

# Australian Network of Environmental Defender's Offices



Australian Network of Environmental  
Defender's Offices Inc

## Submission on draft Regulation Impact Statement to ban disposal of capital dredge spoil material in the Great Barrier Reef Marine Park

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The Australian Network of Environmental Defender's Offices (**ANEDO**) is a network of independently constituted and managed community legal centres across Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, an expert role in environmental law reform and policy formulation, and a significant community legal education program designed to facilitate public participation in environmental decision making.

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## Background

The Australian Network of Environmental Defender's Offices (**ANEDO**) welcomes the opportunity to make a submission on the draft Regulation Impact Statement to ban the disposal of capital dredge spoil material in the Great Barrier Reef Marine Park (**RIS**).

As public interest environmental lawyers, ANEDO believes strong Reef protection laws are necessary to protect the Outstanding Universal Value (**OUV**) of the Reef, which by the Government's own admission, has rapidly declined since its listing in 1981.<sup>1</sup> It is evident human activities in the Reef catchments and on the Reef coastline have been, and will continue to be, the cause of the most damaging impacts on the Reef in the jurisdiction of Queensland.<sup>2</sup>

We commend the Australian Government for taking action to reduce the damage to our Reef by legislatively banning the dumping of capital dredge spoil in the Great Barrier Reef Marine Park (**GBRMP**). We particularly commend the decision to make this ban effective with respect to existing approvals for offshore dumping which have not yet been acted upon, for instance to ensure that offshore dumping is not undertaken for dredge spoil from Abbot Point Port.

However, further action needs to be taken to fully implement the worthy desired outcomes listed in the RIS and to ensure that the Australian Government is taking all effective steps to protect our Reef by reducing the compounding pressures it faces. An attitude that disproportionately favours development in and around our Reef at an Australian and Queensland level has led to the possible listing of the Reef as 'in danger' by the UNESCO World Heritage Committee. Strong actions are necessary to achieve the desired outcome to 'improve the Great Barrier Reef's overall World Heritage values'<sup>3</sup> and to ensure the OUVs of our Reef remain with us for future generations.

## Submissions on the draft Regulation Impact Statement to ban dumping of capital dredge spoil in the GBRMP

**ANEDO's two key recommendations are as follows, with further recommendations below:**

1. Implement a ban on the dumping of dredge spoil throughout the Great Barrier Reef World Heritage Area (**GBRWHA**), not merely in the GBRMP, at a federal level.
2. Extend the ban on dumping of dredge spoil to maintenance dredge spoil.

We have provided more detail to support our two key recommendations below the further recommendations. We would be happy to discuss these and our other recommendations further.

<sup>1</sup> See for example, Great Barrier Reef Marine Park Authority, *Great Barrier Reef Outlook Report 2014*, p.20.

<sup>2</sup> See for example, Great Barrier Reef Marine Park Authority, *Great Barrier Reef Outlook Report 2014*, p.25, 28.

<sup>3</sup> Great Barrier Reef Marine Park Authority, *Draft Regulation Impact Statement: Banning the disposal of capital dredge spoil material in the Great Barrier Reef Marine Park* (16 March 2015) p. 8.

### **Further recommendations**

3. Clearly reference any links between the desired outcomes detailed in the RIS to the targets and actions in the recently finalised Reef 2050 Long-Term Sustainability Plan.
4. It would be beneficial to detail the Queensland legislation currently regulating offshore dumping, and by which the proposed ban on dumping of dredge spoil in the GBRWHA will be implemented. This will enable proper understanding of how the federal and state legislative bans will interact.
5. Ensure current Queensland Government policies are reflected and referenced in RIS; for example, remove reference to the 2014 Queensland Ports Strategy as this does not reflect current policies.
6. Insert the actual indicative costs into Table 2 to allow for transparent decision making.
7. The cost of degradation or reparation of environmental values and ecosystem services should be a part of regulatory cost calculations to provide a realistic and fulsome cost-benefit analysis. This is consistent with principles of ecologically sustainable development and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)<sup>4</sup>, which is part of the legislative framework which governs activities impacting the GBRMP and GBRWHA. In particular, section 3A provides:  
  
*‘(a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;*  
  
...  
*(e) improved valuation, pricing and incentive mechanisms should be promoted.’*
8. The RIS should consider the environmental, social and economic consequences of increased onshore dumping of dredge spoil, and commit to improving the legal framework for environmental assessment of that practice, including cumulative impact assessment. For example, a recently released synthesis report found increased reclamation of land may cause impacts to the GBRWHA, including ‘permanent changes in local hydrodynamics’ along coastlines and consequent impacts on adjacent habitats and fauna.<sup>5</sup> The impacts of onshore dumping should be acknowledged and proper regulation ensured.

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<sup>4</sup> See particularly *Environment Protection and Biodiversity Conservation Act 1999* (Cth), ss. 3, 3A.

<sup>5</sup> McCook et al., ‘Synthesis of current knowledge of the biophysical impacts of dredging and disposal on the Great Barrier Reef: Report of an Independent Panel of Experts’, Great Barrier Reef Marine Park Authority, Townsville, 25 March 2015, pp. 68-69, available here: < [http://www.aims.gov.au/docs/media/latest-news/-/asset\\_publisher/EnA5gMcJvXjd/content/25-march->](http://www.aims.gov.au/docs/media/latest-news/-/asset_publisher/EnA5gMcJvXjd/content/25-march->)

## Discussion to support two key recommendations

### 1. Implement a ban on the dumping of dredge spoil throughout the GBRWHA, not just in the GBRMP, at a federal level

It has been estimated by WWF that, since 2010, over 80% of dredge spoil has been dumped outside of the GBRMP but within the GBRWHA.<sup>6</sup> Dredge spoil dumped outside but in proximity to the GBRMP can impact the GBRMP through dredge plumes drifting inside its boundaries, including when resuspended.

Modelling commissioned by GBRMPA and the federal Environment Department demonstrates that dredge spoil plumes travel much farther than previously thought, so dumping of dredge spoil anywhere in the GBR marine environment could have consequences far beyond the dump site.<sup>7</sup>

Further, the recently released *Synthesis of biophysical impacts from dredging and disposal in the Great Barrier Reef* states the high level of uncertainty as to impacts to water column and marine organisms from plumes of suspended sediment resulting from dredging and marine disposal.<sup>8</sup>

Full protection of the GBRWHA from offshore dumping of dredge spoil is necessary.

As the GBRWHA is an internationally-recognised protected area, it is appropriate that the Australian Government takes full responsibility for its protection. If the Queensland Government implements a ban on the GBRWHA areas in Queensland jurisdiction outside of the GBRMP, we suggest that the federal government should still mirror this ban in federal legislation to ensure strong and certain protection of the GBRWHA.

The legal mechanism proposed to be used here for the ban on dredge spoil dumping in the GBRMP is the *Great Barrier Reef Marine Park Regulation 1983* (Cth). A different legal mechanism would need to be used to ban dumping in the GBRWHA broadly. We suggest that this could be achieved by amendments to the *Environment Protection (Sea Dumping) Act 1981* (Cth).

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<sup>6</sup> WWF-Australia, *Minister Hunt's Great Barrier Reef Marine Park announcement an important step towards a complete ban on dumping*, 12 November 2014 <<http://www.wwf.org.au/?11620/Minister-Hunts-Great-Barrier-Reef-Marine-Park-announcement-an-important-step-towards-a-complete-ban-on-dumping>>

<sup>7</sup> SKM, *Improved dredge material management for the Great Barrier Reef Region* (Great Barrier Reef Marine Park Authority) Townsville, 2013. <<http://www.environment.gov.au/resource/improved-dredge-material-management-great-barrier-reef-region>>

<sup>8</sup> McCook et al., 'Synthesis of current knowledge of the biophysical impacts of dredging and disposal on the Great Barrier Reef: Report of an Independent Panel of Experts', *Great Barrier Reef Marine Park Authority*, Townsville, 25 March 2015 available here: <[http://www.aims.gov.au/docs/media/latest-news/-/asset\\_publisher/EnA5gMcJvXjd/content/25-march->](http://www.aims.gov.au/docs/media/latest-news/-/asset_publisher/EnA5gMcJvXjd/content/25-march->)>

## **2. Extend the ban on dumping of dredge spoil to maintenance dredge spoil**

While the RIS outlines the impacts the dumping of capital dredge spoil has on the Reef, similar impacts occur with the dumping of maintenance dredge spoil.

In fact, maintenance dredge spoil often has a higher proportion of fine sediments than capital dredge spoil.<sup>9</sup> These finer sediments can remain in suspension for longer and therefore travel greater distances than the coarser sands and gravels commonly more present in capital dredge spoil.

To fully protect the Reef's OUV, all offshore sediment dumping must be banned throughout the GBRWHA.<sup>10</sup> This may be undertaken by implementing policies and/or legislation to direct the progressive phasing-out of dumping of maintenance dredge spoil in the GBRWHA and GBRMP.

The same legal mechanism proposed to be used for the ban on dredge spoil dumping in the GBRMP could also be used for the ban on dumping of maintenance dredge spoil.

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<sup>9</sup> Ibid, p.5.

<sup>10</sup> Subject to limited circumstances such as an emergency.