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31 January 2014

Great Barrier Reef Strategic Assessment
Public Consultation Manager
GPO Box 668
Brisbane QLD 4001

By email only: feedback@reefhaveyoursay.com.au

Dear Sir/Madam,

Great Barrier Reef Strategic Assessment Program Report

We welcome the opportunity to provide a submission on the management of the Great Barrier Reef (GBR) and the adjacent coastal zone. Of the four relevant reports comprising the GBR Strategic Assessment, we have identified that the Draft Coastal Zone Strategic Assessment Program Report (DCZPR) is the report requiring the most attention and our submission focusses on this report. We have also made select references to the Draft Coastal Zone Strategic Assessment Report (DCSAR).

Who we are

The Environmental Defenders Office (Qld) Inc (EDO Qld) and the Environmental Defenders Office (Northern Qld) (EDO NQ) are non-profit, non-government community legal centres which help people understand their legal rights to protect the environment in the public interest. We assist both urban and rural clients. A large number of our clients and stakeholders are concerned about the management of and impacts on the GBR World Heritage Area (GBRWHA), hence our submission on these issues. We have over 20 years' experience in contributing to law reform and working with Queensland and Commonwealth Governments to improve our environment and planning laws to serve the public interest. We regularly provide advice to clients on the impacts of various legislative and policy reform on the management of the Great Barrier Reef.

The focus of this submission

We have considered the DCZPR by identifying the matters which we consider are the most relevant and important to the protection of the GBR. We have therefore adopted an outcome driven focus which assesses the entire regulatory framework relating to the coastal zone and whether the effectiveness of the DCZPR and whether the DCSAR can provide the basis for a long-term sustainability plan. References to the independent review of the DCSAR by SKM and commissioned by the Commonwealth Department of Environment are noted where appropriate.

In our view, Queensland's current framework is seriously flawed and requires significant reform to provide adequate protection and management of the GBR. The practical effect of the suite of recent and proposed changes to Queensland's laws and regulations are not reflected in the DCZPR. The 'forward commitments' outlined in the reports fall well short of providing improvements to halt the decline and improve the OUV of the GBR. It is clearly inappropriate to use these reports:

- As the basis for a long-term sustainability plan, or
- To be accredited under an approval bilateral agreement, without Commonwealth approval under the EPBC Act; or
- To be endorsed by the Commonwealth Minister and for certain actions to be permitted without individual assessments and approvals required (under Part 10 EPBC Act).

The DCZPR does not address the following issues, which will require legislative reform if they are to be used in any future version of the DCZPR:

1. The purpose and effect of the Strategic Assessment under the EPBC Act should be made clear;
2. The forward commitments are far too weak to halt the decline of the GBR;
3. Port development is not adequately managed for the protection of the Outstanding Universal Value (OUV) of the GBRWHA;
4. The principles of Ecologically Sustainable Development (ESD) are not relevant considerations under key Acts regulating development in Queensland;
5. Protection for native vegetation has been scaled back by recent amendments to the *Vegetation Management Act 1999* (VMA); and
6. Adequate steps are not being taken to reduce agricultural run-off.

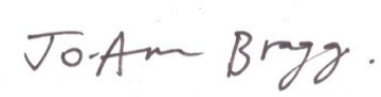
The following issues must also be addressed and considered in the DCZPR with a view to reform:

7. Safeguards for protected areas including those in the GBR have been weakened;
8. Changes to planning laws do not ensure sustainable coastal management;
9. Environmental impact assessment of major projects is inadequate;
10. Protection for rivers flowing into the GBRWHA has been eroded;
11. There is no clear commitment to address cumulative impacts;
12. Offsets and conditioning procedures are not currently adequate or effective;
13. Threatened species are not protected in an 'ecologically sustainable' manner;
14. Public participation rights have been and continue to be eroded;
15. There has been an increase in mining and gas projects that impact on the GBR;
16. Enforcement and compliance regulation is ineffective;
17. There has been no consideration of the impacts of uranium mining and transportation; and
18. The delegation of project approval powers to Queensland will reduce standards.

We would welcome an opportunity to work with the Queensland Government on improving the legislative framework affecting the GBR, which has been described by the Deputy Premier as "Australia's greatest asset".[1]

Yours faithfully

Environmental Defenders Office (Qld)



Jo-Anne Bragg
Principal Solicitor

Environmental Defenders Office (NQ)

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EDO Qld and EDO NQ Submission on the Draft Coastal Zone Strategic Assessment Report

1. Purpose and effect of the GBR Strategic Assessment should be made clear

We preface our submission with a note regarding strategic assessments under the EPBC Act. The GBR Strategic Assessment was undertaken following a request by the World Heritage Committee (WHC). However, the legal mechanism by which Queensland and the Commonwealth have undertaken a strategic assessment also opens the door for the Commonwealth Minister to approve certain types of actions not needing individual approvals if undertaken in accordance with the Strategic Assessment.[2] This mechanism might replace the need for individual activities to obtain Commonwealth approval under the EPBC Act.[3]

Of most concern is clause 4.5 and clause 8 of the Agreement between the Queensland and Commonwealth Governments which clearly allows the endorsed Program to be used to avoid the individual assessment and approval of projects. [4] Yet there is no clear statement in the DCZPR that the Minister does not intend to use the Strategic Assessment to endorse certain actions that will no longer require individual approvals under Part 9 EPBC Act, if taken in accordance with the Strategic Assessment.

This is not what was envisaged by the WHC as the underlying purpose of the Strategic Assessment, and it would not allay the WHC's concerns about the scale of development impacting the GBR. We note the WHC's 2012 Reactive Monitoring Mission (RMM) specifically requests that there must be a thorough assessment and thorough consideration of the combined, cumulative and possible consequential impacts for **each** EPBC Act application.[5]

RECOMMENDATION:

- There is an insufficient level of detail in the DCZPR and DCSAR and the analysis of impacts in these reports is far too general to permit individual activities to occur without the need for project-by-project assessment and approval.
- The DCZPR should make clear that the overriding object of the Strategic Assessment is to inform a long term sustainability plan for the GBR and not for another purpose under Part 10 EPBC Act, such as allowing actions to not require individual approvals.

2. The forward commitments are far too weak to halt decline of the GBR

The forward commitments proposed by the State Government (set out in Chapter 5 of the DCZPR) arguably require the most urgent attention and major revision in respect of the whole Strategic Assessment process. In our view, the forward commitments must be strong and clear 'commitments,' not merely statements of intent to 'work together' with the Federal Government on existing programs which are simply not working (see for instance forward commitments 3, 5 and 6).

The SKM Review also identified that the forward commitments simply represent Queensland's existing obligations, for example:

> *"Many of the other Forward Commitments refer to continuing existing activities, and do not represent major new initiatives. Examples include Forward Commitment 14 "Queensland will continue to support ongoing joint field management activities."* [6]

We were encouraged to see a few commitments with specific timelines and specified outcomes, for instance forward commitment 2:

> *"The Queensland Government will work with the Australian Government to develop and implement a long term sustainability plan for the GBRWHA by the end of 2014."*

This commitment specifies a time and an action to occur and we support that approach.

Unfortunately, however, the vast majority of the other commitments fall well short of the standards that are required to halt the decline in the health of the GBR. Again, the SKM Review also identified that:

> *"When considered collectively, the Forward Commitments do not appear to be the appropriate actions or to be supported with sufficient resources to halt the declining condition of MNES and achieve their long term conservation."* [7]

Many of the forward commitments are based on an incorrect analysis of the current and proposed program, which is an inherent flaw replicated across most of the forward commitments.

For example, forward commitment 16 states that "*the Queensland Government will prioritise actions to recover species, taking into account national recovery plans, threat abatement plans and conservation advices*." We note there is currently a Bill before the Commonwealth Senate removing the need under the EPBC Act to consider conservation advices when making decisions.[8]

Lastly, the forward commitments do not acknowledge that they will inevitably conflict with other Queensland Government priorities and give no detail as to how those conflicts will be resolved. For instance, any forward commitments must take into account the Queensland Government's policy to 'double agricultural production by 2040.'[9]

RECOMMENDATIONS:

- The forward commitments should be redrafted to ensure consistency with current Queensland and Commonwealth law and policies and to be more effective in their production of tangible, realistic and useful outcomes for the adequate management of the GBR.

3. Port development is not adequately managed for the protection of the OUV of the GBRWHA

The Queensland Government's proposal for future port development risks further damage to the OUV of the GBRWHA. Port expansions, including associated dredging and dumping of spoil are of significant concern to the WHC, particularly in and adjoining long established major port areas.[10]

GBRMPA has outlined a long list of impacts to the marine environment associated with the operation of coastal port facilities. These include, but are not limited to: removal of existing habitat, such as seagrass; seabed disturbance; cumulative loss of species; degradation of water quality; increased underwater noise; injury to or mortality of marine species, including threatened species; and an increase in greenhouse gas emissions.[11]

The failings of the draft Queensland Ports Strategy

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

The Draft Queensland Ports Strategy proposes the creation of five Priority Port Development Areas (PPDAs) around five existing ports, four of which are on the GBR coastline: Mackay/Hay Point,

Gladstone, Townsville and Abbot Point. Critically, the Draft Queensland Ports Strategy provides these ports with a 'licence to grow'[12] and contemplates capital dredging and expansion within the PPDAs. The current draft port strategy is inconsistent with a suite of WHC recommendations including WHC Recommendation (WHCR) #5.[13] In particular:

1. Whilst there will be no further dredging outside of PPDAs, there are very broad exemptions for major projects which have already commenced to the planning (EIS) stage;

2. The time frame of the Ports Strategy is far too short (10 years) and not in keeping with the 25 year strategic assessment timeline;

3. The Ports Strategy is being completed before the Strategic Assessment and Long Term plan for managing the GBR is complete;

4. There is no requirement that port development be in accordance with the principles of ESD; and

5. The Draft Ports Strategy does not adequately deal with the cumulative and combined impacts of port development, as requested by the WHC.

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

In December 2013 the Queensland government released the State Planning Policy (SPP), which includes a State Interest called 'Strategic Ports'.[14] This means that the Queensland Government sees ports as a planning priority area for Queensland. It sees them as a strategic asset in which the State Government (as opposed to the Local Government) has a strategic interest. The strategic ports under the SPP currently include 15 ports,[15] most (but not all) of these are in the GBR zone. The effect of declaring these ports under the SPP is ultimately to protect them from (and enhance them with) associated development in the surrounding Local Government Area. As stated above, it will be the final version of the Queensland Ports Strategy (and Land Use Plans[16] for each major port) which will ultimately set the framework for port development not the local planning schemes. The SPP focuses on protecting ports as functioning ports, rather than considering the environmental impacts of port development or port activities.[17]

Problematically, neither the associated port development permitted by the SPP nor the Draft Queensland Ports Strategy contain clear requirements to protect the OUV of the GBRWHA. The DCZPR claims that: *the Queensland Ports Strategy will be the... blueprint for managing and improving the efficient and environmental management of the state's port network."*[18] If this is to be the case, then that 'blueprint' is flawed for the reasons outlined above.

The SKM Review highlighted the lack of detail in the DCZPR about Ports.[19] Not only is more detail required about how to implement the Strategy, but specific commitments not to harm the OUV (individually or cumulatively) are required in all master planning documents and legislation concerning the GBR.

In relation to the Draft Queensland Ports Strategy, we note that UNESCO has clearly stated it has concerns about *any* development affecting the GBRWHA (not just capital dredging within PPDAs).[20] WHCR #5 requested that the parties not undertake any development that would individually or cumulatively impact on the OUV of the property. Neither the Draft Queensland Ports Strategy nor the SPP reflect this commitment and are therefore inconsistent with WHCR #5.

The Reactive Monitoring Mission Recommendation (RMMR) #9 recommends that the OUV of the property be clearly defined in all plans and legislation concerning development within or adjacent to the property. The Draft Queensland Ports Strategy, *Transport Infrastructure Act*, the SDPWO Act and the SPP do not reflect this.

RECOMMENDATION:

- The DCZPR should undertake more detailed examination and discussion of the current and future proposed management of ports in Queensland and their impacts on the GBR.
- Significant improvements need to be made to the Draft Queensland Ports Strategy, the SPP and legislation which governs port development such as the *Transport Infrastructure Act 1994* (Qld) and the legislation that facilitates major projects on the coast: the SDPWO Act. Neither of these Acts requires the OUV to be protected, nor requires crucial practical detail on how the OUV will be protected, nor do they require the principles of ESD to be applied in the decision-making.

4. The principles of ESD are not relevant considerations under key Acts regulating development in Queensland

The Queensland Government's approach to the principles of Ecological Sustainable Development (**ESD**) is very troubling. ESD is a concept which has been well embedded in State and Commonwealth laws in Australia since 1992. In its National Strategy for ESD, the Commonwealth Government defined ESD as: "development which aims to meet the needs of Australians today, while conserving our ecosystems for the benefit of future generations."[21]

The principles of ESD have since been further developed in Australian law and are now embedded in five key principles under section 3A of the EPBC Act.[22] Under a long standing national agreement, the Queensland Government must use four of these principles[23] to inform its own policy making and program implementation.[24]However, since coming to office in March 2012, the Queensland Government has avoided reference to, and undermined the application of, ESD principles. The Government has deliberately moved to reshape the language of environmental policy away from ESD (which 'stifles' development). Alternative phrases have been coined such as "environmental *prosperity*"[25] and "sustainable *economic* development."[26]

Legislative failures regarding ESD

There is still legislation in Queensland (mostly drafted in the early 1990s) that requires the State to apply some (but not all) of the principles of ESD. The best examples of this are *Sustainable Planning Act 2009* (SPA) and the *Environmental Protection Act 1994* (EP Act) (though it is arguable whether decisions made under those acts truly reflect the principles of ESD despite the objects). Apart from SPA and the EP Act, there has been a failure to introduce and implement ESD in all other planning legislation:

1. For most major projects affecting the GBRWHA (port expansions, dredging, infrastructure, new resorts/casinos etc.) the prevailing legislation is the SDPWO Act – an Act that grants the Coordinator-General unfettered power to approve projects, impose conditions, speed up processes all without being required to consider the principles of ESD.

2. SPA is due to be replaced in July 2014 and there are strong indications that the new *Planning for Queensland Development Act*[27] will not integrate the principles of ESD.[28]The *Transport Infrastructure Act 1994* (Qld), the main Act dealing with Priority Port infrastructure (including ports on the GBR), does not have ESD as the object of the legislation. The word 'sustainability' does not appear once in the entire Act. The purpose in respect of ports is *"to establish a regime under which a ports system is provided and can be managed within an overall strategic framework."*[29]

3. There are no ESD principles either in the new State Planning Policy (SPP) which seeks to regulate port and coastal development, and is said to provide: *"a comprehensive set of principles which underpin Queensland's planning system to guide local government and the*

state government in land use planning and development assessment."[30] ESD is not mentioned once in the entire SPP, despite a 'requirement' that the SPP advance the purposes of SPA which include 'ecological sustainability'.[31]

4. Recent changes to the *Nature Conservation Act 1992* (Qld) totally bypassed 'ecologically sustainable use' of nature to allow for "the use and enjoyment of protected areas" and the social, cultural and commercial use of protected areas (national parks). See EDO Qld's analysis of the Bill at the time for further information.[32]

5. New legislation which seeks to balance competing land uses of mining and CSG development with agricultural and environmental priorities, does not reference ESD nor does it practically give effect to the principles of ESD.[33]

Administrative failures regarding ESD

Both the current and former Queensland Governments have displayed a willingness to use special legislation to bypasses the normal processes under the EP Act which includes ESD as part of the objects.[34] There is little utility in having ESD principles as part of any Act, if the Government can simply make 'special legislation' to avoid them.

It is misleading for the DCZPR to state that: "the underlying policy intent of the Queensland Government Program is to achieve ESD throughout the GBR coastal zone" and that "the program delivers upon the principles of ESD."[35] Whilst the SKM Review correctly identified ESD as an issue,[36] it failed to set out the ways in which the Queensland Government has avoided applying the principles of ESD and even contradicted the principles of ESD for larger projects.

The DCZPR and DCSAR have also failed to satisfy Term 3 of the GBR Strategic Assessment Terms of Reference.[37]

RECOMMENDATION:

- The DCZPR and DCSAR should consider and discuss the environmental, social and economic impact that omitting consideration of ESD in the management and assessment of development on the GBR will cause.
- All Queensland planning and environment laws should be reviewed with a commitment to introducing ESD as per the Intergovernmental Agreement.

5. Protection for native vegetation has been scaled back by recent amendments to the Vegetation Management Act 1999

The *Vegetation Management Act 1999* (Qld) (VMA) was recently amended to increase opportunities for clearing native vegetation without a permit.[38] A self-assessable clearing code' now applies to regrowth vegetation along watercourses in the three priority GBR catchments: Wet Tropics, Mackay-Whitsunday, and the Burdekin.[39] Clearing along watercourses in these catchments can be accomplished by notifying the administering authority, the Department of Natural Resources and Mines (DNRM), and by following the code provisions.[40] The code allows some clearing for purposes as various as: agriculture, pasture or other general purposes; weed control; thinning; extractive industries; restoring the land; diverting a channel; and preparing for a natural disaster.[41] Protections for regrowth vegetation on freehold land in the remaining GBR catchments have been completely removed.

The changes significantly weaken protection for vegetation in all five GBR catchments and thus protection of the GBR water quality. Many hundreds of thousands of hectares of regrowth vegetation are now vulnerable to clearing.[42]

In the DCZPR, the Queensland Government promoted the benefits of the 2006 prohibition on broad-scale clearing,[43] however the recent changes in 2013 go a long way to undoing much of that protection. The amendments:

1. permit clearing of 'high value regrowth' vegetation on freehold and indigenous land;

2. allow for clearing of native vegetation for a wide range of new 'relevant purposes' including allowing clearing for 'high value agriculture', 'irrigated high value agriculture', and allowing for 'necessary environmental clearing;'

3. introduce *self-assessable vegetation clearing codes* for certain categories of vegetation, and for certain purposes such as: 'maintaining fences or firebreaks'; 'fodder harvesting'; 'property infrastructure';' thinning'; and 'managing encroachments';[44] and

4. were supported by official Queensland Government comments that the changes were about 'restoring the balance' to the agricultural sector and "…represent the most significant reforms to legislation affecting agricultural production in decades."[45]

The SKM Review noted that the vegetation framework applies only to development and agriculture and that "exemptions for mining and Coordinated Projects [still] apply."[46]

Also in 2013, in an effort to streamline laws for mining and agriculture, the Government removed the whole-of-state requirement for a *riverine protection permit* under the *Water Act 2000* (Qld) to destroy vegetation in a watercourse or spring.[47] Whilst 50 metre 'buffer zones' in certain catchments may still apply, there are reduced protections for watercourse clearing in other areas and this may impact on the OUV of the GBRWHA.

The DCZPR briefly acknowledges only some of these recent changes[48] but is misleading in that it does not address and explain the full impacts and extent of the changes. Expanding the range of purposes for which clearing can occur has exposed a wide range of threatened species to clearing – including several types of vulnerable and endangered plants – which currently occur in mature bushland and regrowth bushland. WWF has written extensive reports on the impacts of the changes.[49]

The SKM Review urges the Government to be more forthcoming on this issue in the DCZPR, in that the VMA *"is described as the prime means of preserving MNES in the [GBR coastal zone], but recent amendments to the Act, which reduce the protection afforded to vegetation are not discussed."*[50]

RECOMMENDATION:

- The DCZPR and DCSAR should address and explain the recent changes to vegetation management legislation in Queensland and how they will directly, indirectly and cumulatively impact upon the GBR.

6. Adequate steps are not being taken to reduce agricultural run-off

Given that agricultural run-off has been identified as one of the biggest impacts affecting the GBR, the legislative and regulatory framework concerning agricultural run-off has not been adequately addressed in the DCZSR.

Agricultural ERAs introduced in 2009

The best available science says about a 70 to 80% reduction of nitrogen load from cane farms is required to allow GBR recovery. In September 2009, the Queensland Government enacted the *Great Barrier Reef Protection Amendment Act 2009*, which introduced a "Reef Protection Package" with the object of reducing the impact of agricultural activities on the quality of water entering the GBR.[51]

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

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

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

Issues with Chapter 4A Regulations

Since the change of state government in March 2012, Chapter 4A regulations have been largely suspended pending delivery of voluntary BMPs (Best Management Practices) by the cane and grazing industries.[52] Neither the Chapter 4A regulations, nor the voluntary BMP deliver adequate outcomes for the GBR WHA, for the following reasons:

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

Suggestions for improvement

At present, as regulations are not being enforced,[53] valuable data is not being collected, and there is a complete lack of political will to bring about the real change that would lead to a 70 to 80% decrease in the GBR's nitrogen load from cane and beef production. Suggestions to improve the existing regulatory mechanisms include (amongst others):

1. improving enforcement of activities causing the harm;
2. re-examining application allowances – revising the 'optimum amount' of fertiliser to block and sub-block realistic yields and tailoring chemical use to local environmental conditions under an integrated regional, preventative strategy with strict audit and enforcement of compliance; and
3. bringing in industries (and catchments) that have been left out of the current regulatory regime.

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

In principle, we agree the SKM Review that there is very weak detail on the key issue of agricultural run-off affecting the GBR: "Agriculture is a key issue given limited treatment in the reports."[54] This inevitably means the forward commitments are weak and vague statements with no context. There is, for example, no integrated analysis or strategic plan for how to manage agricultural run-off in light of the Queensland Government plan to "double agricultural production by 2040".[55] Couple this with the recent changes to vegetation management laws which now allow broad scale clearing for 'high value agriculture' and 'high value irrigated agriculture'. The DCZPR does not set out how it proposes to manage these competing priorities with respect to the OUV of the GBR.

RECOMMENDATION:

- The DCZPR does not address agricultural run-off beyond references to the Reef Plan.[56] The DCZPR and the DCSAR need to detail how the BMP framework is supposed to operate and how or why it is an adequate alternative to the protections currently available (but not in use) under Chapter 4A of the EP Act. It needs to indicate how the necessary reductions in nutrient and sediment runoff are going to be achieved.
- The DCZPR should set out how it proposes to manage the competing priorities of agriculture and catchment health with respect to the OUV of the GBR.
- A 'breakdown' of land use in the Coastal Zone should be included (as mentioned in the SKM Review at pages 18 and 19). Detailed maps should be prepared alongside mining and coal seam gas projects (either proposed or current) in the GBR catchment areas. Without such detail, the reader has very little appreciation of the scale of combined activities that are currently occurring or are about to occur in and around the coastal zone.

7. Safeguards for national parks and protected areas have been weakened

In the past year, the State Government introduced amendments to the *NCA* which weakened protection of protected areas, including the national parks and other protected areas in the GBRWHA in Queensland's jurisdiction. EDO Qld's recent submission sets out the following relevant changes to the protected area estate in Queensland:[57]

1. There has been a reduction of the categories of 'protected areas,' which means Queensland's protected area categories are inconsistent with internationally renowned IUCN categories;
2. There has been a removal of the requirement to publicly notify draft management plans for national parks (contrary to what the DCZPR says);[58]
3. The objects of the NCA have been significantly changed to make recreational and commercial use of parks more readily available;
4. 'Ecotourism facilities' can be developed in protected areas, even though such development may be inconsistent with the principles of ESD or the cardinal principle of national park management;
5. Activities such as 'emergency grazing' in national parks are proposed as well as grazing on national reserve system (NRS) properties (national parks which haven't yet been gazetted);[59]
6. A confidential draft of Queensland's new offsets policy[60] contemplates significant impacts being made on protected areas (including national parks and nature refuges in the GBR) and significant impacts on protected areas could be 'offset;'[61] and

7. There has been no confirmation by the Queensland Government whether its review of protected areas will result in revoking protections for existing protected areas.[62] The DCZPR does not mention this 'review,' the terms of reference for the review, nor what is expected in terms of an increase/decrease in the national parks estate.

In respect of the DCZPR, the 'avoid' component of the Framework (the Protected Area Estate) suggests there will be no development in these areas[63] – this is incorrect. Even in national parks, the highest category of protected areas, not all activities are avoided (for example, the legislation allows CSG infrastructure (pipelines) and electricity infrastructure).[64] The DCZPR is inconsistent with this as it suggests that its management principles ensure that park use is "nature-based and ecologically sustainable."[65] The DCZPR does not make clear that not all 'protected areas' are national parks with high protection – 'protected areas' also includes land where high impact activities are allowed including mining and grazing. We note both the Queensland and Commonwealth governments have recently approved mining in nature refuges,[66] which are essentially private national parks.

The DCZPR states that Queensland "continues to add to its protected area estate over time".[67] However, no data is provided in respect of how the protected area estate has increased in the GBR or what the specific commitments are to increase the protected area estate in the GBRWHA or its catchments.[68] The SKM Review identifies some shortcomings of the DCZPR[69] and requested further information including precise figures on the size and proportion of the protected state in the GBRWHA.[70] However the bulk of recent changes to the NCA that affect the protection of the GBR protected area estate were not picked up in the SKM Review.[71]

Opening up the protected area estate for development is contrary to a suite of WHC recommendations. For example, the RMM recommended that any development be carried out in accordance with the highest international standards of best practice[72] and that the highest level of precaution in decision making regarding development proposals be adopted.[73] Reducing legislative protections in GBR protected areas is contrary to these recommendations.

RECOMMENDATIONS:

- The DCZPR should recommend that more areas in, adjacent to and in the catchments of, the GBRWHA be classified as national parks and afforded the highest level of protection.
- The DCZPR should recommend that Queensland and GBRMPA develop a plan for increasing the protected area estate, including mapping of 'no go' zones for development in the GBRWHA, its coastline and catchments.
- The Queensland government's steps relating to revocation of the Wild Rivers designations in Cape York should be reversed (discussed in further detail below).
- The DCZPR should clearly set out how many protected areas have been gazetted and when.
- The DCZPR should also clearly set out the 'scientific review' that is being undertaken and its potential effects on the GBR protected areas.

8. Changes to planning laws do not ensure sustainable coastal management

General coastal development is regulated under SPA, the main law governing land use planning and development assessment in Queensland. The purpose of that law is to 'seek to achieve ecological sustainability',[74] which approximates to the concept of ESD. Key recent policies made under SPA pertaining to the coast do not provide sufficient coastal protection. For example, the single State Planning Policy (SPP) came into effect on 2 December 2013.[75] It replaced 13 State Planning Policies, as well as the Coastal State Planning Regulatory Provision (Coastal SPRP).[76] The 16 State Interests contained in the SPP conflict with each other, and in many cases the ecological policies are more generally worded compared to the economic elements.[77] Select examples of issues with the new SPP and State Development and Assessment Provisions (SDAPs) include:

1. The SDAP modules consider Matters of State Environmental Significance (MSES), however there is no express consideration of the OUV of the GBRWHA. The SDAP permits dredging[78] for reclamation of land below tidal water,[79] dumping of dredged spoil on land and at sea,[80] and dumping of spoil from artificial waterways into coastal waters for certain purposes.[81]
2. Unlike the previous SPP, the new SPP does not provide a clear prohibition on the dumping of *contaminated* dredged material.[82]
3. For development in wetland protection areas in GBR catchments, there is a 'self-assessable development code' which sets out the 'performance outcomes' and 'acceptable outcomes', however the SPP does not provide an absolute prohibition on development in a wetland protection area;[83] and
4. The SPP does not provide strong protection for all categories of protected wildlife.[84] The effect of this is that local government will not be required to consider all categories of protected wildlife when developing their planning schemes.
5. Climate change is not addressed in the SPP.

There has also been a removal of EHP's decision-making powers in favour of the Queensland Department of State Development, Infrastructure and Planning (DSDIP). The introduction of a Single Assessment and Referral Agency (SARA) on 1 July 2013 effectively centralised decision-making power with respect to development applications in the hands of DSDIP, and ended the "concurrence" power of the EHP and other referral agencies. This has removed EHP's capacity to reject or condition certain development applications under SPA and this represents a major power shift in decision-making for development in Queensland, centralising decision making powers to DSDIP. Development proposals within the coastal zone of the GBRWHA could irreversibly damage areas of high ecological significance and are now decided by SARA/DSDIP under the aim of economic development, and not EHP, which is concerned with environmental protection.

Strong constraints on urban development outside urban footprints are no longer in effect for three regional planning areas alongside the GBRWHA.[85] New regional plans for areas on the GBR coastline clearly encourage an increase in development, agriculture and mining activities.[86] For example, for Cape York, at the northern end of the GBR, a draft of the new Cape York regional plan (the Draft Cape York Regional Plan) proposes to open up Cape York to development and resource activities.

Amendments to the *Coastal Protection and Management Act 1995* now allow occupation and use of State tidal land for tidal works carried out in compliance with an IDAS code,[87] whereas previously, occupation and use for this purpose was only allowed with a development permit. This amendment reduces oversight of works being undertaken in tidal land in the GBR coastal zone.[88]

The DCZPR and DCSAR do not describe the urban and coastal planning system in Queensland in sufficient detail.[89] Nor do they describe the significant changes to planning and development decision-making on the GBR coast outlined above. The cumulative impacts of coastal development and planning decisions are not appropriately addressed in the DCZPR and the potential effect of new planning and development legislation to be finalised and implemented in 2014,[90] is not discussed at all, despite the fact that the life of the Program for the purposes of the Strategic Assessment is meant to be 25 years.

The WHC expressed great concern about the potentially significant impact on the OUV of the GBRWHA as a consequence of the unprecedented scale of coastal development.[91] The RMM recommended that the strategic assessment should lead to the explicit incorporation of the OUV in decision-making processes for areas adjacent to the property[92] and improved protection for the catchments and coastal areas (including necessary legal/statutory reforms to strengthen protection and management) – the DCZPR and the DCSAR do not satisfy these requirements.

RECOMMENDATIONS:

- The DCZPR and the DCSAR must clearly set out the outcomes of the recent changes to Queensland planning legislation and their likely impacts on the GBR.
- Urgent reform is needed to improve Queensland's planning legislation to satisfy the concerns of the WHC, for example:

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

2. Reinstate the power of EHP to refuse development applications and ensure EHP is adequately funded to consider such applications;

3. Ensure ESD remains the object of the new planning legislation and that public involvement in the planning process is not diminished (RMMR #5(7));

4. Amend the SDPWO Act to ensure judicial review of all decisions and that the principles of ESD are included as the objects of the Act.

9. Environmental impact assessment of major projects is inadequate

Major project development is a key issue as it was an initial driver for UNESCO's attention to the plight of the GBR. The WHC noted "with extreme concern" the approval of the LNG processing and port facilities on Curtis Island.[93] The Mission Report specifically requested that no developments be permitted which create individual, cumulative or combined impacts on the OUV of the GBRWHA.[94]Such recommendations have clearly been ignored.

There are currently 29 Coordinated Projects undergoing the environmental assessment process in Queensland. Almost half of these proposed developments have the potential to directly impact on the OUV of the GBR including the Aquis Resort north of Cairns,[95] the Cairns Shipping Development,[96] the Capricorn Integrated Resort at Yeppoon,[97] the Dudgeon Point Coal Terminals at Hay Point,[98] the Fitzroy Terminal[99] and the Townsville Port Expansion.[100]

'Prescribed project' declarations allow the Coordinator-General - a powerful senior public servant within DSDIP - to make decisions where he believes individual departments (like EHP) are taking too long to finalise approvals or conditions.[101] Since 2012, the Queensland Government has declared 9 major projects to be 'prescribed projects' under the SDPWO Act,[102] including coal mines in the GBR catchments that provide the coal to be shipped through Abbot Point.[103] For example on 23 December 2013, the Queensland Government declared the LNG facility on Curtis Island to be a 'prescribed project'.[104] Two other recently declared prescribed projects are major resort projects in the GBR zone: Great Keppel Island Resort and the Ella Bay Resort. Until recently, the provisions of the SDPWO Act had historically been used for infrastructure which was 'critical' to the running of the State (as opposed to mining and resort developments), such as the South East Queensland Water Grid project in 2006.

Recent changes to the SDPWOA mean that it is in the Coordinator General's ultimate discretion whether it should be publically notified that an EIS is required for the project.[105] Decisions made by the Coordinator General on the environmental coordination of projects cannot be challenged via the normal judicial review of executive decisions.[106]

RECOMMENDATIONS:

- Given such flagrant refusal to implement WHC recommendations WHCR #5 and RMM #8, an independent review of all current and proposed major projects with the potential to cause harm to the OUV of the GBRWHA is urgently needed (not just for Gladstone Harbour).

- Development of major projects with the potential to cause harm should be halted until after the completion of the strategic assessment and the long term sustainability plan for the GBRWHA, in accordance with WHC recommendations.

10. Protection for rivers flowing into the GBRWHA has been eroded

At the date of this submission, the Stewart River and the Lockhart River, both GBR catchments, are protected from many types of development and resource extraction through declarations as Wild Rivers under the *Wild Rivers Act 2005* (Qld). Additionally, the SPP provides for high preservation areas of declared wild river areas as a Matter of State Environmental Significance (MSES), which in turn formed part of the Biodiversity state interest. However the protection for these GBR catchments is expected to be lost within the coming months, upon the finalisation of the Cape York Regional Plan in mid-2014.[107] On 28 November 2013, the Queensland Environment Minister formally commenced the removal of the protection by issuing a Revocation Proposal Notice to revoke the Wild River declarations providing protection for the Lockhart and Stewart Rivers.[108]

With information currently available in respect of proposed regulations of mining and resource activities in the Lockhart basin, the regulatory proposals will not provide the same level of protection as the Wild Rivers declaration.[109] There are no equivalent proposals to protect the Stewart Basin after the wild river declaration is revoked.[110] In fact, the Cape York Regional Plan proposes to set aside most of the Stewart Basin as a 'general use area'. In terms of development activities, after the Lockhart and Stewart Basin's wild river declarations are revoked then several protections in planning laws and policies will be lost.[111] Neither the proposed revocations of protection, nor the inadequate regulations only partially relating to these catchments, are identified in the DCZPR, a fact which was noted in the SKM Review.[112]

The *Water Act 2000* (Qld) has also been amended.[113] The requirement to obtain a permit to clear vegetation from watercourses was removed from that Act. That change makes large quantities of vegetation throughout Queensland vulnerable to clearing and consequently will also affect water quality in some GBR catchments.

The RMM recommended that all components of the OUV of the GBRWHA are clearly defined and form a central element within the protection and management system for the property as well as the catchments and ecosystems that surround it. It also recommended that OUV be a principal reference for legislation in relation to development within or in areas adjacent to the property.[114] By dismantling protections for the Lockhart and Stewart basins, there is inadequate protection of GBR catchments and RMMR #9 is not addressed. RMMR #5 is not addressed as the DCZPR does not consider the impacts of the new changes and increased development on these catchments.

RECOMMENDATIONS:

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

- The DCZPR should recommend that the requirement for riverine protection permits needs to be reinstated.

11. No commitment to consider cumulative impacts

The Mission Report and WHC Recommendations require the state party to prohibit development if it would impact individually or cumulatively on the OUV. The DCZPR does not provide any details on cumulative impact assessment, including the timeframe or clear objectives.[115] The DCZPR indicates[116] that Queensland will work closely with the Commonwealth and GBRMPA to 'improve understanding of cumulative impacts within and adjacent to the GBR' and 'provide clearer guidance on how proponents and decision makers should address cumulative impacts in impact assessments.' We note the Queensland Government's timetable is for Queensland to have approval powers for actions impacting on MNES by September 2014,[117] however the DCZPR does not indicate any commitments to implement cumulative assessment requirements before that time.

There are no legislative or policy frameworks that consider cumulative impacts, with the narrow exception of the Reef Water Quality Program. The DCZPR misleadingly suggests that the Draft Ports Strategy provides assessment of cumulative impacts, when it clearly does not.[118] Figure 4.1 1[119] of the DCZPR is misleading in suggesting that cumulative impacts on MNES are 'partially effective'. Most concerning is the limitation of the commitment to developing cumulative impact 'guidelines' for 'proponents to consider'.[120] 'Discretionary guidelines for development proponents' is not what the WHC recommended. Furthermore, guidelines are generally unenforceable and are discretionary in the way in which they may be satisfied.

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

RECOMMENDATIONS:

- The DCZPR should provide for clear and mandatory requirements that cumulative impacts on the GBR of developments be considered when assessing projects.
- The DCZPR should be amended to provide a true account of current requirements and procedures for the assessment of cumulative impacts.

12. Offsets and conditioning procedures are not currently adequate or effective

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

Throughout the DCZPR, there is an underlying approach of "avoid, mitigate, offset." In the context of the DCZPR, "mitigate" refers to the development assessment process where conditions are placed on individual development approvals to minimise impacts.[121] There are serious problems with Queensland developing appropriate conditions.[122] For example, a whistle blower said of the assessment process for a $20 billion coal seam gas project, "*We were only given a matter of days to prepare conditions for that report. We were actually not given any time to do any reading or assessment of the material. We were just instructed to write conditions…*" [123] Yet under an approval bilateral agreement due in September 2014, Queensland intends to approve and condition projects impacting the GBRWHA without

Commonwealth oversight. This commitment to an approval bilateral agreement has full political support from the Queensland and Commonwealth government via a Memorandum of Understanding.[124]

Whilst conditions to mitigate impacts are obviously an important element of approvals, they do not result in the reduction or elimination of development impacts on the OUV of the GBRWHA. The DCZPR does not adequately address this issue. Furthermore, we note there is no mention of mitigation of climate change in the DCZPR, which reflects the Queensland Government's position that "the Government cannot do anything about climate change."[125]

The WHC requested there not be any development if it would impact individually or cumulatively on the OUV of the GBRWHA or compromise the SA.[126] However in December 2013, the Commonwealth approved four major developments within the World Heritage Area of the GBR, including the capital dredging program at Abbot Point, a terminal expansion at Abbot Point, a LNG Facility on Curtis Island and a Gas Transmission Pipeline to Curtis Island – all contrary to the WHC recommendations.

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

EDO Qld and EDO NQ have viewed the draft Queensland Offsets Framework (which is not yet government policy) and we consider it falls well short of best practice,[127] is not scientifically based and is of a lower standard than the Commonwealth's offsets policy, despite the DCZPR suggesting that the new policy will seek to ensure alignment with the Commonwealth Government's offsets policy. The SKM Review identifies the issue that a new policy is still being developed and further notes that the assessment of 'partially effective' for offsets is not substantiated by hard evidence in the DCSAR.[128] RMMR #5(9) required the strategic assessment to lead to appropriate systems to secure that where development is permitted it will lead to net benefits of the property as a whole. In failing to offer a best practice offsets policy, the DCZPR fails to satisfy the Mission's recommendation.

Even if the Commonwealth offsets policy is applied (which is superior to the draft Queensland Offsets Framework), this does not guarantee an overall net benefit to the GBR. For example, 'environmental equivalence' is difficult to achieve and projects are often approved in which the offsets do not achieve environmental equivalence.

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

RECOMMENDATIONS:

- The DCZPR should provide for an examination of the current method in which developments are assessed and approved with vague conditions which may be complied with post-development and which are frequently not enforced.
- The DCZPR should provide for a detailed and thorough analysis of the current and proposed offsets policies and their effectiveness. The DCZPR should provide for requirements to improve the current offsets policy to provide for adequate protection of the GBR.
- The DCZPR should provide for a requirement that developments not be approved until all measures have been clearly taken to ensure that environmental impacts will be minimised or eliminated.
- The DCZPR should require that conditions of development approvals be strictly monitored and enforced.

13. Threatened species are not protected in an 'ecologically sustainable' manner

Queensland has the most native mammals, the second highest number of threatened species, and high numbers of threatened species on the GBR coast.[129] One of the biggest drivers of species loss is destruction of or impacts on habitat (refer to Vegetation changes above). Recent amendments to the protective legislation for threatened species, the NCA, now allow protected areas to be used for purposes that are not "ecologically sustainable."[130] The amendments also combined protected areas and in some cases eradicated protection completely.

Significant changes will soon be introduced to the Protected Plants framework in Queensland in 2013.[131] According to the trigger map for protected plants[132] vast amounts of land in and near GBR catchments can soon be cleared without requiring a flora survey at all. Previously, a flora survey was required to "identify threatened plants before undertaking any clearing activity, on any area of land, unless the clearing is for public safety or fire management."[133]

Despite these changes, the DCZPR:

1. does not mention the impact of these new laws 'opening up' what once were protected areas on the GBR coastline in Queensland and state waters, yet scores Queensland 'very effective' for avoiding protected areas for threatened ecological communities and migratory species;[134]
2. summary of effectiveness is not a true reflection of the vast number of threatened species listed and continuing to be listed; and
3. does not acknowledge that not all categories of protected wildlife will be protected.

Weakening protection of threatened species is contrary to WHC recommendations,[135] which require a commitment to ensure legislation protecting the property remains strong and adequate to maintain and enhance its OUV. Reform is needed of the NCA to achieve adequate protection. The NCA should be amended to ensure all protected areas are adequately protected in perpetuity. The protection of all threatened species could be improved by clear commitments to designate more protected areas where there is threatened species habitat, and by considering and adopting other States' protection schemes and programs that are effective.

RECOMMENDATIONS:

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

14. Public participation rights have been and continue to be eroded

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

1. The legislation for 'Coordinated Projects,' the largest development and mining projects undertaken in Queensland and along the GBR coast (for example, the Fitzroy Terminal and the Wongai Project north of Cooktown)[136] do not allow any appeal rights or statutory judicial review of decisions by the Coordinator General;[137]

2. Changes in 2012 to costs provisions in SPA now expose community groups to costs orders, even if the group or individual is acting in the public interest to protect the environment. Many communities concerned about the impacts of a development or mining proposal do not have the resources to compete with wealthy developers;[138]
3. State and Commonwealth Governments have recently removed all funding for Environmental Community Legal Centres, such as EDO Qld, that represent community members acting in the public interest to protect the GBR, and which engage in law reform activities to promote legislative protection of the GBR;[139]
4. Queensland has proposed the removal of public objection and appeal rights with respect to all mining projects and limit rights to only 'affected landholders';[140]
5. The *Regional Interests Planning Bill 2013*[141] denies third parties right to appeal on land use decisions. The new law only allows 'affected landholders' to appeal against a decision to allow mining activities in the region, even if acting to protect a Strategic Environment Area, for example, on the Lockhart River (a GBR catchment). EDO Qld and EDO NQ have serious concerns if this bill is passed and have made submissions to a parliamentary committee;[142]
6. There is often no mandatory public consultation process for many types of development in Queensland that may affect the GBR (for example, small scale mining and CSG exploration activities, ecotourism facilities, grazing);
7. The Queensland Government has shown a willingness to 'rush through bills' without undertaking a public consultation by way of a public discussion paper on the policy behind the Bills;[143]
8. The Government recently removed the requirement to publicly notify national park management plans (December 2013), which is not reflected in the DCZPR.[144]

The DCZPR refers to public participation in the Coordinated Project EIS process.[145] The SKM Review does not acknowledge the significant current and proposed restrictions on the public's ability to engage in decision-making. These bare references fall short of satisfying RMMR #5(7).

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

RECOMMENDATIONS:

- The DCZPR should recommend that law reform be undertaken to ensure public consultation and involvement remain or increase as a part of management of the GBR. This needs to include the reinstatement or preservation of third party and public interest appeal rights and improvement of access to justice for community members to protect and manage the GBR.

15. There has been an increase in mining and gas projects that impact on the GBR

Certain large scale coal and gas projects have been accelerated in Queensland.[146] There are many mineral deposits in the GBR catchment area particularly in the Burdekin and Fitzroy basins, and many applications for exploratory resource activities in areas adjacent to the GBR coast.[147] The proposed increases in production of coal and gas are the key justifications of port expansions on the GBR coastline, directly impacting on the GBR and indirectly impacting on the GBRWHA through greenhouse gas emissions.[148]

The Queensland Government has recently announced its intention to re-commence uranium mining in Queensland, bringing an end to a 20 year moratorium on uranium mining in the state.[149] Queensland Mines Minister Andrew Cripps has not ruled out using the port of Townsville to export uranium once the uranium industry becomes commercially viable.[150]

The Draft Cape York Regional Plan to be finalised in June 2014, will open up Cape York to mining and agricultural activities. Protective legislation for the Lockhart and Stewart Basins (GBR catchments) is currently being removed, yet the protection of these rivers is misleadingly lauded in the DCZPR as being 'protected'.[151]

In November 2013, the Queensland Government extended a pilot pollution trading system for four mines in the Fitzroy catchment to release excess mine water for the 2013-2014 wet season.[152] The program includes a lessening of water quality standards for receiving waters and less mine responsiveness required to the annual review of the Water Management Plan.[153]

Other recent amendments create a default position of standard conditions for projects requiring an EA under the EP Act. A proponent simply needs to justify why standard conditions – not tailored conditions – will suffice.[154]

Release of contaminated water in GBR catchments was made easier by recent amendments to the EP Act. From 11 December 2012, Temporary Emission Licences (*'TELs'*) may be applied for and must be decided within 24 hours.[155] There were existing provisions for emergency directions.[156] 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.[157] So environment authority holders under the EP Act, for example mining companies, can now argue that they had not foreseen flood or rain leading to contaminated water in their mines, even if they knew, or ought to have known of such a possibility and ought to have spent money planning to handle the event without releasing contaminants.[158]

Cumulative impacts from GBR catchments should be an essential part of the strategic assessment, however none of the above issues have been significantly addressed in the DCZPR or the DCSAR.[159] This is contrary to WHCR #6 which requested that the strategic assessment 'fully addresses the direct, indirect and cumulative impacts' on the GBRWHA. It is unclear how WHCR #5 has been implemented, as there is no requirement to address the cumulative impacts of resource activities proximate to GBR catchments when approving such activities. The EP Act should be amended to require a cumulative impact assessment of resource activities proximate to GBR catchments.

RECOMMENDATION:

- The DCZPR should more adequately address the direct, indirect and cumulative impacts of the increase in mining and gas projects and associated activities on the GBR.

16. Enforcement and compliance regulation ineffective

The Queensland Government has not allocated sufficient resources (and political will) to enforcement and compliance monitoring of environmental matters in Queensland. In order to protect the GBRWHA, the WHC has urged the Commonwealth and State Governments to: "sustain *and increase* [their] efforts and available resources to conserve the property."[160] The RMM also called for an increase in "overall levels of funding" to provide for "effective protection and management" of the GBR.[161] Whilst funding has increased in some areas (Reef Rescue commitments) it is clear that decreases have occurred in other key areas resulting in a net loss.

It is widely known that since 2012, funding has been severely cut to key Queensland government agencies (like EHP, DNRM and DNPRSR) that assess and approve activities that impact on the GBR. Excusing its actions as part of a 'fiscal repair agenda,'[162] EHP, the main agency charged with enforcing breaches of environmental law in Queensland, has considerably scaled back its operations, choosing to focus on education, industry partnerships and only regulating 'high risk' activities.[163] The problem with this approach is that the vast majority of illegal operators either do not operate with a permit (illegal dumping, unauthorised development or vegetation clearing), or submit false documentation to the regulator knowing that the commercial benefits from the crime will likely outweigh the risks of getting caught and/or any fine that might be imposed.[164] Additionally, severe public service staff cuts of approximately 15-20% across the Queensland State public service during 2012 are likely to hamper ongoing essential legislative implementation and enforcement.[165]

Silencing the public interest

Queensland (and Commonwealth) Governments have cut all funding to community environmental legal centres (like EDO Qld and EDO NQ), a recent move justified by the Governments' assertions that independent environmental legal centres should not be engaged in 'law reform' or 'advocacy' or use their funding to challenge the *status quo*.[166] The Queensland Government changed the legal costs rules in Queensland's Planning and Environment Court in 2012, meaning that community groups acting in the public interest to enforce the law are now at a far higher risk of having to pay their costs and those of the companies they are trying to stop. Many people will no longer take the risk to enforce the law on what they perceive to be unauthorised developments or environmental wrongs.[167]

Self-regulation and de-regulation

The Queensland Government has an arbitrary target to achieve a 20% reduction of regulation by 2018.[168] The introduction of 'self-regulation' (in particular for vegetation clearing), and in some instances, removing regulation altogether (the protected plant changes) are a worrying trend. The disinclination of the Queensland Government to apply the legislative provisions of Chapter 4A of the EP Act - relating to agricultural run-off into the GBR catchments - is also very concerning. Instead, the Queensland Government has opted for industry-led partnerships and self-monitoring and assessment of activities, in an effort to cut costs and encourage economic investment in the State. Since March 2012, all Departments have been told to cut costs and reduce 'green tape' for industries particularly those involved in the Government's 'four pillars' – mining, agriculture, construction and tourism.[169] In many instances, de-regulation targets are based purely on reducing numbers of provisions and 'pieces of paper' rather than outcomes. Flexible guidelines and 'easy to change' regulations rather than clear protection commitments are now the Government's approach.[170]

A relaxed approach to enforcement

Enforcement and compliance activity has decreased remarkably, with the total number of fines halving the last two years from $2.2 million in 2012[171] to $1 million in 2013.[172] EHP says it has adopted a new 'high risk' focus – moving away from setting and applying standards and increasing monitoring and responding to high risk sites.[173] EHP does not make prosecution data publicly available, only watered down 'prosecution bulletins' that serve little more than a marketing purpose.[174] EHP no longer publishes details of individual prosecutions in their annual reports[175], only a brief paragraph on the total fines they have raised.

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

RECOMMENDATION:

- The DCZPR should more adequately consider the impacts to the protection and management of the GBR that the recent cuts to resources which assist in the protection of the GBR, including cuts to funding and effectiveness of enforcement bodies, community environmental legal centres and other enforcement and compliance regulation measures.

17. Lack of consideration of impacts of uranium mining and transportation

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

Queensland has had a ban on uranium mining for over 20 years. Yet, in 2013, the Queensland Government announced it would be lifting the ban.[176] The Government's aim is to have a framework in place for uranium mining by July 2014.[177] It is estimated that Queensland has approximately 40,000 tonnes of "reasonably assured and inferred [uranium] resources"[178] equating to almost $10 billion in value. Most of those deposits are in North and North West Queensland, with one existing uranium mine - the Ben Lomond mine, located just 50km from Townsville.

Shipping uranium through the Great Barrier Reef

The Queensland Minister for Natural Resources and Mines has not confirmed where uranium will be shipped from. As Australia currently has no nuclear power plants, all uranium (except small amounts used for domestic health purposes) will be exported overseas to countries that use nuclear power (India, Japan, USA for instance). The Minister has hinted that Adelaide and Darwin are viable port options but they are considerable distances from the far North Queensland deposits. The Minister is quoted as saying that once the uranium industry becomes commercially viable, then a case may be made to have a licensed port off the East coast of Queensland – at the Port of Townsville – meaning that uranium would be shipped through the GBRWHA.[179]

Reaction from IUCN to uranium activities near the reef

Tim Badman from IUCN who advises the WHC on matters relating to the GBRWHA has said that uranium mining "would be a new threat to the GBR"[180] and that uranium mining and transportation would be a "surprising activity to find in any natural world heritage site".[181] At the very least it is disturbing to us that Queensland has not mentioned uranium activities such as transportation in its DCSAR. An in-depth analysis and assessment of the risks to the GBR caused by nuclear activities must be undertaken and submitted to the Commonwealth Government and then WHC for consideration, before any long term plan for the GBR can be finalised.

Problems with the proposed uranium framework

Firstly, the DCZPR has not considered the risks to the reef posed by lifting the ban on uranium activities. The Terms of Reference for the DCSAR did not include 'nuclear activities' or 'water resources' even though they are both listed MNES under the EPBC Act.[182] There can be no justification for nuclear activities (or water resources for that matter) to be excluded in the Strategic Assessment. The Terms of Reference for the coastal component was only approved by the Commonwealth Government on 30 August 2013 but the Queensland Government announced its plans to lift the ban on

uranium mining almost a year earlier in October 2012. This is simply not acceptable. Given the potential health and environmental risks and the exceptionally strong public interest in the GBRWHA and nuclear actions, clear statements and commitments concerning uranium mining must be included in the final assessment in order to inform the long term sustainability plan.

Secondly, according to the State Government's 'Action Plan to Recommence Uranium Mining',[183] the existing legislative framework[184] will be used to assess and approve mining leases to extract uranium. EDO Qld and EDO NQ have serious issues with that framework, including a recent proposal to remove long standing community objection rights and only allow those landholders 'directly affected' to oppose the development of the mine.[185] This is problematic because landholders 'directly affected' by mining must be approached to negotiate a conduct and compensation agreement – the terms of which may include conditions (in return for money) not to legally object to the mine. In our view, the existing legislative framework is simply not sophisticated enough to assess and approve uranium mining, particularly without third party (expert) objection and appeal rights to scrutinise the process.

Thirdly, there is the crucial question of whether Queensland will have the requisite expertise (including resources) to devote to the assessment, conditioning and management of nuclear activities.[186] Lastly, the State Government has shown a willingness to bypass public consultation and normal democratic processes where particularly controversial mining projects are involved.[187]

RECOMMENDATION:

- The DCZPR should clearly set out the possible outcomes and real risks to the GBR posed by the lifting of the ban on uranium activities, and provide a clear commitment to never allow uranium mining or transportation in or through the GBR or its catchments.
- The ban on uranium mining in Queensland should not be lifted.

18. Delegation of project approval powers to Queensland will reduce standards

Since December 2013, Queensland has the power to assess actions on land or state waters in the GBRMP,[188] despite major concerns about the capacity for Queensland to undertake rigorous assessment.[189] Under the EPBC Act, the Commonwealth is currently responsible for approving major projects that have significant impacts on the GBRWHA. However, in October 2013, the Queensland and Commonwealth Governments formally agreed that the Commonwealth's powers to approve actions under the EPBC Act would be transferred to Queensland by September 2014 by way of a statutory approval bilateral agreement.[190] The political will to advance the transfer of approval powers is set out in a Memorandum of Understanding between Queensland and the Commonwealth,[191] and contemplates that a draft agreement transferring power is expected by April 2014. If an approval bilateral agreement is made, the Commonwealth would no longer approve developments that have significant impacts on MNES, despite its international obligations. An approval bilateral agreement would allow Queensland to use its existing approval laws, such as those described earlier in this submission, to approve significant impacts on the GBRWHA.

Yet the delegation of approval powers is not explained in the DCZPR. This is misleading and does not provide an accurate picture of the intended future management of the GBRWHA. There is no discussion in the DCZPR of Queensland's intentions to make decisions to approve major projects (either in the GBRMP or that may have significant impacts on the OUV of the WHA) under the SDPWO Act (which has economic development not ESD as its objects), with no Commonwealth oversight.

EDO Qld and EDO NQ do not consider that Queensland's legislative framework (including those laws already 'accredited' under an assessment bilateral agreement) to be sufficient or capable of protecting the OUV of the GBR, unless major reform is undertaken. Queensland will need to undertake major legislative reform to improve its standards before acquiring approval powers. We submit that the

DCZPR should be clear in respect of Queensland's intentions to approve actions impacting the GBRWHA without Commonwealth involvement.

RECOMMENDATION:

- The likely outcomes and risks associated with the delegation of approval powers to the Queensland government should be considered and assessed in the DCZPR, particularly with respect to the adequate management and mitigation of impacts on the GBR.
- Queensland should not seek accreditation of its laws to approve projects impacting on the GBR until legislative reform – such as that outlined in this submission – is undertaken.

ABBREVIATIONS AND ACRONYMS USED IN THIS SUBMISSION

EHP..... Department of Environment and Heritage Protection (Queensland)

DCZPR…… Draft Coastal Zone Strategic Assessment Program Report (prepared by Queensland Government)

DCSAR……Draft Coastal Strategic Assessment Report (prepared by Queensland Government)

DSDIP……..Department of State Development, Infrastructure and Planning

EA.....Environmental Authority

EIS.....Environmental Impact Statement

EP Act.....*Environmental Protection Act 1994* (Qld)

EPBC Act.....*Environment Protection and Biodiversity Conservation Act 1999* (Cth)

GBR…….Great Barrier Reef

GBRWHA……Great Barrier Reef World Heritage Area

GBRMP……Great Barrier Reef Marine Park

GBRMPA…….Great Barrier Reef Marine Park Authority

LNG……..Liquefied Natural Gas

MR……Reactive Monitoring Mission Recommendation (number)

MNES……...Matter of National Environmental Significance

MSES……Matter of State Environmental Significance

NCA……..*Nature Conservation Act 1992* (Qld)

OUV……..Outstanding Universal Value

RMM…….Reactive Monitoring Mission: Fanny Douvere and Tim Badman, '*Mission Report: Reacting Monitoring Mission to Great Barrier Reef (Australia)*' (Report, UNESCO, June 2012)

RMMR #…….. Reactive Monitoring Mission Recommendation number

SDAP…….State Development Assessment Provisions

SDPWO Act.....*State Development and Public Works Organisation Act 1971* (Qld)

SPP…….State Planning Policy

SPA…….*Sustainable Planning Act 2009* (Qld)

SKM Review….Sinclair Knight Mertz review of the Strategic Assessment Draft Report

VMA……..*Vegetation Management Act 1999* (Qld)

WHC……..World Heritage Committee

WHCR #……...World Heritage Committee Decision (36COM 7B.8) Recommendation number

UNESCO……United Nations Educational, Scientific and Cultural Organization

ENDNOTES

[1]"Abbot Point coal port expansion in north Queensland approved amid new rules to protect Barrier Reef," ABC News Online, 11 December 2013, http://www.abc.net.au/news/2013-12-10/north-qld-coal-port-expansion-approved-with-strict-conditions/5147916

[2] EPBC Act, Part 10 Div 1 (section 146).

[3] For a list of other strategic assessments under section 146 EPBC Act, see here: http://www.environment.gov.au/topics/environment-protection/environment-assessments/strategic-assessments

[4] "*Section 146 Agreement - Commonwealth of Australia and State of Queensland*" relating to the Strategic Assessment of the Great Barrier Reef, 12 February 2012, available here: http://www.environment.gov.au/topics/environment-protection/strategic-assessments/great-barrier-reef . We note that there is a similar agreement between the Commonwealth Environment Minister and GBRMPA.

[5] RMMR #7.

[6] SKM Review, page 17

[7] SKM Review, page 17

[8] *Environment Legislation Amendment Bill 2013.*

[9]State of Queensland, *Queensland's Agriculture Strategy: A 2040 vision to double agricultural production*, available here: http://www.daff.qld.gov.au/__data/assets/pdf_file/0016/81070/2320-qld-ag-strategy-v15.pdf

[10] See RMMR #2 at page 6.

[11] See: http://www.gbrmpa.gov.au/__data/assets/pdf_file/0019/28810/Ports-challenges-for-the-Great-Barrier-Reef.pdf .

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

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

[14] State Planning Policy, pages 42-43.

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

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

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

[18] DCZPR, paragraph 4.2.2.2, page 64

[19] SKM Review at page 14:*"More detail on port development was expected, particularly in light of the World Heritage Committee's concerns about port expansions throughout the Great Barrier Reef Coastal Zone. Port development and associated activities such as shipping and dredging are given limited description and assessment within the documents."*; SKM Review at page 14: *"The description of the Queensland Government's commitment to limit future port developments to the existing port limits until 2022 should be explained in more detail, as readers may incorrectly interpret this as meaning that no new port expansion projects will occur during this period… The majority of concerns raised regarding port expansions on the Great Barrier Reef have occurred in response to proposals to increase capacity within existing port limits. Also, the Program life is stated to be 25 years, which is longer than the currency of the 2022 port commitment."*

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

[21] National Strategy for Ecologically Sustainable Development, prepared by the Ecologically Sustainable Development Steering Committee and endorsed by the Council of Australian Governments, December, 1992, available here: http://www.environment.gov.au/node/13029#WIESD

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

[23] (b)-(e) but not (a)

[24] Intergovernmental Agreement on the Environment at section 3.5, available here: http://www.environment.gov.au/node/13008

[25] Regional Planning Interests Bill 2013 section 3(1)(a), available here: https://www.legislation.qld.gov.au/Bills/54PDF/2013/RegionalPlanningB13.pdf

[26] Hansard, Minister for the Environment, Hon. AC Powell, 16 Oct 2013, during the introduction of the *Protected Plant Changes– Nature Conservation (Protected Plants) and Other Legislation amendment Bill 2013*, at page 3308: http://www.parliament.qld.gov.au/documents/hansard/2013/2013_10_16_WEEKLY.pdf#xml=http://www.parliament.qld.gov.au/internetsearch/isysquery/2d8f75e4-37a6-4936-9764-76fc94f6093c/6/hilite/

[27] For public information available on upcoming Planning reform in Queensland, see here: http://www.dsdip.qld.gov.au/about-planning/planning-reform.html

[28] In relation to the new Act, the Government has said: "The purpose of the new legislation will be to enable development. We need to drive a major transformation of the state's planning system and culture from its current approach, which is actually stifling development" (http://www.lgnews.com.au/new-laws-needed-to-deliver-queensland-planning-reform/#.UuH_4P1-_Vg). In 2013, EDO Qld, a member of the planning forum for the new Act, wrote to the Deputy Premier asking for public consultation to occur. The Premier declined, saying there would be no community consultation process, only industry-led discussion. A copy of EDO's letter is here and the Deputy Premier's letter in reply is here.

[29] *Transport Infrastructure Act 1994* (Qld) section 2(2)(e).

[30] SPP, page 4.

[31] SPA sections 5and 22(b).

[32] EDO Qld's submission on the amendments is available here: http://www.edo.org.au/edoqld/wp-content/uploads/2013/12/2013-09-13-FINAL-EDO-submission-on-NCOLA-No.2.pdf

[33] Regional Planning Interests Bill 2013 is currently before the Queensland Parliament, https://www.legislation.qld.gov.au/Bills/54PDF/2013/RegionalPlanningB13.pdf

[34] See for example, allowing sand mining to continue on North Stradbroke Island until 2035 without any public consultation or right of review or appeal: ABC News Online, "Parliamentary Committee Weighs Economy and Ecology, 30 October 2013, available here: http://www.abc.net.au/news/2013-10-30/parliamentary-committee-weighs-economy-and-ecology/5058758. EDO Qld made a submission and attended a parliamentary inquiry, submitting that it was an undemocratic approach to side-stepping legislative protections, with our submission available here: http://www.parliament.qld.gov.au/documents/committees/AREC/2013/16-NorthStradrokeIsland/submissions/123-EDOQLD.pdf

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

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

[37] *Great Barrier Reef Coastal Zone Strategic Assessment Background and Final Terms of Reference*, Queensland Department of State Development, Infrastructure and Planning, August 2012, available here: http://www.dsdip.qld.gov.au/resources/report/great-barrier-tor.pdf

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

[39] See Queensland Government, 'Managing category R regrowth vegetation: A self-assessable clearing code' (2 December 2013) available at: http://www.dnrm.qld.gov.au/land/vegetation-management/self-assessable-vegetation-clearing-codes.
[40] Ibid.
[41] Ibid.
[42] See, for instance, the analysis of vegetation management framework changes by Taylor, M.F.J. 2013. *Bushland at risk of renewed clearing in Queensland*. WWF-Australia, Sydney. Available at: http://awsassets.wwf.org.au/downloads/fl012_bushland_at_risk_of_renewed_clearing_in_queensland_9may13.pdf

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

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

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

[46] SKM Review, page 21

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

[48] DCZPR, page 7.

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

[50] SKM Review, page 18.

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

[52] As EHP outlines: "under the BMP system, industry is responsible for benchmarking the performance of its producers.": http://www.qld.gov.au/environment/agriculture/sustainable-farming/reef-legislation/

[53] See for example, the Queensland Environment Minister's media statement 19 November 2012, available here: http://statements.qld.gov.au/Statement/2012/11/19/newman-government-working-with-canegrowers-to-protect-the-great-barrier-reef

[54] SKM Review, page 19.
[55] State of Queensland, *Queensland's Agriculture Strategy: A 2040 vision to double agricultural production*, available here: http://www.daff.qld.gov.au/__data/assets/pdf_file/0016/81070/2320-qld-ag-strategy-v15.pdf
[56] See for example, DCZPR page 47.

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

[58] DCZPR page 46.

[59] *Nature Conservation Act 1994* (Qld), sections 173R – 173S.

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

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

[62] See quote from national parks minister: *"We're doing a full scientific review of 12.5 million hectares of land and that process will be taking the appropriate period of time, because we're talking about a lot of land right throughout Queensland."* ABC News Online, 2 May 2013, "Queensland Government Urged to Convert Land Into National Parks", article available here: http://www.abc.net.au/news/2013-05-02/qld-government-urged-to-convert-land-into-national-park/4665148. Additionally, see here: *"Mr Dickson said the former Labor Government locked up huge tracts of land in a tokenistic bid to reach a percentage target which had nothing to do with land quality."* http://statements.qld.gov.au/Statement/2013/6/2/national-park-estate-review-to-strengthen-quality-land-protections

[63] DCZPR 3.3, page 34, page 46.

[64] See *Nature Conservation Act 1994* (Qld) section 27

[65] DCZPR page 46

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

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

[68] Source: National Parks Association of Queensland.

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

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

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

[72] RMMR #4.

[73] RMMR #8.

[74] SPA section 3.

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

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

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

[78] In accordance with the National Assessment Guidelines for Dredging, SDAP Module 10, PO4.

[79] SDAP Module 10, Performance Outcome 13. http://www.dsdip.qld.gov.au/resources/policy/sdap/sdap-module-10.pdf

[80] SDAP module 10, AO 4.

[81] SDAP Module 10, PO2.

[82] Compared with the prior "SPP 3/11 Coastal Protection".

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

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

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

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

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

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

[89] See DCZPR pages 35 to 40.

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

[91] WHCR #5.

[92] RMMR #5(2)

[93] WHC Decision: 35 COM 7B.10: available at: http://whc.unesco.org/en/decisions/4418

[94] RMMR #8.

[95] For detailed project information: http://www.dsdip.qld.gov.au/aquis

[96] For detailed project information: http://www.dsdip.qld.gov.au/assessments-and-approvals/cairns-shipping-development-project.html

[97] For detailed project information: http://www.dsdip.qld.gov.au/capricorn-integrated-resort

[98] For detailed project information: http://www.dsdip.qld.gov.au/assessments-and-approvals/dudgeon-point-coal-terminals-project.html

[99] For detailed project information: http://www.dsdip.qld.gov.au/assessments-and-approvals/fitzroy-terminal-project.html

[100] For detailed project information: http://www.dsdip.qld.gov.au/assessments-and-approvals/townsville-port-expansion.html)

[101] See Part 5A of the SDPWO Act.

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

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

[104] http://www.dsdip.qld.gov.au/infrastructure-delivery/list-of-prescribed-and-critical-infrastructure-projects.html

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

[106] SDPWO Act, section 27AD.

[107] DSDIP, FAQ section on "*What impact does the draft plan have on wild rivers declarations? The region's wild river declarations are to be formally revoked by the Department of Environment and Heritage Protection with commencement of the final regional plan.*" Available here: http://www.dsdip.qld.gov.au/regional-planning/cape-york-regional-plan.html

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

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

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

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

[112] SKM Review p.22

[113] See section 4 of this advice detailing the changes to the *Water Act 2000* (Qld).

[114] RMMR #9.

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

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

[117] Under an approval bilateral agreement.

[118] See for example, DCZPR page 37. In fact, the example given of Port Hay land use plan suggests that a "desired" environmental outcome is the potential cumulative impacts are simply measured for future port expansion – 'cumulative' is considered in context of the local area, not on the cumulative impacts on the Reef.

[119] DCZPR, page 58.

[120] DCZPR, page 74.

[121] DCZPR, page 37.

[122] These concerns have been addressed elsewhere, see for example a submission by the Australian Network of Environmental Defenders Offices (ANEDO) on the Queensland assessment bilateral agreement, available here: http://www.environment.gov.au/submissions/bilateral-agreements/qld/queensland-environmental-defenders-office.pdf

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

[124] Queensland and Commonwealth MOU, available here: http://www.environment.gov.au/system/files/pages/71679b88-a037-420d-966f-1f5b7047ea83/files/onestopshop-mou-qld.pdf

[125] Quote from EHP representative at IUCN briefing in Brisbane, 6 December 2013.

[126] WHCR #2, RMMR # 2

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

[128] SKM Review, page 19

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

[130] NCA Amendment Bill 2013 (No.2) (Qld).

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

[132] EHP's Flora Survey Trigger Map available here: http://www.ehp.qld.gov.au/licences-permits/plants-animals/documents/flora-survey-trigger-map.pdf

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

[134] DCZPR (referring to the DCSAR) at page 58.

[135] WHCR #7, see also WHC 37COM 7B.10 recommendation #6(c).

[136] A Coordinated Projects map, showing all past and current Coordinated Projects on the GBR coastline, see here: http://www.dsdip.qld.gov.au/assessments-and-approvals/coordinated-projects-map.html

[137] SDPWO Act, section 27AD.

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

[139] The Australian, 2 August 2012, "Qld Community Legal Aid Funding Slashed", story available here: http://www.theaustralian.com.au/news/latest-news/qld-community-legal-aid-funding-slashed/story-fn3dxiwe-1226418183026 ; and more recently, The Guardian, 18 December 2013, "Coalition Cuts All Government Funding to Environmental Legal Aid Centres", story available here: http://www.theguardian.com/environment/2013/dec/18/coalition-cuts-all-government-funding-to-environmental-legal-aid-centres

[140] See an 'early' discussion paper on mining reform (at pages 6-8): http://mines.industry.qld.gov.au/assets/mines-pdf/alluvial-mining-discussion-paper.pdf

[141] Currently before a Parliamentary Committee of State Development, Infrastructure and Industry Committee: http://www.parliament.qld.gov.au/work-of-committees/committees/SDIIC/inquiries/current-inquiries/14-RegPlanInterests

[142] EDO Qld and EDO NQ's joint submission available here: http://www.parliament.qld.gov.au/documents/committees/SDIIC/2013/14-RegPlanInterests/submissions/057.pdf

[143] Two recent examples are the Stradbroke Island Mining Bill and the Regional Planning Interests Bill.

[144] DCZPR page 46: "Management plans or statements for each park, including any new protected areas, outline their management. The public is invited to provide input whenever a plan or statement is being prepared."

[145] DCZPR page 38: "This [Coordinated Project EIS process] includes managing a comprehensive environmental impact assessment process which provides a rigorous assessment including public participation, resulting in strict conditions to manage and mitigate environmental impacts."

[146] See for example, declared 'prescribed projects' (fast-tracked development) in last 12 months including Alpha and Kevin's Corner coal mines, which will be some of the biggest coal mines in the world. http://www.dsdip.qld.gov.au/infrastructure-delivery/list-of-prescribed-and-critical-infrastructure-projects.html Coal mines and gas development are driving the push for port expansion on the GBR coastline.

[147] See DNRM's Interactive Map for current extraction and exploration permits: https://webgis.dme.qld.gov.au/webgis/webqmin/viewer.htm There are significant coal mines and many deposits in the GBR catchment already, see for instance, Abbott Point: http://mines.industry.qld.gov.au/assets/coal-pdf/cen_qld_coal_map_10.pdf

[148] For example, in late 2013 the Queensland Government released the Galilee Basin Development Strategy, which the Queensland Government stated is to "help open up the Galilee Basin to mining" and "reinforces the government's commitment to implementing easier approvals and less red tape for mining proponents". Available here: http://www.dsdip.qld.gov.au/resources/plan/galilee-basin-strategy.pdf .

[149] ABC News Online, 22 October 2012, "Qld Government Lifts Uranium Mining Ban", story available here: http://www.abc.net.au/news/2012-10-22/qld-government-lifts-uranium-mining-ban/4326912

[150] ABC News Online, 22 April 2013, "Potential Uranium Port Sparks Fears For Barrier Reef", story available here: http://www.abc.net.au/news/2013-04-22/potential-uranium-port-sparks-fears-for-barrier-reef/4643832

[151] DCZPR, page 32.

[152] In November 2013, the Queensland Government expanded the coal mine water release pilot to include all mines in the Fitzroy Basin. This will enable all mines with legacy water issues to deal with those problems over the 2013–14 wet season.

[153] See comparison of the Environmental Authority under the EP Act held by the Goonyella Riverside Mine as at 14 August 2012, conditions W12 W31 and as amended in November 2012, conditions W12 W36-38. Department of Environment and Heritage Protection, *Goonyella Riverside & Broadmeadow Environmental Authority Comparison* (November 2012): http://www.ehp.qld.gov.au/land/mining/pdf/ea-comparison-goonyella.pdf

[154] *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* (Qld).

[155] EP Act s 357C.

[156] EP Act s 467.

[157] EP Act s 357A.

[158] In granting a TEL, the EHP must 'have regard' to, among other things, 'the likelihood of environmental harm', human 'health safety or wellbeing', and the 'public interest': EP Act s 357D(e)–(h). These are appropriate considerations. However, while for most decisions under the EP Act the 'standard criteria', including the principles of ecological sustainable development are relevant criteria, this is not so for TELs: EP Act s 357. In granting a TEL, the EP Act makes relevant 'the potential economic impact of granting or not granting the licence:' EP Act s 357D (b). This should not be included as one of the criteria listed in EP Act s. 357D at all, as it goes against encouragement of industry best practice standards.

[159] Passing reference is made to the growth of mining and gas: DCSAR page 160, "*With growth in the mining and coal seam gas industry, there has been an increase in proposals to expand Queensland's long established major trading ports and to establish new trading ports*"; and also at page 164 DCSAR.

[160] WHCR # 8.

[161] RMMR #5(10).

[162] See for instance, EHP's 2012-2013 Annual Report at page 9: http://www.ehp.qld.gov.au/about/corporatedocs/pdf/annualreport-2012-13.pdf

[163] See EHP's regulatory strategy (2013): http://www.ehp.qld.gov.au/management/planning-guidelines/policies/pdf/regulatory-strategy.pdf

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

[165] Many long term (expert) environmental staff 'voluntarily' left the Queensland Government to work for industry in 2012. A large portion of those 'took voluntary redundancies'. Figures at the time put total job losses close to 14,000 people across Queensland's public service. In the environmental arena, changes of departments make figures difficult to quantify but as at September 2012, approximately 220 staff were said to be cut from EHP, 130 from DNPRSR and 360 from the Department of Natural Resources and Mines. Brisbane Times, *Job Cuts by Portfolio* (11 September 2012) <http://www.brisbanetimes.com.au/queensland/list-job-cuts-by-portfolio-20120911-25px8.html>.

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

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

[168] For more information on Queensland Government's approach to reducing red tape (20% less regulation by 2018): http://www.treasury.qld.gov.au/office/services/regulatory-reform/reducing-the-regulatory-burden.shtml

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

[170] See for instance Regional Planning Interests Bill 2013 and our submission available here: http://www.parliament.qld.gov.au/documents/committees/SDIIC/2013/14-RegPlanInterests/submissions/057.pdf. See also MQRA paper – envisaging much of the detail in regulations not the Act itself. EDO Qld has called the Government out on producing mere 'skeleton acts' without clear environmental protections, public appeal rights, public rights to access information and important decision making criteria.

[171] Department of Environment and Heritage Protection, *Annual Report* 2011-2012 page 19. Available at: https://www.ehp.qld.gov.au/about/corporatedocs/pdf/annualreport-2011-12.pdf

[172] Department of Environment and Heritage Protection, *Annual Report* 2012-2013 at page 23. Available at: http://www.ehp.qld.gov.au/about/corporatedocs/annual-report.html

[173] See for instance February 2013 presentation by Acting director of enforcement at EHP, Kelli Ready available at: http://www.wriq.com.au/wp-content/uploads/2013/01/EHP-WRIQ-Presentation-Enforcement-Feb-5-2013.pdf

[174] See bulletins here: http://www.ehp.qld.gov.au/management/planning-guidelines/prosecution-bulletins.html

[175] See for instance the report of the former Department of Environment and Resource Management (DERM) in 2011: http://nprsr.qld.gov.au/about/pdf/annual-report-derm-10-11.pdf at pages 196 - 197

[176] Queensland Department of Natural Resources and Mines, "Recommencement of Uranium Mining in Queensland", available here: http://mines.industry.qld.gov.au/mining/uranium.htm

[177] Queensland Government, 2013, *An action plan to recommence uranium mining in Queensland – Delivering a best practice framework*, available here: http://mines.industry.qld.gov.au/assets/Uranium-mining/uranium-action-plan.pdf at page 1.

[178] Australian Uranium Association, 2 August 2013, available here: http://www.aua.org.au/Content/DepositsQld.aspx

[179] ABC News Online, 22 April 2013, "Potential Uranium Port Sparks Fears For Barrier Reef", story available here: http://www.abc.net.au/news/2013-04-22/potential-uranium-port-sparks-fears-for-barrier-reef/4643832

[180] Radio New Zealand News, 23 April 2013, "Uranium Exports Mooted Across Great Barrier Reef", available here: http://www.radionz.co.nz/news/world/133412/uranium-exports-mooted-across-great-barrier-reef

[181] ABC News Online, 22 April 2013, "Potential Uranium Port Sparks Fears For Barrier Reef", story available here: http://www.abc.net.au/news/2013-04-22/potential-uranium-port-sparks-fears-for-barrier-reef/4643832

[182] EPBC Act, Part 3.

[183] Queensland Government, 2013, *An action plan to recommence uranium mining in Queensland – Delivering a best practice framework*, available here: http://mines.industry.qld.gov.au/assets/Uranium-mining/uranium-action-plan.pdf

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

[185] See small scale alluvial discussion paper http://mines.industry.qld.gov.au/mining/775.htm Pages 6-8.

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

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

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

[189] Issues concerning Queensland's capacity to assess MNES including that in the GBRMP are set out in the ANEDO submission on the Queensland Draft Assessment Bilateral Agreement, available here: http://www.environment.gov.au/node/34993

[190] EPBC Act, section 46. A section 45(3) EPBC Act 'notice of intent' to develop a draft approval bilateral agreement was signed by the Commonwealth Minister for the Environment on 29 October 2013, available here: http://www.environment.gov.au/system/files/pages/b44206bc-d8e5-450b-a05e-4d7c26d8afa1/files/noi-draft-bilateral-agreement-qld-env-approval.pdf

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