



**ENVIRONMENT PROTECTION AND BIODIVERSITY
CONSERVATION ACT 1999**
Part 10 Strategic Assessments
Section 146 Agreement

Strategic assessment of the impacts of actions on the values of the Great Barrier Reef World Heritage Area, other relevant matters of national environmental significance, and the management arrangements to deal with such impacts under the jurisdiction of the Great Barrier Reef Marine Park Authority.

between

**THE MINISTER FOR SUSTAINABILITY, ENVIRONMENT, WATER, POPULATION AND COMMUNITIES ON
BEHALF OF THE COMMONWEALTH GOVERNMENT**

and

THE GREAT BARRIER REEF MARINE PARK AUTHORITY

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1 PARTIES

The Parties to this agreement are:

The Minister for Sustainability, Environment, Water, Population and Communities on behalf of the Commonwealth Government

and

The Great Barrier Reef Marine Park Authority.

2 DEFINITIONS

2.1 Unless stated otherwise in this Agreement, the definitions, meanings and terms in the *Environment Protection and Biodiversity Conservation Act 1999* apply to this Agreement and its attachments.

2.2 In this Agreement:

agreement means this strategic assessment agreement entered into between the Minister for Sustainability, Environment, Water, Population and Communities and the Great Barrier Reef Marine Park Authority on the date the last Party executes this agreement.

day means a business day as measured in Canberra, Australian Capital Territory.

Department means the Australian Government department administering the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

endorsement criteria means the endorsement criteria detailed in Attachment C of this Agreement.

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

GBRMP means the Great Barrier Reef Marine Park as established by the *Great Barrier Reef Marine Park Act 1975* (Cth).

GBRMPA means the Great Barrier Reef Marine Park Authority as established by the *Great Barrier Reef Marine Park Act 1975* (Cth).

GBRMP Act means the *Great Barrier Reef Marine Park Act 1975* (Cth).

GBRMPA management arrangements means those management arrangements under the jurisdiction of GBRMPA, and may include partnership and collaborative arrangements with other Commonwealth and Queensland Government agencies and partnerships with stakeholders and members of the Great Barrier Reef coastal community. These management arrangements include, but are not limited to, those described in Attachment B.

GBRWHA means the Great Barrier Reef World Heritage Area and is the same as the area described in Schedule 1 to the GBRMP Act.

Great Barrier Reef Region has the same meaning as described in the GBRMP Act.

Minister means the Minister responsible for administering the EPBC Act or the Minister's authorised delegate.

MNES means matters of national environmental significance protected under Part 3 of the EPBC Act.

Queensland strategic assessment is defined in clause 3.5 of this Agreement.

Parties mean the Minister and the GBRMPA together, each a **Party**.

Program is the 'policy, plan or program' (section 146 of the EPBC Act) of the GBRMPA management arrangements that will apply to those parts of the strategic assessment area as described in the Program Report and for which endorsement by the Minister is sought.

Program Report means a report prepared specifically for this strategic assessment that describes the Program.

strategic assessment means the strategic assessment to which this Agreement relates, namely the strategic assessment of the impacts, including cumulative impacts, of actions on the environmental values of the strategic assessment area, relevant MNES and the GBRMPA management arrangements to deal with such impacts.

strategic assessment area is the Great Barrier Reef Region (map at Attachment A) and areas outside the Great Barrier Reef Region, to the extent that actions in those areas may affect the Great Barrier Reef Region.

Strategic Assessment Report means the report prepared in accordance with the Terms of Reference assessing the likely impacts, including cumulative impacts, on MNES from implementing the Program.

Supplementary Report means the report submitted to the Department following public exhibition of the draft Strategic Assessment Report which addresses and responds to public comments including revisions to the Strategic Assessment Report.

Terms of Reference means the terms of reference for the preparation of the Strategic Assessment Report.

Work Plan means a plan jointly developed by the Parties for undertaking the strategic assessment, documenting a common understanding about what strategic assessment tasks will be completed by whom, by when, and what resources are required for those tasks, amongst other things.

3 PREAMBLE

- 3.1 Australia's Great Barrier Reef is the largest coral reef ecosystem on earth. In 1975 the Great Barrier Reef Region was established and today provides for the long term protection and conservation of the environment, biodiversity and heritage values of the Great Barrier Reef Region.
- 3.2 The Great Barrier Reef Region extends more than 2,300 km along the Queensland coastline and covers 346,000 square kilometres. In 1981 the area was listed as a World Heritage property for its outstanding universal value and in 2007 it was listed as a National Heritage property.
- 3.3 Both the Australian and Queensland Governments have legislative responsibilities within the GBRWHA. The *Great Barrier Reef Intergovernmental Agreement 2009* sets out the joint management arrangements between the two governments to ensure an integrated and collaborative approach to the management of the marine and land environments within and adjacent to the GBRWHA.
- 3.4 The strategic assessment will examine the impacts, including cumulative impacts, of actions on the GBRWHA, other relevant MNES, and the GBRMPA management arrangements to deal with such impacts.
- 3.5 The strategic assessment will complement the Queensland Government's strategic assessment of the impacts of actions on the values of the GBRWHA under the Queensland coastal management, planning and development framework (the Queensland strategic assessment). The GBRMPA strategic assessment combined with the Queensland strategic assessment will form a comprehensive strategic assessment of the entire GBRWHA property and its values and the adjacent coastal zone.
- 3.6 The Parties agree that the GBRWHA and the adjacent coastal zone contain MNES that are highly inter-related. The Parties commit to:
- (a) undertaking a strategic assessment of the impacts, including cumulative impacts, of actions on all MNES under the jurisdiction of GBRMPA, other than nuclear actions.
 - (b) developing a Work Plan for the strategic assessment describing governance arrangements, key milestones and deliverables, public exhibition requirements, communication and data sharing agreements and other responsibilities of the Parties to ensure timely completion of the strategic assessment.
 - (c) working collaboratively with the Queensland Government on the complementary Queensland strategic assessment.
- 3.7 The strategic assessment does not affect the application of the EPBC Act or GBRMP Act in the strategic assessment area in relation to actions or activities already approved or for which approval has been sought through the assessment and approval process
- (a) established under Parts 7, 8 and 9 of the EPBC Act; or
 - (b) established under Part 2A of the *Great Barrier Reef Marine Park Regulations 1983* (Clth).

4 BACKGROUND

- 4.1 Subsection 146(1) of the EPBC Act allows the Minister to agree in writing with a person responsible for the adoption or implementation of a policy, plan or program to assess the impacts of actions taken under that policy, plan or program on MNES.
- 4.2 This Agreement is intended to be an agreement for the purposes of subsection 146(1) of the EPBC Act to assess the impacts of actions taken under the Program.
- 4.3 A draft Strategic Assessment Report and draft Program Report will be made available for public comment for a minimum of at least 28 days. Following the public comment period, a Supplementary Report (addressing public comments) and a revised Program Report will be submitted to the Minister. After considering these, the Minister may decide to endorse the Program if satisfied that the reports adequately address the impacts and endorsement criteria to which this Agreement relates and that recommended modifications (if any) to the Program made by the Minister, or modifications having the same effect, have been made.
- 4.4 The Parties acknowledge that the endorsement of the Program itself does not constitute any approval for the taking of actions under Part 10 of the EPBC Act.
- 4.5 If the Minister endorses the Program, the Minister may then approve the taking of an action, or a class of actions, in accordance with the Program and the EPBC Act. The effect of this approval decision is that any actions or class of actions approved under section 146B would not need further approval by the Minister under the EPBC Act if taken in accordance with the endorsed Program.
- 4.6 The Parties acknowledge that, where proponents propose to take an action in accordance with the Program that is not the subject of an approval under section 146B, they are able to seek approval for that action through the assessment and approval process established under Parts 7, 8 and 9 of the EPBC Act. Paragraphs 87(3)(b) and 136(2)(e) of the EPBC Act provide that the strategic assessment report for a policy, plan or program must be taken into account in deciding the level of assessment and approval for actions that are referred under the EPBC Act.

5 TERMS OF REFERENCE FOR THE STRATEGIC ASSESSMENT REPORT

- 5.1 The Parties will prepare draft Terms of Reference for the strategic assessment report that include the following (at a minimum):
- Purpose and description of the Program;
 - Description of the area in which the Program will be implemented;
 - MNES affected by the Program;
 - Identification and analysis of the potential impacts, including cumulative impacts, on MNES;
 - Consideration of existing pressures on MNES;
 - Measures to enhance the existing environment, including management of existing threats;

- Measures to avoid, mitigate and offset likely impacts, including impacts of cumulative impacts, on MNES;
- Consideration of ecologically sustainable development principles;
- Adaptive management and risk management; Auditing and reporting requirements; and
- Review, modification and abandonment of the Program.

5.2 The GBRMPA will seek public comment on the draft Terms of Reference. The GBRMPA will provide the draft Terms of Reference for public comment by notice consistent with arrangements for other major environmental impact assessment projects, including:

- (a) posting on the GBRMPA's website;
- (b) publishing in newspapers circulating in Queensland; and
- (c) circulation to key stakeholder groups agreed between the Department and the GBRMPA.

5.3 The notice must state:

- (a) that the draft Terms of Reference are available for public comment;
- (b) how copies may be obtained;
- (c) the contact details for obtaining further information; and
- (d) that public comments are invited for a period of at least 28 days as specified by the Minister.

5.4 Following the public comment period for the draft Terms of Reference in accordance with clause 5.3(d), the GBRMPA will submit to the Minister:

- (a) proposed Terms of Reference;
- (b) public responses relating to the draft Terms of Reference; and
- (c) a report on how the public responses have been taken into account.

5.5 Following receipt of the proposed Terms of Reference, the Minister will notify the GBRMPA that the proposed Terms of Reference:

- (a) are approved, or
- (b) are not approved, in which case the Minister will notify the GBRMPA of any concerns and invite the GBRMPA to provide revised Terms of Reference which take those concerns into account.

5.6 Within 15 working days of receipt of the revised Terms of Reference from the GBRMPA in accordance with clause 5.5(b), the Minister will either:

- (a) notify the GBRMPA of the Minister's approval of the revised Terms of Reference; or
- (b) provide approved Terms of Reference that meet the Minister's requirements.

6 PREPARATION OF THE STRATEGIC ASSESSMENT REPORT AND PROGRAM REPORT

6.1 The GBRMPA will prepare a Strategic Assessment Report and Program Report in accordance with this Agreement and the Terms of Reference approved in accordance with clause 5.5(a) or clause 5.6.

6.2 The GBRMPA will provide a draft Strategic Assessment Report and draft Program Report to the Minister for comment prior to finalising the documents for public comment.

6.3 The GBRMPA must release the draft Strategic Assessment Report and draft Program Report for public comment by notice consistent with arrangements for other major environmental impact assessment projects, including:

- (a) posting on the GBRMPA's website;
- (b) publishing in newspapers circulating in Queensland; and
- (c) circulation to key stakeholder groups agreed between the Department and the GBRMPA.

6.4 The notice must state:

- (a) that the draft Strategic Assessment Report and draft Program Report are available for public comment;
- (b) how copies may be obtained;
- (c) provide contact details for obtaining further information; and
- (d) that public comments are invited on the draft reports for a period of at least 28 days as specified by the Minister.

6.5 The GBRMPA will:

- (a) prepare a Supplementary Report and revise the Program Report, taking into account any public comments received in accordance with clause 6.4(d);
- (b) provide drafts of these reports to the Minister for comment prior to their finalisation; and
- (c) incorporate any recommendations by the Minister.

6.6 The Department agrees to assist the GBRMPA in ensuring that the reports adequately address the requirements for strategic assessments described in Part 10 of the EPBC Act and to provide comments in a timely manner.

7 ENDORSEMENT OF THE PROGRAM

7.1 The GBRMPA will submit to the Minister:

- (a) the Strategic Assessment Report (which was exhibited for public comment);
- (b) the Supplementary Report (explaining how relevant public responses have been taken into account and addressed in the impact assessment and revised Program);
- (c) the Program Report (incorporating any revisions in light of public comments);
- (d) public comments received during the consultation relating to the Strategic Assessment Report and Program Report;
- (e) any other documents required to support the GBRMPA's submission.

7.2 If the Minister is not satisfied that the reports adequately address the impacts of actions on MNES in the strategic assessment area, or that the Program does not provide for adequate protection of MNES, then:

- (a) the Minister can make recommendations to amend the Program;
- (b) the GBRMPA may seek clarification from the Minister on the recommendations;
- (c) the GBRMPA will then submit to the Minister for consideration the revised Program, and a summary of how the Minister's recommendations were given effect;

- (d) the Minister will consider the revised Program, and any supporting material provided, and may accept it as the final Program; and
- (e) the Minister may request further modifications if still not satisfied that the Program provides for adequate protection of MNES.

7.3 The Minister may endorse the Program if satisfied that the reports submitted under clause 7.1 adequately address the impacts to which this Agreement relates, and that any recommended modifications to the Program (clause 7.2) or modifications having the same effect have been made. In considering whether to endorse the Program the Minister will also consider the endorsement criteria at Attachment C.

8 APPROVAL OF ACTIONS UNDER THE PROGRAM

8.1 The Minister may approve, or approve with conditions, the taking of an action or class of actions in accordance with the endorsed Program under Section 146B of the EPBC Act. In doing so, the Minister must act in accordance with sections 146F-M of the EPBC Act. This includes considering MNES in the area affected by the Program and economic and social matters.

8.2 The Minister will seek comment from other Australian Government Ministers with administrative responsibilities relating to the actions before approving the taking of an action, or class of actions, pursuant to section 146C of the EPBC Act.

8.3 Both Parties will make publicly available electronically through their websites the endorsed Program (including the Program Report), the Strategic Assessment Report, the Supplementary Report and any approval decision and conditions.

8.4 Approvals for actions or classes of actions may occur progressively after endorsement of the Program.

9 VARIATION, CONFLICT RESOLUTION AND TERMINATION

9.1 This Agreement may only be varied by written agreement (including electronic communications) between the Parties and in accordance with the EPBC Act.

9.2 Where there is a dispute between the Parties to this Agreement on a particular matter, the Parties will consult in the spirit of mutual cooperation in relation to that matter and will use their best endeavours to negotiate a mutually acceptable resolution.

9.3 Either party may at any time terminate this Agreement by written correspondence to the other Party.

9.4 The Parties do not intend this Agreement to create contractual or other legal obligations, or that a breach of the Agreement will give rise to any cause of action, or right to take legal proceedings.

9.5 To avoid any doubt, nothing in clause 9.4 is intended to override the provisions of the EPBC Act.

SIGNED BY:



The Hon. Tony Burke MP
Minister for Sustainability, Environment, Water,
Population and Communities

16.2.12

Dated



Dr Russell Reichelt
Chairperson, Great Barrier Reef Marine Park Authority

Dated 6/1/2012

STRATEGIC ASSESSMENT AREA

The strategic assessment area is the Great Barrier Reef Region (refer Figure 1) and areas outside the Great Barrier Reef Region, to the extent that actions in those areas may affect the Great Barrier Reef Region.

Figure 1: Great Barrier Reef Region



GBRMPA MANAGEMENT ARRANGEMENTS

Management of the GBRWHA relies upon a number of Commonwealth and Queensland **agencies** using a combination of management **tools** (including zoning plans, plans of management, permits, species recovery plans, the Reef Water Quality Protection Plan and shipping management arrangements), along with various management **approaches** (including education, planning, environmental impact assessment, monitoring, stewardship, enforcement) to regulate access, and to control and/or mitigate impacts associated with **activities** (such as tourism, fisheries, shipping) or address **pressures** (including climate change or declining water quality).

For the purpose of this strategic assessment, **GBRMPA's management arrangements** mean those management arrangements under the jurisdiction of GBRMPA. They include, but are not limited to, the following:

- Statutory instruments, including regulations, zoning plans, plans of management and permits;
- Non-statutory mechanisms including policies, position statements and guidelines;
- Partnership and collaborative arrangements with other Commonwealth and Queensland Government agencies;
- Partnerships with Traditional Owners in the management of marine resources;
- Partnership and stewardship programs, including education programs and engagement with local governments, communities, Indigenous persons and industry; and
- Research and monitoring programs.

ENDORSEMENT CRITERIA FOR STRATEGIC ASSESSMENT

When deciding whether to endorse the Program, the Minister must be satisfied that the Strategic Assessment Report adequately addresses the impacts to which this Agreement relates, and that any recommendations by the Minister to modify the Program have been responded to appropriately.

In determining whether or not to endorse the Program, the Minister will have regard to the extent to which the Program meets the objects of the EPBC Act. In particular, that it:

- protects the environment, especially those aspects of the environment that are MNES;
- promotes ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
- promotes the conservation of biodiversity;
- provides for the protection and conservation of heritage;
- promotes a cooperative approach to the protection and management of the environment; and
- assists in the co-operative implementation of Australia's international environmental responsibilities.

Without limiting the matters the Minister may consider when making the decision to endorse the Program, the Minister will consider the manner in which the Program:

- identifies direct, indirect and cumulative impacts on MNES;
- avoids impacts on MNES;
- mitigates the impacts on MNES;
- offsets the impacts on MNES;
- contributes to the enhancement of the existing environment and management of existing threats; and
- demonstrates adaption to reasonable climate change scenarios.

Commitments in the Program must be adequately resourced throughout its life. The Program must demonstrate an effective system of adaptive management that addresses uncertainty and contingency management as well as procedures for monitoring, independent auditing and public reporting on implementation.

The Program must address all of the above matters for it to be considered for endorsement by the Minister in accordance with the EPBC Act.