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TO THE ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE

Great Barrier Reef

Below I refer to the Senate Committee hearing (GBRWHA) held in Townsville Wednesday 23 July 2013; and to an earlier Senate Report, of the Hinchinbrook Channel Inquiry (September 1999). There are sixteen items addressed.

Yours sincerely

Margaret Moorhouse
ASH

1. Dugongs

See **Recommendation 7**, page 75 (Report of the Hinchinbrook Channel Inquiry 1999). This recommendation was not carried out. This Report supports my witness statements to the present Inquiry, in which I referred to the failure of the GBRMPA to use the teeth it has to protect dugongs from gill-netting. In 1999 there was still a chance to ensure the future of that population, in terms of immediate mortal threats.

From the most recent newsletter (July 2014) of Mackay Recreational Fishing:

In recent weeks we have completely formalized our net free zone proposal for personal presentation to the Queensland Minister of Fisheries Dr. John McVeigh. After 16 long arduous years, and after investing thousands of volunteer man hours and thousands of dollars we finally have all the information for governments (local and state) to make an informed business decision and deliver this important tourist gold mine to our community.

You may not heard of our REMPLAP economic modelling plan yet, but we promise you will.

Thanks to Ben Atherton of Cape Hillsborough Resort we can now table the undisputable financial benefits to our community such a commercial net free zone will deliver to our region.

In recent months we have also secured exclusively for the purpose of our net free campaign amateur fishing club XL spread sheets for club outings at St.Helens only going back to 1963, (a combined total of 41 years) and these documents show an alarming decline in catch numbers since 2006.

The Member for Whitsunday Jason Costigan has arranged an appointment for four members of our net free sub-committee to present the Fisheries Minister with our proposal on the 4th September.
Like Big Kev Were Excited

After we have met with Minister McVeigh our submission in full will be posted on our website www.mackayreefishersalliance.org for all to see. Until then the contents must remain confidential.

ASH notes that this campaign for the removal of gill-netting from a small area of the GBRWHA has nothing to do with protection of world heritage listed biodiversity (eg dugongs). The argument is based entirely on financial benefit to the local region, an argument the state Minister is prepared to entertain.

ASH recommends that the Senate Committee explore incentives and requirements that will assist local members and local councils make decisions based on long term ecological considerations, the only safe basis for future planning and particularly pertinent to the GBRWHA.

2. Aesthetic values

See page 81 (Report of the Hinchinbrook Channel Inquiry 1999) for comments by Professor Helene Marsh, that the failure to have documented the aesthetic values of the GBRWHA has made it difficult to articulate those values.

The same problem persists today. See ASH submission to the present Inquiry.

If anything it is worse now, because the aesthetic value of the GBRWHA (part of its natural value and inseparable from its scientific value) has not only *not* been articulated (except for the Hinchinbrook Region), there are converging moves to supplant it with erroneous concepts such as visual amenity; and to mistake visitor experience for natural beauty protected for future generations. Today's viewing practice is not a measure of aesthetic value, nor of aesthetic value of a world heritage area. For the pursuit of this wrong direction, see the expensive 285 page CONTEXT Report *Defining the Aesthetic Values of the Great Barrier Reef* posted on the Commonwealth website, without any counter balance such as my serious critique of it, which was provided to the GBRMPA last year (see ASH submission to this Inquiry). Why does the Commonwealth government promote such unscientific and illogical material as in the CONTEXT report? Without expert review? The harm this will do to the world heritage concept in the minds of the interested public is immense. Can the unreviewed publication of this report really be an accident? Or is it just a case of industry capture? This consultant report corrals its arguments towards establishing a need for lots of government-funded studies in visual amenity, a concept unrelated to world heritage aesthetic value about which the report exhibits no understanding.

Without relevant legislation to guide them it is not surprising that the GBRMPA has never understood aesthetic value, nor promulgated the meaning and liabilities of world heritage listing.

See also the comments of the Chair of the Senate Committee, on p83 of the Report of the 1999 Hinchinbrook Inquiry, on the importance of aesthetic values.

ASH recommends that all such reports be expert-reviewed BEFORE publication, including when they are published specifically for public consultation.

3. Witness attacks on witness credibility in Committee hearings replacing rational debate

The dissenting report of the two government senators (starts page 161, Report of the Hinchinbrook Channel Inquiry 1999) is instructive in its party-political debating style of attack replacing any inquiring consideration of the matters of concern; and particularly in its attempts to discredit some of the witnesses. This approach is of course the mark of the person who has no argument to make.

At the hearing in Townsville I note Dr Russell Reichelt, in similar vein, cast doubt on the credibility of a witness who had, at that hearing, criticised the GBRMPA processes. Dr. Reichelt stated that the witness did not represent all the members of the organisation the witness was representing (AMPTO), ‘only some of them’. One can only assume that Dr. Reichelt could not rationally deny the statements made by the AMTO representative, hence responded only by baselessly denigrating the AMPTO representative, at a public hearing where the AMTO representative had no means of redress, and with practised knowledge that this baseless remark, once published in Hansard, will be given credence by later readers.

It’s not a fair process at a hearing to allow a senior public servant’s unsupported denigratory remarks to go unchallenged.

Perhaps a statement of credibility (that the speaker that day was appropriately representing AMPTO) should be interpolated in the record or otherwise addressed so that the slur cannot linger to be later quoted as fact.

ASH asks the Committee to correct this abuse of process - and any other similar incidences – in their Report.

4. Effects of failed developments on the public good (GBRWhA) and public purse – example Oyster Point and ‘Port Hinchinbrook’.

See Chapter 5 (Other issues) Report of the Hinchinbrook Channel Inquiry 1999.

The viability of developments such as ‘Port Hinchinbrook’ was raised in several places such as on p92 .It was firmly and foolishly supported in the governments minority report, showing how much the government members of the day were unable to extract themselves from their embeddedness in the culture of development-at-all-costs) – and how wrong they were! I note that Senator MacDonald (in 1999) was firmly of the opinion that the commercial success or otherwise of a development were solely ‘for the developer and no-one else’; whereas Senator Hogg recognised that the public purse was a likely casualty and favoured some means of protection via bonds (see page 93 of the Report of the Hinchinbrook Channel Inquiry 1999).

There is still no resolution of this real problem – often described as privatising the profits and socialising the losses. The public purse and public good continue to bear the costs of commercial failures (just as they will bear the cost of offsets and other conditioning failures). I am not aware of any formal study of the costs to the public purse of commercial development. ASH is however aware of some of the dollar costs which accompanied the ‘Port Hinchinbrook’ development, including: the forgiving of state government fees; the deliberate decision to reduce a standard

Development Application fee of around \$300,000 to a mere \$20,000 (Cardwell Shire Council); years of Commonwealth and state government salaries of site monitors for this private development; state government acid sulphate studies etc. Once the block owners had begun to have trouble with the developer, they began (at the developer's behest) to pressure the local council and the state (and after cyclone Yasi, the Commonwealth) to subsidise or take over their expenses in running this private development and the looming but 'hidden' costs of poorly carried out foundation works such as the unsatisfactory nature of the 'filled' acid soils and the resulting damage to in-ground infrastructure.

Note: the comments minimising the presence of **acid sulphate soils** in the governments Dissenting Report (Hinchinbrook Channel Inquiry 1999) are partisan and unsupportable. Also, the general information about acid sulphate soils in that Report should not be relied upon – it has long been established that acid sulphate soils occur at higher altitudes than the minimalist three metres rule of the day and that 'treating' it (1) is not always possible and (2) can have unacceptable consequences.

Witness the fate of 'Port Hinchinbrook' today – developer gone, environmental damage ongoing, the **Commonwealth Consent conditions now totally ignored or removed**, including those which were the basis of the Federal Court upholding the Consent in 1996: that is, the *Queensland Coastal Regional Management Plans* under the then *Queensland Coastal Protection and Management Act* were repealed in 2012 by the Bligh government, after signing a new bilateral with the Commonwealth government in August 2009 and immediately (within the week) turning coastal protection on its head.

The failure of business is often a business in itself. When governments refuse to require bank guarantees for development approvals that depend on doing damage to the natural environment they are colluding with those entrepreneurs who make their money out of manipulating company arrangements, not out of the purported publicly-declared business.

ASH recommends the Committee inquire into the real costs to the public purse and the public good of government policies and practices related to approvals for commercial business and business failures.

5. Failure of Commonwealth Consent Conditions affecting the GBRWHA

See page 171 (Report of the Hinchinbrook Channel Inquiry 1999) for the **Statement of Reasons** which contain the set of conditions applied to the 1996 Commonwealth Consent for Port Hinchinbrook. A mixed bag – but see Clauses 46 to 55.

In 46 the Minister states that the GBRMPA has teeth. The GBRMPA however did not use them, so this Reason became inoperative.

Clause 47 was implemented but abolished by Queensland in 2012.

Clause 48 was implemented. A new draft known as the Hinchinbrook Area Island and Marine Management Plan (HAIMMP) was finalised in 2011 but not put into effect and has now totally lapsed – **there are now (2014) NO management plans for the Island or the Channel, or for the other islands – Dunk, the Brook Group, Goold etc.** is more

Clause 50 was never implemented. **There are no exclusion areas** to protect dugongs and **no speed limits**. A speed limit is a mandatory condition. No speed limits were ever proposed or implemented. In Missionary Bay (mudflats, seagrass; very shallow congregation 'heartland' area for dugongs) there are several high-speed (25 knot) voluntary 'transit lanes' up to 400 metres wide, and no compulsion applied to slow down outside them.

Clause 51 is a disgrace – the area is degraded already? So let's degrade it some more! No respect here for rehabilitating the grand, natural, 50 km coastal vista from Lucinda to Meunga Creek, part of the aesthetic and scientific value of the GBRWHA. The **degraded site argument** continues to be widely used today, in all development contexts. This provides perverse incentives to developers to do unlawful pre-application clearing, and leads to failed developments facilitating further destruction rather than rehabilitation.

Clause 53 was pie in the sky. Developers are not required to justify their outlandish claims of 'jobs jobs jobs'. The carrot of untried promised employment continues to have more currency than long term ecological sustainability, even for communities lying between two world heritage areas. Small communities are easily bullied by noisy real estate agents and land developers.

Clause 54 disrespects the World Heritage Convention. As for 55 – what was wrong with saying 'no'?

6. Impacts of agriculture on the GBRMPA

See page 97 (Report of the Hinchinbrook Channel Inquiry 1999) and following pages for comments on cane farming, acid sulphate soil leachate, fish kills etc. – all relevant today. Given this well-known history and Senate considerations in 1999, fifteen years ago, I can only assume our governments have been sorely afflicted by wilful ignorance.

7. the role of science in development decisions

The role of science is discussed starting at the bottom of page 102 (Report of the Hinchinbrook Channel Inquiry 1999) – all relevant today and to the present Inquiry.

The discussion about risk assessment is relevant today. The 1999 Committee comments (5.60) reflect a misunderstanding of the way statistics are expressed; a matter equally important for the present Inquiry. The use of numbers lends an air of precision which is misleading and likely to be misused – that's why word descriptors are a better expression of fact when there are wide error bands. This does not mean the judgement of the scientist or statistician is subjective. It just means simply that no more precise expression can be obtained from the data. This has nothing to do with science being values-free or unbiased, it is merely the problem of dealing with insufficiently precise data. All science is of course based in the values system in which it arises, but this statement of science as values-based is about a different phenomenon to the bias of individual scientists who have become accidentally or deliberately biased as individuals (as are so many private enterprise consultants and career bureaucrats who have science degrees).

On page 112 the use of words like ‘possible’ and ‘probable’ is discussed – again claimed (by the 1999 Committee) to be subjective. The terms ‘possible’ and ‘probable’ are legal and scientific terms, with defined meanings when used in context. When these are re-interpreted by bureaucrats and politicians they can become infinitely elastic and taken to mean whatever is desired by the speaker. This does not mean that the terms are subjective but that the terms are manipulated and reinterpreted by end users; even the false accusation of subjectivism itself; a distortion of science very frustrating to scientists.

On p. 105 Dr. Tony Preen, dugong scientist, is quoted. I am familiar with the government documents to which he referred. I support the opinion he expressed here. This summary report was my introduction to Dr. Russell Reichelt. Contrary to the 1999 Committee opinion expressed in 5.66 (page 106), I do consider Dr. Russell Reichelt’s behaviour to be unprofessional: as a public servant he should have given the Minister frank and fearless advice, advising that the terms of reference were inadequate, particularly when so advised by four out of the six practising scientists reviewed (one should have been enough); he should not have carried out a dodgy process (as advised by relevant practising scientists) on the basis that he was merely doing what he was told. How many public servants are we, the public, paying to be mere puppets?

Further, where were Dr. Russell Reichelt’s ethics if he wishes to be called a scientist? At the Townsville hearing I noted his careful answer when he was asked about his scientific status with respect to the GBRMPA Board. A PhD does not a scientist make, and I think he knows it. In 1996 he must have been well aware that he was contravening the conventions of scientific reporting in presenting a partial argument in his Review Report.

8. How to ensure independent environmental assessment

See page 109 (Report of the Hinchinbrook Channel Inquiry 1999) ‘Some general questions – how to ensure independent environmental assessment’. This same matter came up again at the hearing in Townsville. The 1999 Committee **Recommendation 9** (see bottom of page 109) states:

The Committee recommends that in order to achieve more independent environmental assessments of proposed developments, planning authorities rather than the developer should be responsible for selecting consultants by lot from a short list of tenderers.

ASH recommends that the present Committee make the same recommendation.

9. World heritage concept and Presentation.

See page 111 (Report of the Hinchinbrook Channel Inquiry 1999) for witnesses expressing their views about the GBRWHA – virtually all without an understanding of the world heritage concept.

This is a clear failure of the GBRMPA, which has always publicised what you can do in ‘the park’ without explaining the purpose of world heritage listing and the limitations to activities imposed by the purpose. There should never have been any confusion (which continues unabated today) over the role of Presentation – under the World Heritage Convention it is subservient to Protection (and Rehabilitation). Even the GBRMP Act has *conservation* as its primary purpose.

10. the roles of the three levels of government

On page 116 (Report of the Hinchinbrook Channel Inquiry 1999) the Committee states (5.100) that it is beyond its scope to consider the general question of the right roles of the three levels of government (see also the 1999 Commonwealth Powers Inquiry and Report).

The following pages of the 1999 Report discuss the history (to which I alluded in the ASH submission) of the *Cardwell-Hinchinbrook Regional Coastal Management Plan*, one of the Conditions imposed on the Commonwealth Consent of 1996 and illustrate the general lack of understanding of the GBRWHA, a failure of the GBRMPA.

ASH sees a strong need for Commonwealth control over matters that affect all Australians, such as the fate of our natural environment and world heritage areas in particular.

ASH recommends that the Committee consider and report on the roles of the three levels of government.

11. the role of the GBRMPA – then and now

The GBRMPA (Clive Cook) is quoted (5.139, page 126, Report of the Hinchinbrook Channel Inquiry 1999) making the extraordinary statement that ‘reasonable use’ (of a world heritage area) is a subjective matter. It is not; *reasonable use* is defined by its use in law; it is not a matter of compromise between warring factions, as suggested in this witness statement; it is related directly to the GBRMP Act principle purpose of *Conservation*.

Clive Cook states that the GBRMPA is ‘in the middle trying to manage a balanced reasonable use ...’ - very clearly, that is not the independent organisation as stated by the present Chair at the recent hearing in Townsville. And it is not as if the GBRMPA has changed tack in this respect. If anything, it has become much more a creature of the prevailing government parties.

12. Buffer zones

The failure to have buffer zones is discussed at 5.143 on page 127 (Report of the Hinchinbrook Channel Inquiry 1999). The replacement of the old World Heritage Act by the EPBC Act is mentioned in 5.143 to 5.146; and what happened to the **Committee’s Recommendation 10**: ‘... *expedite making regional plans that explicitly take into account world heritage conservation ...*’ ?

These statutory plans were made - and abolished in 2012, with Commonwealth assent.

13. Further information on Bed levelling (a form of dredging; unlicensed excavation of the seabottom without removing the disturbed sediments from the sea; underwater grading of the sea bottom by dragging a blade)

As a result of my witness statements at the hearing in Townsville I have now been reliably informed that there is a single operator who is employed full time travelling the Queensland coast carrying out bed-levelling for clients; a continuing disturbance of multiple small areas of the coastal seabottom.

14. Response to John Brodie: bunding off dredge spoil is RECLAMATION.

At the recent Townsville hearing John Brodie, Chief Research Scientist at the Centre for Tropical Water and Aquatic Ecosystems Research at James Cook University, stated that his preferred method for dredge spoil disposal was to bund off a bit of the coast. He did admit at the hearing that this would kill off the seabottom at that place.

What he failed to explain is that this is just 'reclamation' under another name, a process beloved of port authorities, which have always seen reclamation as empire - creating new cheap land for future profit-taking. Whatever name is applied, the effects are the same: permanent destruction of the seabottom and its benthic life and utility to GBRWHA species; permanent changes to the coastal processes of the GBRWHA; ongoing incremental alienation of parts of the GBRWHA; cumulative losses to the GBRWHA as more and more bunded areas are built out from the coast to accommodate more dredging.

John Brodie's justifications on the grounds of scale and comparative harm are untenable in a world heritage area.

In the internet publication *The Conversation* January 2014 John Brodie admitted the above to be true when I challenged him on this point. [There is no need to dump Abbot Point's dredge spoil on the reef](https://theconversation.com/there-is-no-need-to-dump-abbot-points-dredge-spoil-on-the-reef) see <https://theconversation.com/there-is-no-need-to-dump-abbot-points-dred...>

Jan 29, 2014 - On the other hand a small area of the GBR World Heritage Area *will* be alienated. The *idea* of port land being built up from *dredge spoil* was ...

John Brodie is also aware that bund wall construction has proved problematical, and that dumping the dredge spoil is not the end of the matter. The treatment of acid dredge spoil to render it safe or re-usable is seldom straightforward and often not possible. Witness the dredge spoil piles in Darwin, now 20-30 years old; and the 15-20 year old acid dredge spoil covering some 40-50 ha of 'Port Hinchinbrook' land about 4 metres high, for which no use has been found despite developer promises of re-using the old holding ponds.

The best place for marine mud is left undisturbed where it evolved. Once you have taken it out you cannot put it back - or anywhere else - with impunity.

15. Avoidance of direct answers by making comparative statements

This practice was evident in bureaucrat witness statements and answers to questions at the Townsville hearing, present Inquiry. No doubt senators are familiar with this technique for avoiding answering the question and for giving the impression that the agency has acted appropriately by selecting the 'best' option (of a bad lot).

Senate Inquiries should not be allowed to be abused in this way.

At the Townsville hearing I noted that the practising scientists interviewed did not obfuscate or obscure their evidence-based opinions, yet the facts so familiar and unobscured to them had not been accepted or acted on, nor were responded to, by the GBRWHA managers (represented by Dr. Russell Reichelt for GBRMPA and the Commonwealth and state governments which jointly fund

the GBRMPA; also by Dr. Jamie Oliver for the AIMS).

Both Dr. Jamie Oliver and Dr Russell Reichelt made statements of relative or comparative importance of impacts or pressure on ‘the reef’. This referencing of impacts to a scale of relative or comparative importance automatically excludes consideration of the necessity to prevent EVERY potentially fatal impact, regardless of its subjective appearance or salience, however measured in degree of importance. ALL such impacts must be stopped now, if the GBRWHA is to persist into the long term. The scientist evidence submitted was crystal clear.

I refer to a book, ‘A Reef in Time’, by distinguished coral reef scientist J.E.N. (Charlie) Veron, first published in 2008. His references to ocean acidification make it clear that by now (2014) the GBRWHA may well be past ‘saving’, no government having taken the required action. Further, he points to associated catastrophic changes in future terrestrial life. That is why, in my statements to the Townsville hearing, I pointed to the need to protect whatever biodiversity exists beyond the likely large-scale death of the coral reefs of the GBRWHA. As conservation activists, ASH members still hope for a better outcome than now seems likely, or certain; but the closer one gets to the science the less room there seems to be for hope. All life depends on finely balanced arrangements of chemistry and physics; such basics cannot be wished away. Perhaps governments, world trade interests and their adherents are well aware of the realities; perhaps, sheltering behind the long time lags of changes in large systems, government leaders are merely playing out their time in office and keeping their constituents occupied with other matters, knowing it will be a while before catastrophic signs and symptoms of our altered planetary atmosphere become undeniably obvious.

ASH recommends that the Committee elucidate exactly what is the focus of the Commonwealth Government and its agencies – is it perpetuity (as required by the World Heritage Convention and commonsense), or the mere avoidance or deferral of the GBRWHA being placed on the *world heritage in danger* list?

ASH asks the Committee to be more aware of avoidant responses and to interrogate the matter under investigation with more penetrating intent.

16. Gulf between facts and bureaucratic statements

This Inquiry has provided many cogent examples of the gulf between facts provided by scientists and the statements made by government bureaucrats.

The public pays senior bureaucrats to properly advise their ministers. This Inquiry has shown that they are not doing so. The process by which this mutually self-serving system is perpetuated needs to be analysed and elucidated: ministers driven by career prospects, bound by party ideologies and industry dependencies, and obligated by international trade agreements; bureaucrats driven by career prospects and post-career postings, and obligated by industry and personal favours.

ASH recommends that the Committee Report explore and explicate the gulf between bureaucrat statements and the facts elucidated by our own Australian scientists.

Can the Committee recommend measures to prevent the mutually self-serving nature of the government-bureaucrat relationship from destroying our world?