

14. Findings and recommendations

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14.1 Overall findings of the Review

- 1) The Great Barrier Reef is iconic to Australians and internationally. This is recognised in its listing as a World Heritage Area. As a party to the United Nations Convention Concerning the Protection of the World Cultural and Natural Heritage (1972), Australia has acknowledged a 'duty of ensuring the identification, protection, conservation and transmission to future generations of the cultural and natural heritage... [and] ...will do all it can to this end, to the utmost of its resources...'
- 2) Over the last 30 years the *Great Barrier Reef Marine Park Act 1975* has achieved its original objective, as specified in the Act, of 'establishment' of the Marine Park and putting in place an effective operational and institutional management framework to ensure the 'control, care and development' of the Marine Park (s. 5(1)).
- 3) The establishment of the Great Barrier Reef Marine Park applies the concept of a multiple use park in which 'reasonable use' can co-exist with conservation. Australia's 1998 Oceans Policy now provides an overarching framework for ecosystem-based management in Australia's marine areas, as well as for a national representative system of Marine Protected Areas.
- 4) The zoning of the Marine Park provides for a gradation of use from 'General Use' to 'Preservation'. The expansion in protected areas of the Great Barrier Reef Marine Park delivered through the Representative Areas Programme, as well as the protection provided through Queensland marine and national parks, has put in place a level of protection that will place the ecosystem in a strong position to maintain its resilience over the longer term. This has been widely acknowledged as an important achievement for the conservation of marine biodiversity. The introduction of this protection has nevertheless resulted in short-term adjustment pressures that have been quite intense, especially for fishers and associated businesses.
- 5) Effective education about and enforcement of the 2003 Zoning Plan in the future will be essential to ensure the integrity of the multiple use approach and that the benefits of the greater degree of protection now provided are realised.
- 6) The Review Panel is of the view that effective management of the Marine Park over the next 30 years will require improvements to the existing institutional and governance arrangements.
- 7) The Review Panel considers that in the future the pressures on marine resources and ecosystems will increasingly be external to the Marine Park (water quality, climate change, coastal population growth and development) or will cross Park boundaries (protected species and fisheries). It will not be possible to manage these issues solely through the *Great Barrier Reef Marine Park Act 1975* and the Authority. It will therefore be important to have in place governance arrangements that can effectively assess the level of protection required, address competing uses of Marine Park resources and consider onshore and offshore issues that have national and cross-jurisdictional implications.
- 8) The Australian and Queensland governments will need to maintain and strengthen their collaborative working relationship for the effective long-term protection and wise use of the Great Barrier Reef. In particular, governments need to be able to develop the approaches necessary to address issues that affect the Marine Park but which extend beyond the Marine Park boundaries. The Australian and Queensland governments' *Reef Water Quality Protection Plan* is a good example of the type of integrated arrangement that should be more broadly applied.
- 9) The current suite of agreements between governments covering the Great Barrier Reef are high level, fragmented, limited in scope and detail and do not provide an adequate overarching framework for the future. The Review Panel considers that a comprehensive intergovernmental agreement is needed as an essential foundation and framework for good governance and effective collaboration.

- 10) The Authority is a regulatory and advisory body and its operations are predominantly non-commercial. In considering the requirements of the *Review of Corporate Governance of Statutory Authorities and Office Holders* (Uhrig 2003) the Authority fulfils the requirements for being a separate statutory entity with the requirement for collective decision making under a single name. However, the Authority does not fit well under the *Commonwealth Authorities and Companies Act 1997*. It would be more appropriate for the Authority to be subject to the *Financial Management and Accountability Act 1997*.
- 11) The arrangements underpinning the Authority's governance are multi-layered. Some features of the existing arrangements are effective while others are moribund and accountabilities unclear. In particular, the role and responsibilities of the Great Barrier Reef Consultative Committee, the Local Marine Advisory Committees and the Reef Advisory Committees are informal and overlap. It is apparent that the Consultative Committee is not operating effectively and has conflicting accountabilities to the Authority and the Minister. It is also apparent that the Ministerial Council has not always been effective as a forum for policy collaboration and coordination.
- 12) The way that research informs planning processes, performance assessment and management decision making is not sufficiently clear. The individual elements are generally fragmented and have a greater emphasis on the biophysical, with far less attention to the social and economic aspects. The research is predominantly provided by other bodies through networks or partnerships. A regular and reliable means of assessing performance in the long-term protection of the Marine Park in an accountable and transparent manner is required.
- 13) The current operating environment has many facets. There are overlapping policy, management and regulatory responsibilities for marine parks. These vary in scope, approach, objectives and the matter or activity covered and may address one or more of the following: ecosystem management, environment protection, biodiversity conservation, fisheries management, pollution and water quality controls, and heritage management.
- 14) It is appropriate to maintain a separate Act in relation to the Great Barrier Reef. However, it is important to ensure that this Act and the *Environment Protection and Biodiversity Conservation Act 1999* are not unnecessarily duplicative and that they operate in a cohesive and integrated manner. It is also important to ensure that the *Great Barrier Reef Marine Park Act 1975* is consistent with current Australian Government policies and approaches to environment protection, as reflected in the *Environment Protection and Biodiversity Conservation Act 1999*.
- 15) The interaction of the *Great Barrier Reef Marine Park Act 1975* and the *Environment Protection and Biodiversity Conservation Act 1999* is such that both Acts can apply to a single matter within the Marine Park and there are overlaps and gaps that should be addressed. In addition, there is a variety of Commonwealth legislation that applies within and in the areas surrounding the Marine Park, such as the *Sea Installations Act 1987*, for which measures are currently in place to minimise duplication, for example, through delegation of approval authority to the Authority.
- 16) The Authority has a legitimate role in relation to fishing activities as part of its responsibility, as ecosystem manager, to protect the environmental and cultural values of the Marine Park and to provide opportunities for ecologically sustainable use. Under current Offshore Constitutional Settlement arrangements, the Queensland Government is responsible for managing fisheries, including within the Marine Park. The Department is responsible for assessing and approving the fisheries management arrangements put in place by the Queensland Government under the *Environment Protection and Biodiversity Conservation Act 1999*. There is, however, a need for a clearer framework and an integrated approach to ecosystem and fisheries management and to environment protection in the Great Barrier Reef Marine Park and World Heritage Area.

- 16) cont.
 - a) There are at least six legislative instruments that apply both similar and conflicting objectives in relation to fisheries and for which responsibility is separated across agencies and jurisdictions.
 - i) *Great Barrier Reef Marine Park Zoning Plan 2003* (Representative Areas Programme)
 - ii) *Great Barrier Reef Coast Marine Park Zoning Plan 2004* (Qld)
 - iii) *Fisheries (East Coast Trawl) Management Plan 1999*
 - iv) *Fisheries (Coral Reef Fin Fish) Management Plan 2003*
 - v) *Environment Protection and Biodiversity Conservation Act 1999*
 - vi) *Fisheries Management Act 1994* (Qld).
- 17) The *Great Barrier Reef Marine Park Zoning Plan 2003* came into force in July 2004 and implemented the Representative Areas Programme. The development and implementation of this Programme was a significant undertaking for which there was no precedent in terms of scale, scope and process, given the extent of the Marine Park, the number of alternative and competing uses, and the large number of stakeholders.
- 18) The Authority made extensive efforts to achieve effective engagement with stakeholders as part of the Representative Areas Programme with the objective of delivering a balanced outcome. The Programme had a well considered scientific basis. Extensive documentation and web-based information was made available and the Authority held a large number of meetings with stakeholders. The timeframe, process and resources were finite and the Authority stretched to accommodate the volume of consultation and analytical work required, particularly in the final consultation stage.
- 19) The cumulative regional, social and economic impacts of the State zoning and fisheries management plan changes, that occurred over the same period as the 2003 Zoning Plan, were not assessed, nor were other factors impacting on the viability of business (such as fuel prices and high exchange rates). In relation to recreational fishing there was insufficient attention paid to the effects of restrictions on access for recreational fishing, and in particular the effect on associated businesses.
- 20) There were two alternative views expressed by stakeholders regarding the Representative Areas Programme.
 - a) Many viewed the Programme as a significant conservation achievement, were supportive of the scientific underpinning and considered the Authority had handled the rezoning process well. This stakeholder group included the tourism industry, shipping and maritime safety interests, the scientific community, conservation groups, the diving industry, sailboat operators and some local community groups.
 - b) Other stakeholders expressed considerable dissatisfaction with the process, questioned the scientific basis and considered that the Authority was biased against them. The stakeholder group expressing such dissatisfaction did so largely in relation to recreational and commercial fishing and the associated impacts on land-based businesses such as boatyards, bait and tackle suppliers and land-based fish processing and marketing enterprises. The key elements of their representations were:
 - i) perceptions that the objectives and intent of the Representative Areas Programme were not clearly communicated
 - ii) unmanaged expectations about the process and achievable outcomes
 - iii) inadequate consideration of socio-economic factors at a regional and local level, in particular given recent fisheries management changes
 - iv) a lack of transparency about the weighting of factors used in decision making
 - v) disagreement with the scientific basis for the Representative Areas Programme, and for specific zoning decisions

- vi) inadequate arrangements for consultation in some cases and too-short timelines for making submissions
 - vii) perceptions that the Authority failed to provide adequate explanatory feedback in cases where specific zoning suggestions were not able to be accommodated
 - viii) perceptions that there had been inconsistent application of ground rules, lack of natural justice, and in some cases, political interference
 - ix) perceptions that the information that was provided in submissions to the process was used to close favourite fishing areas.
- 21) The concerns expressed by some stakeholders in regard to the Representative Areas Programme point to an underlying need for the zoning plan development process to have a higher degree of transparency and accountability such that:
- a) stakeholders are appropriately informed of the overarching objectives and rationale for the proposals
 - b) there is sufficient time in relation to the complexity of the proposals for stakeholders to prepare comment
 - c) the basis for decisions on alternate use is clear and in the public domain
 - d) the social and economic impacts at a local and regional level and how they interact with State and local government initiatives are understood.

14.2 Recommendations

The recommendations of the Review Panel aim to put in place robust governance, management and legislative frameworks to address the long-term strategic and operational needs of the Great Barrier Reef. The recommendations are directed toward strengthening the future accountability and transparency of the Authority and ensuring that the concerns of stakeholders raised during the course of this Review are addressed in that context. Two critical factors are that the Authority must have the expertise, skills and resources to undertake the tasks it is required to do effectively and that there must be effective collaboration between the Australian and Queensland governments in the management of the Great Barrier Reef.

Role of the Authority

- 1) The Review Panel recommends that consistent with an ecosystem-based approach to management the primary objective of the Authority should be:
 - the long-term protection, wise use, understanding and enjoyment of the Great Barrier Reef.*
- 2) The Review Panel recommends that to achieve this objective, the Authority should focus on day-to-day management and on ensuring that longer-term issues are effectively and accountably addressed. Accordingly, the Authority's main functions should be:
 - a) the management, under a multiple use approach, of the Great Barrier Reef Marine Park ecosystem
 - b) undertaking or facilitating research, monitoring and reporting to inform management, policy and accountability, which would include:
 - i) monitoring and assessing the condition of the Marine Park, having regard to the objectives of protection and wise use of the resource
 - ii) identifying long-term research needed to inform decisions by government and understanding by the public
 - iii) regularly and publicly reporting on the management of the Marine Park and the outlook in the context of risks and pressures.

- 3) The Review Panel recommends that the Authority's functions set out in the current Act (ss. 7 and 8) should continue, in particular:
 - a) advising and making recommendations to the Minister in relation to the care and development of the Marine Park, including the areas that should be declared to be a part of the Park
 - b) developing zoning plans and plans of management
 - c) managing the Marine Park cooperatively with the Queensland Government. This includes performing permitting and approval functions and enforcing the Act, Regulations and zoning plan
 - d) carrying out or arranging research relevant to the Marine Park
 - e) providing or arranging for the provision of education, advisory and information services relating to the Marine Park.

Agreement between governments and relationship with Queensland

- 4) The Review Panel recommends the collaborative arrangements between the Australian and Queensland governments in management of the Great Barrier Reef should be enhanced by:
 - a) establishing a comprehensive intergovernmental agreement that:
 - i) has as its clear objective facilitating the integrated and collaborative management of marine and land environments so as to provide for the long-term protection and wise use of the Great Barrier Reef
 - ii) clearly describes the nature, functions, powers, accountabilities, operational protocols and interrelations between the Ministerial Council, the Authority and the Department
 - iii) confirms that Queensland will continue to be responsible for day-to-day management of the Marine Park, subject to the Authority, with the detailed arrangements for day-to-day management in separate agreements
 - b) strengthening the Ministerial Council as a forum through:
 - i) a clear charter for joint policy development and policy coordination in relation to both onshore and offshore issues affecting the protection and use of the Marine Park and World Heritage Area
 - ii) the role of providing broad oversight and direction of day-to-day field management
 - iii) a standing committee of officials established to support the Ministerial Council to identify issues requiring joint policy development or policy coordination and, subject to the direction of the Council, to progress these issues through steering committees with the appropriate responsibilities and expertise
 - iv) responsibility for the *Reef Water Quality Protection Plan*
 - v) a clear role of improving collaboration and coordination of regulatory and management activities that affect fisheries and of other substantive matters such as the management of islands within the marine parks. The Council may wish to develop an approach similar to that used to manage water quality (the *Reef Water Quality Protection Plan*) in relation to fisheries issues.

Structure of the Authority

- 5) The Review Panel recommends that the Authority continue as a statutory authority and a body corporate.

- 6) The Review Panel recommends that the Authority be constituted consistently with the Uhrig review executive management structure, with an overarching governance role for the Minister.
 - a) The members of the Authority, as statutory officeholders, should be appointed for their relevant expertise and independence. Members should not be representational.
 - b) The Authority should comprise a Chairperson and a minimum of two and a maximum of four other members. The Chairperson should be appointed on a full-time basis, with all other appointments part-time.
 - c) One member, not being the Chairperson, should be nominated by the Queensland Government in consultation with the Australian Government.
 - d) The nomination of other members should be the responsibility of the Australian Government, in consultation with the Queensland Government.
 - e) The appointment of members should be the responsibility of the Governor-General on the advice of the Minister.
 - f) Members should be appointed for a term of up to five years, with the opportunity for reappointment.
 - g) Remuneration and resignation provisions should remain as currently provided for in the *Great Barrier Reef Marine Park Act 1975*.
- 7) The Review Panel recommends that the Chairperson of the Authority perform the role of chief executive officer which would involve responsibility for:
 - a) the role of chief executive for the purposes of the *Financial Management and Accountability Act 1997*
 - b) the role of agency head under the *Public Service Act 1999*
 - c) day-to-day administration of the Authority
 - d) arranging support for the Authority in the discharge of its duties
 - e) undertaking specific functions of the Authority delegated by the members.
- 8) The Review Panel recommends that the Authority be supported by staff employed under the *Public Service Act 1999*. These staff, along with the chief executive officer, should constitute a 'statutory agency' for the purposes of that Act.
- 9) The Review Panel recommends that the Authority move from being subject to the *Commonwealth Authorities and Companies Act 1997* to the *Financial Management and Accountability Act 1997* as a 'prescribed agency'.
- 10) The Review Panel recommends that, to avoid conflicts, the chief executive officer should not be subject to direction by the members in relation to the performance of functions, or exercise of powers, under the *Financial Management and Accountability Act 1997* and the *Public Service Act 1999*.

Role of the Minister and the Department

- 11) The Review Panel recommends a principles approach to policy responsibilities and the relationship of the Authority to the Department, other portfolio agencies and the Minister. The principles proposed are based on respective roles, legal authority and whether the issues are local, State, Commonwealth, national or a combination.
 - a) The Authority should have responsibility for:
 - i) those functions provided for in the *Great Barrier Reef Marine Park Act 1975* where the activity to be regulated or managed occurs within the boundaries of the Marine Park
 - ii) operational policy or guidelines, that is, policies related to the administration of an established government policy, regulatory regime and/or programme.

- b) A whole of portfolio approach, involving the Authority, the Department and relevant portfolio agencies, should be employed where:
 - i) the matter transcends Marine Park boundaries
 - ii) there is a need for an equivalent and consistent approach in areas adjacent to the Marine Park boundary
 - iii) a decision by the Australian Government is required.
- c) A whole of portfolio and/or whole-of-government approach involving the Authority, the Department and other relevant Australian Government agencies should be taken where:
 - i) application of the matter, or its impacts, are external to the Marine Park
 - ii) there are national or cross-jurisdictional policy implications or issues of precedent
 - iii) there is a major budget impact such as structural adjustment assistance
 - iv) there is a need for consequential changes in policy, legislation and regulation by the Department or other Australian Government agencies.
- 12) The Review Panel recommends that, to improve the interaction between the Department and the Authority, senior management of the Authority, the Department and other relevant portfolio agencies should meet at least twice annually to systematically review research, policy, operational and budget issues.
- 13) The Review Panel recommends that, to provide structure, clarity and transparency in the setting of government expectations and the oversight of performance, the Minister issue a regular Statement of Expectations and that the Authority respond with a Statement of Intent.

Transparency, accountability and engaging with stakeholders

Outlook Report

- 14) The Review Panel recommends that there be a regular and reliable means of assessing performance in the long-term protection of the Marine Park in an accountable and transparent manner. This should be delivered through a statutory requirement for a periodic *Great Barrier Reef Marine Park Outlook Report*.
 - a) The *Outlook Report* should provide a regular report on the management of the Marine Park and the overall condition of the ecosystem, as well as a risk-based assessment of the longer-term outlook.
 - b) The *Outlook Report* should include analyses of:
 - i) the ongoing commercial and non-commercial use of the Marine Park
 - ii) trends over time against baseline and benchmark data, including commercial and recreational use, biodiversity, ecosystem health and resilience and social and economic systems
 - iii) the condition of the ecosystem, including health, resilience and biodiversity
 - iv) the effect of management measures, including zoning plans and plans of management
 - v) risks and pressures on the ecosystem, including those external to the Marine Park
 - vi) biophysical, social and economic regional factors
 - vii) the outlook for the Marine Park based on quantitative and qualitative data.
 - c) The *Outlook Report* should be prepared by the Authority and be peer reviewed by an appropriately qualified expert panel appointed by the Minister.
 - d) Publication should be on a five-yearly basis, this being a suitable interval for a report of this scope and having regard to the response times of the biological and human systems being assessed.

- e) Publication of the *Outlook Report* and tabling in Parliament is proposed to ensure full accountability in the public domain.
- f) The *Outlook Report* should be a key input for any future changes to zoning plans and the consideration of broader issues by governments.

Advisory committees

- 15) The Review Panel recommends that the Consultative Committee be reconstituted as an Advisory Board to the Minister for the Environment and Heritage.
 - a) The Advisory Board should be non-statutory with terms of reference issued by the Minister.
 - b) The Advisory Board would provide the Minister with a means to access advice on specific issues related to Marine Park protection and use, with members being drawn from business, community, Indigenous, environmental and other relevant bodies.
 - c) The Advisory Board would provide advice on particular matters as requested by the Minister, for example coastal development and Indigenous use of the Marine Park.
 - d) Appointments to the Advisory Board should continue to be the responsibility of the Minister.
 - e) The Authority should have only observer status on the Advisory Board.
 - f) The Department should provide secretariat support to the Advisory Board.
 - g) The Advisory Board would be expected to meet twice annually.
- 16) The Review Panel recommends that the Local Marine Advisory Committees and Reef Advisory Committees should be formally constituted as committees reporting to the Authority, but a statutory basis is not necessary.
 - a) The Authority should establish clear terms of reference and appointment processes for the committees.
 - b) The terms of reference should establish that the role of the Local Marine Advisory Committees is to provide area-based advice to the Authority, and the role of the Reef Advisory Committees is to provide issues-based advice on operational issues.
 - c) Appointment and dismissal of committee members should be the responsibility of all members of the Authority collectively rather than the Chairperson alone.
 - d) To promote transparency and accountability, the terms of reference and appointment processes for the committees should be publicly available.
 - e) The Authority could also publish minutes of committee meetings and copies of advice from the committees on its website.

Zoning plan process

- 17) The Review Panel recommends that the zoning plan process be made more transparent and accountable by enhancing the process for developing zoning plans through changes to the regulatory framework (see Recommendations 19 to 21) and in administrative arrangements:
 - a) The Act and associated Regulations should provide that a review and amendment of all, or part of, the zoning plan should not be commenced until at least seven years from the date the plan came into effect. Such a review is not required after seven years, but may be commenced at any time after seven years.
 - b) The Minister should be required to approve the commencement of a process to review and amend the zoning plan. This decision should be made on the advice of the Authority, as well as the periodic *Outlook Report* (Recommendation 14) and other relevant information.

- c) At the first consultation phase (on the intention to create/amend a zoning plan), the Authority should release a report, drawing on relevant scientific and socio-economic research, explaining why zoning needs to be reviewed.
- d) Information on the proposed process for amending the zoning plan should also be released at this time. The Minister would have the power to issue directions to the Authority in relation to the process.
- e) The development of zoning should be based on a set of published Operational Principles approved by the Minister.
 - i) These principles would set out the policy parameters and objectives on which the development of the zoning plan will proceed.
 - ii) The Operational Principles should be supported by a robust and publicly available explanation of their scientific and policy rationale.
 - iii) The Authority should be required to have regard to the Operational Principles in developing the zoning plan.
- f) The current statutory requirements for two public consultation phases, one on the intention to create a zoning plan and another on a draft plan, should be retained.
- g) The minimum period for public comment at each stage should be extended from one month to three. Socio-economic analysis should be undertaken and made available prior to consultation and be updated as the zoning plan is developed and refined.
- h) The current arrangements for Ministerial approval of the final zoning plan should remain. In particular, the Minister should only have the power to suggest changes to the Authority for consideration.
- i) Should the Minister's suggested changes not be incorporated into the final plan delivered by the Authority to the Minister, the Minister may amend the plan, but must report any such changes to Parliament at the time the plan is tabled.
- j) To ensure that the outcome of the zoning plan process is both transparent and accountable it is recommended that, following acceptance by the Minister and Parliament, the Authority make information available to stakeholders on the rationale for the final zoning plan and in particular the reason for changes between the draft and final plans. This could include the publication of a synopsis of the process and its outcomes.

Updating the Act and streamlining regulation

Consistency between the Great Barrier Reef Marine Park Act 1975 and the Environment Protection and Biodiversity Conservation Act 1999

- 18) The Review Panel recommends that the *Great Barrier Reef Marine Park Act 1975* and the *Environment Protection and Biodiversity Conservation Act 1999* should not unnecessarily duplicate each other and should operate in a cohesive and integrated manner. The *Great Barrier Reef Marine Park Act 1975* should be made consistent with current Australian Government policies and approaches to environment protection, as reflected in the *Environment Protection and Biodiversity Conservation Act 1999*. This should be achieved through the following means:
 - a) The *Great Barrier Reef Marine Park Act 1975* should include a more comprehensive objects section that recognises the conservation and protection of the Great Barrier Reef as an overarching objective. Subsidiary objectives should include providing for a range of uses consistent with the principles of ecologically sustainable development, fulfilling Australia's obligations under the Convention Concerning the Protection of the World Cultural and Natural Heritage as it relates to the Great Barrier Reef, and facilitating cooperative management with Queensland and local governments, communities, Indigenous people, business and industry.

- b) The Authority should be explicitly required to take into account specified objectives when performing regulatory functions, for example, to take into account the principles of ecologically sustainable development and to apply the precautionary principle, as defined in the *Environment Protection and Biodiversity Conservation Act 1999*, in making certain decisions under the *Great Barrier Reef Marine Park Act 1975*.

Zoning plans

- 19) The Review Panel recommends that Recommendation 17 (a), (e), (f), (g), (h), and (i) on the development of zoning plans be included in the Act and associated Regulations.
- 20) The Review Panel recommends that, in addition to Recommendations 17, 19 and 21, there should be a clear framework of objects and considerations the Authority is expected to pursue in developing zoning.
 - a) The current objectives specified in the *Great Barrier Reef Marine Park Act 1975* (s. 32) should be enhanced to provide greater specificity and a more contemporary framework.
 - b) Cross-linkages to the *Environment Protection and Biodiversity Conservation Act 1999* should be incorporated.
 - i) Consistent with the *Environment Protection and Biodiversity Conservation Act 1999* each zone type should be assigned an IUCN protected areas category for national and international accounting purposes and the Authority should be required to have regard to the Australian IUCN Reserve Management Principles and any relevant recovery, threat abatement and/or wildlife conservation plans made under the *Environment Protection and Biodiversity Conservation Act 1999*.
- 21) The Review Panel recommends that it be possible to amend the zoning plan for the purpose of correcting errors, provided legal drafting can ensure that only errors of a technical and insubstantial nature can be corrected, for example, incorrectly transcribed geographic coordinates. No consultation requirements should apply to such amendments. Such amendments should be disallowable by Parliament.

Permitting and environmental impact assessment

- 22) The Review Panel recommends that, to address duplication and provide a more consistent regulatory environment, the *Environment Protection and Biodiversity Conservation Act 1999* should provide the primary basis for environmental impact assessment and approval of activities within the Marine Park.
 - a) Where a proposed activity within the Marine Park is likely to have a significant environmental impact, the assessment and approval requirements of the *Environment Protection and Biodiversity Conservation Act 1999* should apply. An approval under the *Great Barrier Reef Marine Park Act 1975* would then suffice for the purposes of permission requirements under the *Great Barrier Reef Marine Park Act 1975*.
 - i) The Authority should be delegated responsibility for assessment and approval by the Minister in most cases. However, in some cases, for example where a proposed activity is primarily outside the Marine Park, carries significant environmental risks and/or requires complex and detailed assessment, it may be more appropriate for the Department of the Environment and Heritage to take the lead and/or for approval to be the responsibility of the Minister.

- 23) Subject to the above, the Authority should continue to be responsible for issuing permissions as required by the *Great Barrier Reef Marine Park Act 1975*, Regulations and zoning plan. Given the importance of this function to management and users of the Marine Park, it is recommended that the basis and procedures for issuing permissions be consolidated within a single part of the Act or Regulations.
- a) This new part should describe permitting and assessment processes, including permit application requirements, timelines, factors the Authority must consider in issuing permits, and public notification requirements. The part should apply to all activities that require permission under the Act, Regulations and zoning plan with the exception of the assessment and accreditation of Traditional Use of Marine Resources Agreements. This process should remain separate as the Agreements are a new initiative and may require refinement over time.
 - b) Varying assessment processes should be available in order to minimise the regulatory 'red tape'. Streamlined assessment based on application documentation and undertaken against standardised considerations should be available for activities with minimal risk and impact and/or where the activity does not require in-depth assessment, such as continuation of an existing activity. More intensive assessment requirements should be available where appropriate. Given the application of the *Environment Protection and Biodiversity Conservation Act 1999* to matters of national environmental significance, including in the Marine Park, it is not expected that the *Great Barrier Reef Marine Park Act 1975* would contain provision for assessment by public environment report or environmental impact statement.
 - c) In order to promote integration with the *Environment Protection and Biodiversity Conservation Act 1999*, in considering permit applications the Authority should be required to consider (among other things):
 - i) the Australian World Heritage Management Principles as set out in the Environment Protection and Biodiversity Conservation Regulations, to the extent to which they apply to environmental impact assessment and approval
 - ii) where relevant, the National Heritage/Commonwealth Heritage Management Principles as set out in the Environment Protection and Biodiversity Conservation Regulations
 - iii) any relevant recovery, threat abatement and/or wildlife conservation plans made under the *Environment Protection and Biodiversity Conservation Act 1999*.

Protected species

- 24) The Review Panel supports the proposed amendments to the *Environment Protection and Biodiversity Conservation Act 1999* currently being developed. Among other things, these changes will extend to the cetacean provisions of the Act the current exemption from protected species offences for activities done in accordance with a permit issued by the Authority. These amendments will also provide that protected species offences do not apply to activities authorised under an accredited Traditional Use of Marine Resources Agreement.
- 25) The Review Panel recommends that, to address remaining duplicative regulatory requirements (for activities occurring both within and outside the Marine Park), arrangements be put in place to accredit *Great Barrier Reef Marine Park Act 1975* permits for the purpose of the *Environment Protection and Biodiversity Conservation Act 1999* and vice versa. These arrangements should provide, for example, that where an activity affecting protected species is undertaken predominantly outside the Marine Park, an *Environment Protection and Biodiversity Conservation Act 1999* permit will provide the basis for the granting of a permission under the *Great Barrier Reef Marine Park Act 1975*, Regulations and zoning plan.
- 26) The Review Panel recommends that actions by the Authority such as developing zoning, plans of management, Special Management Areas and permitting, be consistent with and proactively seek to

implement *Environment Protection and Biodiversity Conservation Act 1999* protected species plans. The Review Panel recommends that this be achieved by requiring the Authority to have regard to relevant recovery, threat abatement and wildlife conservation plans when undertaking such activities.

Enforcement and compliance

- 27) The Review Panel recommends that the investigation, enforcement and offence provisions of the *Great Barrier Reef Marine Park Act 1975* be reviewed and updated in light of the importance of effective and efficient enforcement in the future and to achieve better consistency with *Environment Protection and Biodiversity Conservation Act 1999* provisions. This review should be done in consultation with the Attorney-General's Department.

Emergency management powers

- 28) The Review Panel supports proposed amendments to the *Environment Protection and Biodiversity Conservation Act 1999* that will allow Conservation Orders under Part 17 of the Act to be made to protect all matters of national environmental significance. This change will establish appropriate emergency management powers applying to the Great Barrier Reef. Orders should be made by the Minister on the advice of the Authority.

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