

**AUSTRALIAN MARITIME SAFETY AUTHORITY
SUBMISSION TO THE REVIEW OF THE
GREAT BARRIER REEF MARINE PARK ACT 1975**

INTRODUCTION

The Australian Maritime Safety Authority (AMSA), as the national marine safety agency, shares a significant area of interest and close working relationship with the Great Barrier Reef Marine Park Authority (GBRMPA) in relation to ship management, safety and environmental regulation in the Great Barrier Reef region.

AMSA commenced operations on 1 January 1991 with the main objectives to:

- (a) promote maritime safety;
- (b) protect the marine environment from pollution from ships and other environmental damage caused by shipping;
- (c) provide a national search and rescue service; and
- (d) promote the efficient provision of services by the Authority.

AMSA is responsible for administering a range of other legislation within the Transport and Regional Services portfolio, primarily the *Navigation Act 1912*, *Lighthouses Act 1911*, *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*, and *Shipping Registration Act 1981*.

In making this submission, AMSA has confined its comments to those areas where there is a strong intersection of interests between the respective roles of each body.

AMSA AND GBRMPA JOINT AREAS OF INTEREST

GBRMPA and AMSA continue to work together with the overall aim of minimising the impact of shipping activities on the Great Barrier Reef and reducing the risk of a shipping incident occurring in the Great Barrier Reef region to the fullest extent possible under international law and maritime conventions. It illustrates the importance of GBRMPA and AMSA continuing to work cooperatively in the management and regulation of commercial shipping operating in the Marine Park and underlines the strong working relationship that has developed between the two agencies.

Overall the shared regulatory role over shipping between GBRMPA and AMSA works seamlessly and is transparent to the stakeholder groups with a direct interest in this area.

There are three main areas of AMSA's operation of shared interest with GBRMPA:

1. PROMOTING SAFE AND ENVIRONMENTALLY RESPONSIBLE SHIP OPERATIONS IN THE GREAT BARRIER REEF REGION

Shipping regulatory framework - international law and conventions: Shipping is a global industry that is subject to an international regulatory framework established by the United Nations Convention on the Law of the Sea 1982 (UNCLOS) supported by a range of international instruments developed by competent international bodies,

primarily the International Maritime Organisation (IMO). Australia is a party to UNLOS and the IMO's major international maritime conventions and has an obligation to give effect to them in national law.

Australia's powers to regulate shipping also are subject to the provisions of UNCLOS, which defines the internationally agreed responsibilities and jurisdictions of flag, coastal and port States. Under UNCLOS, Australia as a port State cannot hamper or impair the right of passage of foreign flag vessels through its waters unless such regulation is sanctioned by an international organisation like the IMO. AMSA represents Australia in the development and implementation of international ship safety and environment protection standards, primarily through the International Maritime Organization (IMO). AMSA is responsible for promulgating these international standards into Australia's regulatory framework for shipping and for monitoring compliance of ships in Australian waters with those standards.

AMSA has been involved with GBRMPA in progressing international recognition of several special protective measures for the Great Barrier Reef with the aim of providing the highest possible level of environment protection from shipping activities:

Particularly Sensitive Sea Area (PSSA): The IMO recognised the Great Barrier Reef as a Particularly Sensitive Sea Area in 1990. A PSSA is an area needing special protection through action by the IMO because of its significance for recognised ecological, socio-economic, or scientific reasons and may be vulnerable to environmental damage by maritime activities. The IMO recognises a broad range of special protective measures that can be approved to reduce the risk to a PSSA from shipping operations, including compulsory pilotage scheme, vessel traffic management services, certain discharge restrictions and adopting of ship routing measures. All these measures are now recognised by the IMO in the GBR.

Australia in its submissions to the IMO established the concept of PSSAs as a mechanism for recognising the significance of especially sensitive marine environments. Without a management framework provided by GBRMPA, which was of international standing and recognised as world's best practice, it would not have been possible to secure the PSSA status for the GBR. Integral to the success of Australia's proposal was strong support and shared goals developed in close consultation with GBRMPA.

Compulsory coastal pilotage was endorsed by the IMO in 1990 when it recognised the GBR as a PSSA. It makes mandatory pilotage for all vessels of 70 metres or more in length, and all loaded oil tankers, chemical tankers and liquefied gas carriers, regardless of length while transiting the northern region of the Reef and Hydrographers Passage, the major transit point through the Reef to the Coral Sea.

The compulsory pilotage requirement and pilotage area in which it applies were implemented into national law in 1991 by amendments to the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act). AMSA is responsible under the *Navigation Act 1912* for safety regulation of coastal pilotage services and the licensing of coastal pilots providing pilotage services in the Great Barrier Reef and Torres Strait. Consequently, any shipping incidents involving vessels under pilotage or that raise

issues involving the pilotage regulatory regime are shared concerns of AMSA and GBRMPA. It is important that the two agencies are readily able to combine their specialised technical and operational expertise in addressing these emergency situations in a flexible and expeditious manner.

Special protections from ship operational discharges in the Great Barrier Reef provided in the IMO's *International Convention for the Prevention of Pollution by the Sea from Ships* (MARPOL). The Great Barrier Reef is the only area in the world that has such internationally recognised protection, with the ban covering tanker cargo washings, chemicals, sewage and garbage discharge. AMSA, in close consultation with GBRMPA, continues to work hard at the IMO to ensure this special protection regime is carried over to other similar international instruments, such as the IMO's recently concluded *International Convention for the Control and Management of Ships Ballast Water and Sediments*.

The MARPOL convention is implemented in Australia by complementary Commonwealth and State/Territory legislation. State/Territory law generally applies to any vessel discharging pollution illegally within Australia's coastal waters and the Commonwealth *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (POTS Act) applies to a vessel outside coastal waters and within the 200 nautical mile Exclusive Economic Zone. In the Great Barrier Reef, the GBRMP Act also implements the pollution discharge measures in the MARPOL Convention in relation to applicable ships operating in the marine park.

AMSA and GBRMPA pursue to the fullest extent available under Australian law the investigation and prosecution of any ship discharges in contravention of MARPOL in the GBR and Torres Strait. Legal action has been taken in a number of cases with several more cases pending.

Prosecution of offences against ships illegally discharging oil pollution in the marine park usually requires joint investigative action into the source of such pollution by the Australian Federal Police in conjunction with AMSA and GBRMPA. AMSA often conducts an international search to find the responsible ship where a number are identified as being in the vicinity of the oil spill at the time. This may involve international cooperation with AMSA's counterpart marine administrations overseas in arranging sampling of oil from suspect ships in overseas ports.

Chemical analysis of the oil samples from the ships against the chemical profile of the oil pollution allows identification of the suspect ship and exclusion of other ships as possible sources of the oil discharge. AMSA also can obtain satellite imagery of the spill that can provide crucial evidence for the prosecution by showing the extent of the oil slick and assist in proving the identity of the suspect ship.

AMSA has the power under the POTS Act to detain ships charged with pollution offences until a security is lodged by the shipowner equivalent to the maximum amount of penalties and costs that could be imposed in respect of the pollution breach. In this way, a successful prosecution can result in implementation of fines and penalties even though the ship has travelled outside the Australian jurisdiction. AMSA also takes action in notifying the ship's flag State of the ship's detention and the reason for its detention, which may lead the flag State also to take action against the ship and its owners.

GBRMPA has commenced a project to develop protocols for investigation and prosecution in relation to major shipping incidents in the GBR and AMSA, along with other relevant government agencies, is participating in a working group to assist this valuable project.

Ship management in the GBRMP is another area where AMSA and GBRMPA continue to work closely.

AMSA shares strategic interests with GBRMPA in relation to the management of shipping and the regulation of ship safety and pollution prevention in the waters of the Great Barrier Reef region. In addition to the Great Barrier Reef's environmental and heritage significance, the Marine Park has an important economic role in relation to the shipping industry with around \$10 billion of export merchandise trade being shipped from ports in the region and some 6,000 ship movements through its waters each year.

There are 10 major ports that lie within the GBR area:

- Abbot Point
- Cairns
- Cape Flattery
- Gladstone
- Hay Point/Dalrymple Bay
- Lucinda
- Mackay
- Mourilyan
- Port Alma
- Townsville.

In 2004/2005 there were some 3,400 port visits by international shipping totalling in excess of 125 million gross tons. The major bulk ports of Gladstone and Hay Point/Dalrymple Bay accounted for 2,200 visits. This region contributes some 15% of Australia's total economic value for exports.

In conjunction with other stakeholder interests, AMSA contributed to the extensive consultative process involved with GBRMPA's *Great Barrier Reef Marine Park Zoning Plan 2003*, which came into force on 1 July 2004. The Plan included a Designated Shipping Area (DSA) that applies throughout the Inner Shipping Route, recognised passages, and all port approaches in the Marine Park. The DSA provides a guarantee for shipping access across the Plan's expanded range of protected areas within the Marine Park and requires shipping to stay within defined boundaries to minimise impacts on highly protected areas. AMSA, the Australian Hydrographic Service and Maritime Safety Queensland liaised closely with GBRMPA to identify the areas most frequently used by shipping, to ensure access to ports and to facilitate clear communication of this information to mariners.

The Plan involved a substantial commitment of resources by GBRMPA within a relatively short period of time between the initial announcement of the rezoning proposal in early 2003 and the tabling of the Zoning Plan in Federal Parliament in December 2003. Many sectoral interests, including the shipping, fishing and tourism industries, were concerned with the impact of the proposals on their continued

operations in the Marine Park. It is a tribute to GBRMPA that such a significant reform was achieved within the planned timeframe and following an unprecedented level of consultation. It is inevitable that in balancing such overtly competing interests that some participants will, on balance, view the outcome as less than optimal. Nevertheless, the Plan has managed to find a balance, which generally serves Australia's interests well.

2. PROVISION OF THE NATIONAL NETWORK OF MARINE AIDS TO NAVIGATION

AMSA provides a national network of integrated aids to navigation meeting the needs of commercial shipping for safe and efficient coastal navigation. The AMSA network comprises over 400 different types of aids to navigation, including lights, radar transponder beacons (racons), radar, auxiliary lights, unlit beacons, tide gauges, and Differential Global Positioning Systems and the coastal Vessel Traffic Service covering the Great Barrier Reef and Torres Strait region. The network includes over 50 lighthouses of historical significance, with many located in highly remote areas requiring specialised environmental and heritage management strategies.

Queensland is the location of the majority of the aids to navigation compared to the other States/Northern Territory, particularly recognising that the waters of the Great Barrier Reef are navigationally hazardous. Ships encounter confined waters for extended periods, with numerous reefs, coral cays and continental islands, limited water depths, and narrow restricted shipping lanes in certain areas. The region also is subject to complex tidal streams, strong trade winds, occasional cyclones, and reduced visibility during the wet season.

AMSA consults with GBRMPA in its aids to navigation work, particularly in the development of sites for aids to navigation and in decommissioning sites that no longer are required for commercial navigation. A number of sites, including several islands in the Great Barrier Reef have been transferred from AMSA to GBRMPA's ownership.

Mandatory ship reporting system for ships transiting the inner route of the Great Barrier Reef and Torres Strait was approved by the IMO to come into operation in 1997. Under the system, all ships over 50 metres in length and certain vessels carrying hazardous cargo are required to provide regular position reports to a joint Australian and Queensland Government facility, REEFCENTRE, at Hay Point.

The REEFCENTRE is jointly managed by AMSA and Maritime Safety Queensland. GBRMPA is a key stakeholder in the Ship Reporting Consultation Group, which also includes representatives from the shipping, fishing, and tourism industries and government agencies.

The IMO recently approved the upgrading of the ship reporting service to a Coastal Vessel Traffic Service (VTS), which formally came into operation in December 2004. This service integrates technological and communication advances to vastly improve the tracking of ships in these navigationally challenging waters and also provides maritime safety and navigational information to vessels transiting the region with the aim of ensuring better-informed shipboard decision-making.

There remains a very close and cooperative relationship in order to ensure that the best outcomes are achieved for the GBR Marine Park whilst still accommodating the economic imperatives of this region.

3. PROTECTING THE MARINE ENVIRONMENT FROM SHIP-SOURCED POLLUTION

AMSA manages the National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (the National Plan), a national integrated Government/industry organisational framework for response to ship-sourced pollution in the marine environment. It involves providing oil and chemical spill preparedness and response capabilities in consultation with State and Northern Territory Governments, port corporations and authorities, shipping, oil, exploration and chemical industries and emergency services.

The National Plan Management Committee undertakes strategic management of the National Plan, including setting broad policy directions, recommending funding arrangements to Ministers, and monitoring provision of services by participants in accordance with the National Plan Inter-Governmental Agreement. It has an independent Chair and comprises Australian and State/Northern Territory Government officials, AMSA, GBRMPA, the Association of Australian Port and Marine Authorities, the Australian Institute of Petroleum, the chemical industry and the Australian Shipowners Federation.

As part of the National Plan, there is a specialised *REEFPLAN* that provides for response arrangements to ship sourced pollution incidents in the Great Barrier Reef region. This specific contingency plan is administered by GBRMPA, AMSA and the Queensland Government, with the latter designated by mutual agreement as the lead combat agency for responding to a pollution incident in the marine park, with assistance from AMSA and GBRMPA as required. AMSA, Maritime Safety Queensland and GBRMPA work closely together in conducting regular exercises and training courses to test and support the administrative and operational arrangements under the National Plan. A major stockpile of response equipment is located in Townsville with other equipment stockpiles at the major ports in the Great Barrier Reef.

KEY SHARED STAKEHOLDER INTERESTS

AMSA has an intersecting group of stakeholders with GBRMPA centred on the commercial shipping industry. We appreciate the necessity of successfully balancing the various competing interests involved with our functions. However, in GBRMPA's case, the adoption of a multiple-use policy for the administration of the Marine Park means that reaching consensus involves reconciling a greater range of interests in the maritime industry operating in the Marine Park. This includes trading ships, commercial and recreational fishing vessels and tourist vessel operators, as well as the recreational boats, pleasure craft and recreational fishers. Generally, AMSA's regulatory role is confined to the larger trading ships (cargo and passenger vessels). State and Territory Government's are responsible for safety regulation of fishing vessels, smaller vessels such as tourist cruise vessels and recreational boats.

AMSA appreciates that GBRMPA also has a particular relationship to maintain with the Queensland Government and related State-based agencies. AMSA has a similar inter-governmental relationship with its counterpart agencies in the States/Northern Territory.

AMSA is required by the AMSA Act to consult with government, commercial, industrial, consumer and other relevant bodies and organisations in performance of its functions and exercise of its powers. AMSA has a range of established consultative mechanisms with stakeholders.

The AMSA Advisory Committee is a non-statutory consultative body of senior executive representatives of AMSA's key stakeholders that meets three times each year, including a joint meeting with the AMSA Board. It was established by the AMSA Board to provide AMSA with input on the future directions, both international and national, of the maritime industry and advice on issues that may affect AMSA and proposed changes to AMSA's operations and advice on fishing and recreational boating services. Before joining the AMSA Board in 2002, the Chair/CEO of GBRMPA was a member of this Committee.

AMSA also has a number of specialised consultative bodies engaging stakeholders that have an interest in specific areas of AMSA's operation. The main committees relevant to GBRMPA include:

- *Navigational Services Advisory Committee* provides a forum for consultation on issues concerning the aids to navigation network and navigation systems and includes representatives from the shipping industry, marine pilots, and the Royal Australian Navy's Australian Hydrographic Office. It generally meets twice each year. All proposals for the establishment or decommissioning of marine aids to navigation within the GBR are brought to this Committee.
- *Bulk Cargoes Advisory Group* provides a forum for consultation between AMSA and relevant Australian organisations concerned with the production, export and transportation by sea of solid bulk cargoes on technical, safety and pollution prevention aspects. Participants include: the Association of Australian Port and Marine Authorities (AAPMA), Australian Shipowners' Association, Shipping Australia Limited, Minerals Council of Australia, National Bulk Commodities Group, Fertilizer Industry Federation, Standards Association of Australia, and major bulk shipping interests. With the major bulk ports of Hay Point, Dalrymple Bay and Gladstone adjoining the Marine Park, issues concerning bulk cargo shipping are of particular interest to GBRMPA.
- *Pilotage Consultative Committee*: facilitates consultation with coastal pilots and pilotage providers in the Great Barrier Reef and Torres Strait region about pilotage initiatives and provides a venue where matters concerned with pilotage operations within this area can be raised and discussed. It involves coastal pilots, pilotage service providers, and AMSA. This framework of compulsory pilotage was put in place as a protective measure in support of Australia's proposal for PSSA status for the GBR. On going management of this regime is of intense interest to the international shipping interests, the IMO and other

coastal States who share Australia's objectives of achieving appropriate protection for the pristine and environmentally sensitive marine areas. This is particularly so given Australia's success in achieving World Heritage status for the GBR and the Authority's recognition as a world leader in marine park management.

CONCLUSION

In conclusion, there is wide and significant intersection of interests between AMSA and GBRMPA. The issues are complex, diverse and are of significant economic and cultural value to Australia. The success of the management of the GBR has in large measure been assisted by the stability of the organisations involved. This has enabled the many and diverse stakeholders to develop and retain a coherent voice in the management of the Marine Park. At the same time, the essential services provided by shipping and the large economic value of the region has been accommodated within the management framework.

AMSA has been fortunate to have the GBRMPA Chair as a member of the AMSA Board, originally for a two-year term from 2002 and recently reappointed for another three years until 2007. This has proved highly beneficial to both agencies in providing a valuable perspective into each other's concerns at the strategic level. It also has provided opportunities for enhancement to the relations between GBRMPA and AMSA's maritime industry stakeholders and reciprocal recognition of the importance of the environmental aspects of their operations.

In the management of the GBR Marine Park, the clarity of purpose and the balancing of competing interests has been forged over a period of 30 years. The undoubted success of the GBRMPA and its standing as a world leader in managing the complex stakeholder interests should be of paramount consideration in the minds of the review team.