CG needs not apply the principles of ESD nor has any obligation to protect OUV of the property.¹⁷

2.7 Removal of many of the Queensland Department of Environment and Heritage Protection’s decision-making powers.

The Queensland government proposes to reduce the number of State referral agencies to a single agency in the Department of State Development, Infrastructure and Planning (‘DSDIP’) - see Explanatory Memorandum *Sustainable Planning and Other Legislation Amendment Bill 2012* (Qld) 2-3 and *Sustainable Planning and Other Legislation Amendment Act 2012* (Qld). A regulation to the Planning Act, not yet made, is required to complete the legal framework for this change.

This would remove Queensland Department of Environment and Heritage Protection’s (‘DEHP’) decision-making powers, for example their jurisdiction pertaining to coastal protection matters, to reject or condition certain development applications under the Planning Act. DEHP’s powers then would be advisory only to DSDIP. This would be a major power shift in environmental decision-making in Queensland.

2.8 Draft Single State Planning Policy’- not yet in force, has many inadequacies

The Queensland government also proposes to reduce the 13 Queensland State Planning Policies made under the Planning Act, for example on coastal matters, for example on Wetlands and including the *Temporary State Planning Policy 2/12 Planning for Prosperity* (‘Temporary SPP’) made on 24 August 2012 to a single State Planning Policy. So in November 2012 the Queensland government commenced public consultation on the Proposed State Interests Part 1 of the State Planning Policy draft for consultation (‘draft Single State Planning Policy’).

The draft Single State Planning Policy is out for consultation and is not in force. However it has numerous omissions that lead to concerns the final document will not be suitable for Reef protection, including the matters discussed below.

¹³ EP Act s 3.

¹⁴ EP Act s 73A(b)(i) ch 4.

¹⁵ SD Act s 26.

¹⁶ SD Act ss 35, 37.

¹⁷ SD Act s 35.

That draft Single State Planning Policy includes ten elements of State interest, including four on industry and economic growth and one on Environment and Heritage. There is no mention of the Great Barrier Reef anywhere in the document. There is no mention of climate change anywhere in the document.

The ten policy elements of the drafting Single State Planning Policy conflict, and in many cases the ecological policies under Environment and Heritage are more generally worded compared to the economic elements. 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. For example the Coastal Environment proposed State interest statement provides in part, 'Development which complements and encapsulates existing coastal values is preferred over other development types in areas along the coast.'¹⁸

Yet the proposed State interest statement in relation to Ports states, 'Strategic ports are identified and protected from incompatible development and land uses to ensure their ongoing viable operation and development. Development is located and designed to address and mitigate adverse impacts from environmental emissions from strategic ports.'¹⁹

This document is not final. We expect the fuller draft policy to be released in February and that will include more detailed guidance to decision makers. However the draft Single State Planning Policy is an inadequate starting point for strong Reef protection.

2.9 Lack of commitment to keeping port development in existing port areas

In November 2012 the Queensland government released a policy proposed to be made under the *Sustainable Planning Act 2009* (Qld) contrary to recommendations in WHC Decision: 36 COM 7B.8. The *Proposed State Interests Part 1 of the State Planning Policy November 2012* ('draft Single State Planning Policy') is incompatible with WHC recommendation relating to ports as there is no requirement to constrain new ports to existing port areas. The proposed State interest statement in relation to Ports provides that: 'Strategic ports are identified and protected from incompatible development and land uses to ensure their ongoing viable operation and development. Development is located and designed to address and mitigate adverse impacts from environmental emissions from strategic ports.'²⁰

¹⁸ Draft Single State Planning Policy 20.

¹⁹ Draft Single State Planning Policy 28.

²⁰ Draft Single State Planning Policy 2012, 28.

3 MANAGEMENT LEGISLATION CHANGES AND PROPOSED CHANGES

3.1 Release of contaminated water in GBR catchments is made easier by Queensland State government amendments to the EP Act, which commenced on 11 December 2012.

New Temporary Emission Licences ('TELs') may be applied for and must be decided within 24 hours.²¹ There were existing provisions for emergency directions.²² However TELs are available not merely for emergencies as commonly understood, but also for 'applicable events' that were not foreseen when conditions were imposed on an environmental authority or development approval.²³ So environment authority holders under the EP Act, for example mining companies, could 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.

In granting a TEL, the DEHP must 'have regard' to, among other things, 'the likelihood of environmental harm', human 'health safety or wellbeing', and the 'public interest'.²⁴ 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.²⁵ In granting a TEL, the EP Act makes relevant 'the potential economic impact of granting or not granting the licence.'²⁶ 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.

The pilot pollution trading system for four mines in the Fitzroy catchment was announced by Deputy Premier Seeney on 8 November 2012 and includes a lessening of water quality standards for receiving waters and less mine responsiveness required to the annual review of the Water Management Plan. 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 W36-38.²⁷

²¹ *EP Act* s 357C.

²² *EP Act* s 467.

²³ *EP Act* s 357A.

²⁴ *EP Act* s 357D(e)–(h).

²⁵ *EP Act* s 357.

²⁶ *EP Act* s 357D (b).

²⁷ 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>>.

Appendix 4. (continued)

Theoretical example: Angel Fish Tourist Resort

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 the Queensland Department of Environment and Heritage Protection ('DEHP') 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.

- Prior to TEL amendments to the EP Act, assuming DEHP emergency powers were not used, Angel Fish's application would have been assessed against, amongst other criteria, the standard criteria under the EP Act. The DEHP would have had at least 20 business days to consider the application and make a decision.
- After TEL amendments, 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, DEHP, 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.

4 SUMMARY TABLE OF LEGISLATION - COMMONWEALTH

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

5 COMMONWEALTH LEGISLATION

There have been no recent relevant changes to the main Commonwealth government legislation pertaining to the Great Barrier Reef.

In 2011 the Australian government released its response to the independent review of the EPBC Act, known as the Hawke review.²⁸ In early 2013 we expect release of major amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ('EPBC Act') however the details are not available.

Separate to the response to the Hawke review, on 13 April 2012 the Council of Australian Governments ('COAG') agreed to major reforms of Australia's environmental laws. The reforms, proposed by the business community, were directed at both Commonwealth and State laws, particularly laws that assess new developments. Through this COAG process, the Commonwealth agreed to enter into fast-tracked agreements with each State to transfer its powers of approval under the EPBC Act to the States. This meant that the Commonwealth would no longer have any role in either assessing the environmental impacts of State developments on nationally significant environmental matters or in deciding whether to approve those developments. COAG stated that a framework for such agreements would be settled on by December 2012 and all agreements would be signed off by March 2013.

ANEDO, a network of public interest environmental legal centres including Environmental Defenders Office (Qld) Inc. released an analysis and response subsequent to the announcement of the COAG reforms.²⁹ In particular that document details concerns with regard to the proposal for the Commonwealth to hand over approval responsibilities under the EPBC Act to the states and territories. ANEDO considers that Commonwealth involvement in environmental regulation in Australia is vital, and does not support the delegation of Commonwealth approval responsibilities under the EPBC Act to states and territories.

It seems that the immediate threat to environmental laws contained in the COAG reforms has now receded,³⁰ but the power for the Commonwealth to enter approval bilateral agreements remains in the Act and the business community continues to push for streamlined regulation. In December 2012 COAG re-affirmed its commitment to broad environmental regulation reform that enhances efficiency and increases certainty for business, while maintaining high environmental standards.³¹ Our experience in Queensland is that streamlining environmental regulation often decreases environmental standards; however details of the reforms are awaited for scrutiny.

²⁸ Cth of Australia 2011 *Australian Government Response to the independent Review of the Environment Protection and Biodiversity Conservation Act 1999* <http://www.environment.gov.au/epbc/publications/pubs/epbc-review-govt-response.pdf>

²⁹ ANEDO, 'COAG environmental reform agenda: ANEDO response – in defence of environmental laws' (May 2012), available here: <http://www.edo.org.au/policy/policy.html>

³⁰ Grattan and Arup, 'Environmental powers to be kept by Canberra' (December 6 2012) <http://m.smh.com.au/opinion/political-news/environmental-powers-to-be-kept-by-canberra-20121205-2avw7.html>

³¹ Council of Australian Governments, Communique, Canberra, December 2012. <http://www.coag.gov.au/sites/default/files/FINAL%20COMMUNIQUE%20-%207%20DECEMBER%202012.pdf>



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