



EDO Qld.

Environmental Defenders Office

*Using the law to protect
our environment.*

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Queensland Ports Strategy Manager
Department of State Development, Infrastructure and Planning

By email only: qldportsstrategy@dsdip.gov.au

Dear Sir/Madam,

Draft Queensland Ports Strategy

Thank you for the opportunity to make a submission on the Draft Queensland Ports Strategy (Draft Strategy).

In our view, the Draft Strategy does not adequately address UNESCO's key concerns as outlined in their 2012 Mission Report.¹ Overseeing the demise of our iconic Great Barrier Reef – a natural asset which brings in more than \$6 billion to the Australian economy and employs 60,000 people² - would severely undermine the Tourism Pillar a crucial part of the State Government's four pillars economy.

Ultimately, the Draft Strategy must reflect the view that all major coastal developments both inside and outside of the Priority Port Areas should not be allowed to proceed unless and until the Strategic Assessment and sustainable reef plan are completed and approved by UNESCO.

Who we are

The Environmental Defenders Office, Qld (EDO Qld) is a non-profit community legal centre which helps disadvantaged people in coastal, rural and urban areas understand and access their legal rights to protect the environment. We also use our experience in interpreting environmental laws to deliver community legal education and to inform law reform.

Summary of our submission

Whilst we welcome the State Government's commitment to aim to protect 'the environment and the Great Barrier Reef'³ unfortunately, what is proposed in this Draft Strategy will fall short of this goal.

Our submission can be summarised as follows:

1. The main legislation governing ports is the *Transport Infrastructure Act 1994* (Qld). Current provisions do not even expressly oblige port authorities to make planning decisions in ports consistent with Ecologically Sustainable Development (ESD).⁴ The

¹ Fanny Douvere and Tim Badman, 'Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)' (Report, UNESCO, June 2012)

² Australian Marine Conservation Society: <http://www.marineconservation.org.au/pages/fight-for-the-reef.html>

³ Department of State Development, Infrastructure and Planning, 'Queensland Ports Strategy: Draft for Consultation' (Draft Strategy, Queensland Government, October 2013) 3.

⁴ *Transport Infrastructure Act 1994* (Qld). See the objects of that Act and also Chapter 8 Port Infrastructure.

objects of that legislation need revision to ensure protection of the Outstanding Universal Value (OUV) of the Great Barrier Reef.

2. The Draft Strategy outlines the framework for port development in Queensland for the next ten years⁵ even though the Strategic Assessment has a timeframe of 25 years.⁶ Ten years is far too short a period. The Draft Strategy should consider a much longer timeframe of up to 50 years and be reviewed every 5 years.
3. Any strategy affecting Queensland's coast (including this Ports Strategy) should be delayed until after the current Strategic Assessment has been completed and a long term plan for the Reef is implemented. This is consistent with UNESCO's recommendations.⁷ Alternatively, the Draft Strategy must not be inconsistent with the finalised Strategic Assessment and long term plan for the Reef.
4. The Draft Strategy does not prohibit port development outside of the Priority Port Development Areas (PPDAs) where they do not require capital dredging. UNESCO has clearly stated it has concerns about *any* development affecting the Reef (not just capital dredging within PPDAs).⁸ It is our view that major coastal developments proposed at the moment (both inside and outside of PPDAs) should not be allowed to proceed unless and until the Strategic Assessment and long term reef plan are completed and approved by UNESCO.
5. The Draft Strategy fails to adequately deal with the *cumulative* and *combined* impacts of development as a result of other pressures on the Reef. Strategies taking into account cumulative impacts are required by UNESCO⁹ as dredging cannot be viewed in isolation from other impacts like agricultural run-off and 'self-assessable' high impact earth works which are allowed to be undertaken in Great Barrier Reef catchment areas.¹⁰ There is therefore an urgent need to apply a higher and *more integrated* level of protection for the coast than is provided in the Draft Strategy.
6. The Draft Strategy merely proposes to place conditions on dredging and disposal of dredged material – it does not make clear that dredging should only ever be a last resort for Port Authorities. Further it only provides capital dredging will be prohibited outside of PPDAs, but not *maintenance* dredging. Both forms of dredging should be prohibited if an assessment shows they would negatively impact on the OUV of the Reef.
7. The Draft Strategy should outline that disposal of dredged material (dumping) should not occur in the Great Barrier Reef Marine Park or anywhere where it would negatively impact on the Reef. Given the reef's OUV, the costs of safe alternative disposal on land must be borne by proponents simply as a cost of any development along the coast.

⁵ Department of State Development, Infrastructure and Planning, 'Queensland Ports Strategy: Draft for Consultation' (Draft Strategy, Queensland Government, October 2013) 8.

⁶ Department of State Development, Infrastructure and Planning, 'Great Barrier Reef Coastal Zone Strategic Assessment 2013' (Draft Program Report, Queensland Government, 2013) 1-19.

⁷ Fanny Douvere and Tim Badman, 'Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)' (Report, UNESCO, June 2012) 6.

⁸ Ibid 53.

⁹ Fanny Douvere and Tim Badman, 'Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)' (Report, UNESCO, June 2012) 47.

¹⁰ See Single State Planning Policy at Part F

Overall, this Draft Strategy falls well short of the level of protection that our Reef - the largest coral reef ecosystem on earth, described by the Deputy Premier as “Australia’s and Queensland’s most important asset”¹¹ - needs from our State Government.

For the above reasons, EDO Qld cannot support the Draft Strategy.

Should you require any further clarification, please contact Evan Hamman, Education Solicitor on (07) 3211 4466.

Yours faithfully
Environmental Defenders Office (Qld) Inc



Jo-Anne Bragg
Principal Solicitor

¹¹ Deputy Premier, the Honourable Jeff Seeney, Media Statements, 10 December 2013
<http://statements.qld.gov.au/Statement/2013/12/10/reef-protected-under-abbot-point-and-arrow-approvals>

EDO Qld Detailed Submissions on Draft Ports Strategy

1. Transport Infrastructure Act should be amended to protect the Reef

The main legislation governing ports is the *Transport Infrastructure Act 1994* (Qld). Current provisions do not even expressly oblige port authorities to make planning decisions in ports consistent with ecologically sustainable development (ESD).

Solution: The objects of that legislation need revision to ensure protection of the outstanding universal value of the Great Barrier Reef.

2. The timeframe of the Strategy is nowhere near long enough

The Draft Strategy has a defined timeframe of 10 years even though the Strategic Assessment has a timeframe of 25 years.¹² The ten year period is far too short considering impacts on the Great Barrier Reef (the Reef) might not materialise for well over 20 or 30 years. A period of ten years only considers the short-term economic goals of port development and does not adequately address the long-term health of the coastline and the Reef.

As such, the Strategy should adopt a much longer timeframe of up to 50 years as this will allow consideration of the health of the Reef for the next generation.

Solution: The Draft Strategy should adopt a timeframe of 50 years, not 10 years.

3. The timing of releasing the Ports Strategy now doesn't make sense

In our view, it makes no sense for a Ports Strategy to be released before the Strategic Assessment of the Reef is complete. Whilst it allows the State Government to point out that it has a plan for Queensland's Ports - as it does in the current *draft program report* for the strategic assessment coastal component¹³ - the end result will inevitably be that the Ports Strategy is inconsistent with the Strategic Assessment.

Most of the Ports in Queensland occur on or near the Reef¹⁴ and most of the proposed development in the PPDAs will likely impact on the Reef to some extent. Yet, at the moment, the most comprehensive, complex and wide-ranging assessment of a natural area (i.e. the Reef) ever undertaken in Australia is being conducted.¹⁵

With such an important, ground breaking and all-encompassing task being undertaken by both State and Federal Governments, why is the State Government rushing ahead with a draft Port

¹² Department of State Development, Infrastructure and Planning, 'Great Barrier Reef Coastal Zone Strategic Assessment 2013' (Draft Program Report, Queensland Government, 2013) 1-19.

¹³ <http://www.reefhaveyoursay.com.au/draft-reports>

¹⁴ The Port of Brisbane is the largest exception which is South of the World Heritage Area. See Figure 1.1, Great Barrier Reef Marine Park Authority, 'Identification of Impacts and Proposed Management Strategies associated with Ship Anchorages in the Great Barrier Reef World Heritage Area' (Environmental Management Strategy, Australian Government, July 2013) 5.

¹⁵ Department of Sustainability, Environmental, Water, Population and Communities, *Great Barrier Reef Strategic Assessment Fact Sheet* (at September 2012) 1.

Strategy before it has an informed position on the cumulative and long term impacts of development on the Reef?

In the Federal Government's words:

*"once a Strategic Assessment is complete, new development projects or activities can be planned on a more sustainable basis..."*¹⁶

and;

*"[the Strategic Assessment] will ensure the protection of the highest value environmental assets while guiding sustainable development in the Great Barrier Reef coastal area..."*¹⁷

UNESCO has said very clearly that it is essential that coastal development should be immediately halted if it would impact individually or cumulatively on the values and integrity of the Reef.¹⁸ That is the very reason for the Strategic Assessment and long term plan.

UNESCO's statement on the need for implementation couldn't be more urgent:

*"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."*¹⁹

Solution: The consideration of any new State Government policies relating to the Reef (including this Draft Port Strategy) should be delayed until after the Strategic Assessment is complete, a long term plan is produced and the World Heritage Committee has considered the future of the Reef.

4. Allowing development outside of PPDAs goes against what UNESCO says

The Draft Strategy does not prohibit port developments outside Priority Port Development Areas (PPDAs) that do not require capital dredging (for example, landside developments, or the construction of jetties/barging operations to ships in naturally deep water).²⁰ This is, in principle, inconsistent with the recommendations of UNESCO that no new infrastructure should be permitted outside of the existing and long-established major port areas within and adjoining the Great Barrier Reef World Heritage Area:

*"...development [should not be] permitted if it would impact individually or cumulatively on OUV, including the integrity of the property."*²¹

More broadly, UNESCO has said that the government should take full "consideration [of] alternative locations for development and associated activities outside the boundaries of the [Reef]".²²

Where is this 'alternative location' consideration reflected in the Draft Strategy?

¹⁶ Department of Sustainability, Environmental, Water, Population and Communities, *Great Barrier Reef Strategic Assessment Fact Sheet* (at September 2012) 3.

¹⁷ Ibid.

¹⁸ Fanny Douvere and Tim Badman, 'Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)' (Report, UNESCO, June 2012) 6.

¹⁹ Ibid.

²⁰ Department of State Development, Infrastructure and Planning, 'Queensland Ports Strategy: Draft for Consultation' (Draft Strategy, Queensland Government, October 2013) 18.

²¹ Fanny Douvere and Tim Badman, 'Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)' (Report, UNESCO, June 2012) 6.

²² Ibid 45.

Furthermore, as outlined in the Draft Strategy, the restriction on new developments does not apply to proposals which are currently the subject of an active Environmental Impact Statement (EIS) process or proposals currently designated as a major project [sic] by the Queensland Government.²³

There are currently several large developments in the Reef region that are undergoing EIS including the development of the massive Aquis Resort and casino complex, the Cairns Shipping Development and the Fitzroy Terminal.²⁴ These coastal ‘exempt’ developments have the capacity, if carried out in addition to a list of other ‘Coordinated Projects’ currently declared, to have a very serious and negative impact on the Reef. Understanding the potential cumulative impacts of such development is paramount, and is exactly why awaiting the completion of the Strategic Assessment is a critical step before finalising the Draft Strategy.

Solution: Major coastal developments proposed either inside or outside of the PPDAs should not be allowed to proceed unless and until the Strategic Assessment and sustainable reef plan are completed and approved by UNESCO.

The exclusion for proposals currently undertaking EIS processes or classed as ‘major projects’ (Coordinated Projects) should be removed.

5. Consequential, Cumulative and Combined Impacts are not considered

The following factors are not taken into account in the Draft Strategy as required by UNESCO:

- **Consequential impacts of development:** These are impacts which do not form part of an application for Port Development but could be facilitated by the development if it were approved. An example of this would be the construction of large related infrastructure like a road or bridge. Together they are likely to have a greater combined impact than just the port development.²⁵

Where are consequential impacts considered in the Draft Strategy?

- **Cumulative impacts:** These are impacts that arise not only from development but from the combination of development with other pressures like agricultural run-off and high impact development in wetland protection areas in Reef Catchment zones. UNESCO stated: ‘[it is] crucial... to seriously consider the cumulative impact of any new development, considering that the large majority of development takes place in areas which contain important habitats and species related to the OUV of the property and are areas already impacted by past development and a suite of other pressures.’²⁶

Where are cumulative impacts considered in the Draft Strategy?

- **Combined impacts of development:** These are impacts which arise essentially out of the same proposed development. The UNESCO report directed that ‘assessment of

²³ Department of State Development, Infrastructure and Planning, ‘Queensland Ports Strategy: Draft for Consultation’ (Draft Strategy, Queensland Government, October 2013) 18.

²⁴ See Department of State Development, Infrastructure and Planning, *Current EIS projects*, Queensland Government <<http://www.dsdiq.gov.au/assessments-and-approvals/current-eis-projects.html>>

²⁵ See: Fanny Douvere and Tim Badman, ‘Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)’ (Report, UNESCO, June 2012) 47

²⁶ Ibid.

development, and in particular port development must clearly and comprehensively take into account both direct impacts, and the indirect impacts arising from their supporting activities such as dredging, dumping of dredged disposal, or shipping.²⁷

Where are combined impacts considered in the Draft Strategy?

Solution: The Strategy should consider the consequential, cumulative and combined impacts of all development on the Reef. The Strategy should implement a requirement that PPDAs include reliable protection measures for areas of high ecological significance in their individual management plans.

6. Dredging should only ever be a ‘last resort’ activity

At present, the Draft Strategy does not contain a commitment to avoid, mitigate, or offset significant impacts of dredging. In order to ensure long term conservation of the Reef, the Draft Strategy needs to commit to avoid dredging.

The UNESCO report concluded that the Government should consider the practicability of options to minimise dredging, and to reduce or eliminate dumping from within the Great Barrier Reef World Heritage Area.²⁸

Solution: The Draft Strategy needs to commit to avoid dredging.

7. Disposing of Spoil must never be done at sea or affecting the Reef

There are a number of potential adverse environmental effects from dumping dredged spoil at sea. In particular, the potential for re-suspension of dumped dredged material, often containing hazardous substances, means that associated adverse impacts on parts of the Reef are likely.²⁹ Impacts on coral and seagrass are of particular concern.

The UNESCO report said that the Government should take measures to reduce or eliminate dumping from within the Great Barrier Reef World Heritage Area.³⁰ All sea dumping which impacts on the Reef should be prohibited and alternative methods of disposal developed.

Solution: The Strategy should prohibit the disposal of spoil within the Great Barrier Reef World Heritage Area or any area that might affect the reef.

²⁷ Fanny Douvere and Tim Badman, ‘Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)’ (Report, UNESCO, June 2012) 47.

²⁸ Ibid 54.

²⁹ Great Barrier Reef Marine Park Authority ‘Great Barrier Reef Region Strategic Assessment: Draft Strategic Assessment Report’ pgs 6-35,6-39

³⁰ Ibid.