



**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, and other relevant matters of national environmental significance, under the Queensland coastal management, planning and development framework.

between

THE COMMONWEALTH OF AUSTRALIA

and

THE STATE OF QUEENSLAND

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1 PARTIES

The Parties to this agreement are:

The Commonwealth of Australia, represented by the Minister for Sustainability, Environment, Water, Population and Communities

and

The State of Queensland, represented by the Deputy Premier, Treasurer and Minister for State Development and Trade, and the Minister for Environment.

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 Commonwealth of Australia and the State of Queensland 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 strategic assessment means the strategic assessment being prepared by the Great Barrier Reef Marine Park Authority under its jurisdiction and to which its management arrangements apply.

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 the area described in Schedule 1 to 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, other than nuclear actions.

Parties mean the Minister and the State of Queensland (the State), each a Party.

Program is the 'policy, plan or program' (section 146 of the EPBC Act) under the Queensland coastal management, planning and development framework that will apply within the strategic assessment area as described in the Program Report and for which endorsement by the Minister is sought (Attachment B).

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 of actions on MNES in the strategic assessment area and the management arrangements to deal with such impacts under the jurisdiction of the State.

strategic assessment area is the geographic extent of the assessment as described in Attachment A.

Strategic Assessment Report means the report assessing the likely 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 this globally significant area.
- 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 it 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 and are committed to its sustainable management and protection of its environmental values. 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 of actions on the matters of national environmental significance (MNES) in the GBRWHA and adjoining coastal zone under the Queensland coastal management, planning and development framework.
- 3.5 The strategic assessment will complement the GBRMPA strategic assessment of the impacts of actions on the MNES in the GBRWHA that fall under its jurisdiction and to which its management arrangements apply. The State strategic assessment and the GBRMPA strategic assessment combined, will form a comprehensive strategic assessment of the entire GBRWHA property 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 within the jurisdiction and administrative responsibility of the State on all MNES 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 GBRMPA on the complementary GBRMPA strategic assessment.
- 3.7 The strategic assessment does not affect the application of the EPBC Act in the strategic assessment area in relation to actions or activities already approved or for which approval is sought through the assessment and approval process established under Parts 7, 8 and 9 of the EPBC Act.

4 BACKGROUND

- 4.1 Subsection 146(1) of the EPBC Act allows the Minister to agree in writing with a person responsible for the 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. This may be iterative with different classes of action approved over time as science and/or management evolves.
- 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 REPORT

- 5.1 The Parties will prepare draft Terms of Reference for the Strategic Assessment Report that will 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 on MNES
 - Consideration of existing pressures on MNES
 - Measures to enhance the existing environment, including management of existing threats

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

5.2 The State 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 relevant agency websites
- (b) publishing in newspapers circulating in Queensland
- (c) circulation to key stakeholder groups agreed between the Department and the State.

5.3 The notice must state that:

- (a) the draft Terms of Reference are available;
- (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.

5.4 Following the public comment period for the draft Terms of Reference, the State will submit to the Minister:

- (a) proposed Terms of Reference
- (b) public responses relating to the draft Terms of Reference
- (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 State that the proposed Terms of Reference:

- (a) are approved, or
- (b) are not approved, in which case the Minister will notify the State of any concerns and invite the State 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 State addressing the Minister's concerns, the Minister will either:

- (a) notify the State 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 State 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 State will provide the draft Strategic Assessment Report and draft Program Report to the Department for comment prior to finalising the documents for public exhibition.

- 6.3 The State 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 relevant agency websites
 - (b) publishing in newspapers circulating in the State and the assessment region
 - (c) circulation to key stakeholder groups agreed between the Department and the State.
- 6.4 The notice must state that:
- (a) 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) invite public comments on the draft reports for of at least 28 days as specified by the Minister.
- 6.5 The State will:
- (a) prepare a Supplementary Report and revise the Program Report, taking into account any public comments in accordance with clause 6.4(d).
 - (b) provide drafts of these reports to the Department for comment prior to their finalisation and to incorporate any recommendations by the Minister.
- 6.6 The Department agrees to assist the State 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 State 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 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 State'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 (including the GBRWHA), 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 State may seek clarification from the Minister on these recommendations.
 - (c) the State 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.

(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 addressed. 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 a spirit of mutual cooperation in relation to that matter and will use their best endeavours to negotiate a mutually acceptable resolution.

9.3 This Agreement may be terminated by either party by written notice to the other.

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



The Hon. Andrew Fraser
Deputy Premier of Queensland, Treasurer and
Minister for State Development and Trade

8.2.12

Dated



The Hon. Vicky Darling
Minister for Environment

11-2-12

Dated

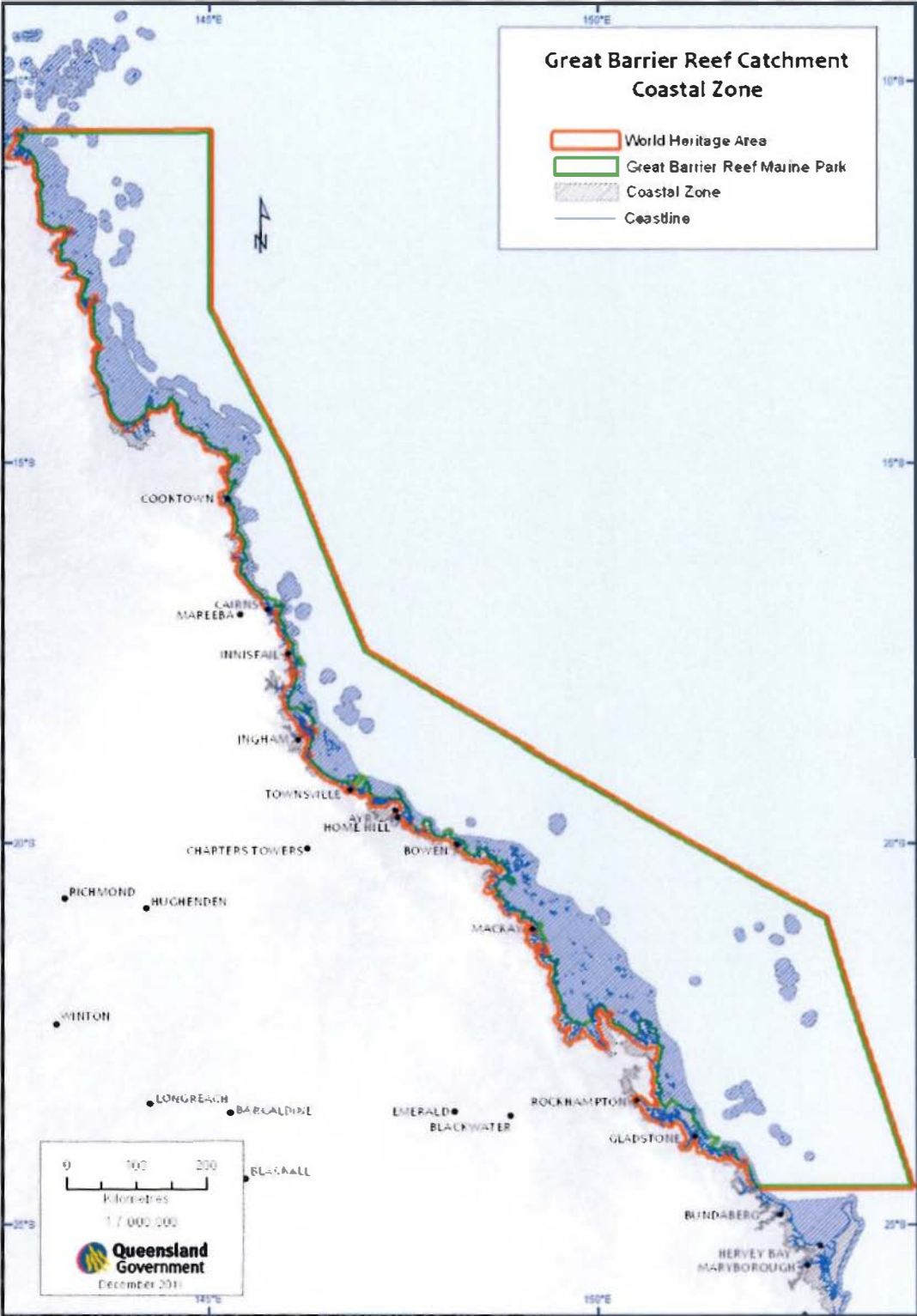
STRATEGIC ASSESSMENT – GEOGRAPHIC AREA

The geographic extent of the strategic assessment area is illustrated at Figure 1 below. The strategic assessment area includes:

- Marine parks and terrestrial national parks on islands within the GBRWHA that fall under the State's jurisdiction.
- The Queensland coastal zone adjacent to and overlapping the GBRWHA as defined in the *Queensland Coastal Protection and Management Act 1995* including Queensland waters, all islands and adjacent inland areas (5km inland or 10 meters AHD contour, whichever is further).

This is the area in which the program applies. However, when analysing cumulative impacts on MNES, impacts upstream and downstream of this area may also be analysed.

Figure 1: Geographic scope of strategic assessment



QUEENSLAND COASTAL MANAGEMENT, PLANNING AND DEVELOPMENT FRAMEWORK

The strategic assessment will examine the impacts of actions on the MNES in the GBRWHA and adjoining coastal zone under the Queensland coastal management, planning and development framework, including:

- plans, policies and programs relevant to the GBR Region and catchments, within the State's jurisdiction including those associated with national park islands, State marine parks, shipping activities and reef water quality initiatives
- the methodology for mapping areas of national and state environmental significance and the policy requirements that apply to these areas
- the application of policy requirements to matters of national and state environmental significance through the Coastal Plan, regional plans, local plans and development assessment processes under Queensland's planning legislation.
- the application of policy requirements to matters of national and state environmental significance through State legislation and plans relating to State Development Areas, Ports and Urban Development Areas.

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 MNES and management of existing threats
- 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.