

Keppel and Fitzroy Delta Alliance working to

PROTECT KEPPEL BAY

5 June 2014

To Whom It May Concern:

Dear Sir/Madam,

RE: Senate Inquiry into the Great Barrier Reef

The Keppel and Fitzroy Delta Alliance (KAFDA) welcomes the opportunity to provide information to the Senate Inquiry into the Great Barrier Reef and specifically the inadequacy of the Australian and Queensland Governments' efforts to stop the rapid decline of the Great Barrier Reef.

BACKGROUND

KAFDA was formed in late 2011 in the Central Queensland region to represent the regional community's concerns in relation to proposed coal port development in the Fitzroy Delta area, including the Xstrata BICET project, the Mitchell Group's Fitzroy Terminal Project, the long term strategic plan of the Gladstone Port Corporation for development of the northern area of Curtis Island. These projects or any similar projects would have disastrous impacts to Keppel Bay, the Great Barrier Reef and the GBR World Heritage Area. KAFDA has since rapidly grown to include thousands of supporters from the region, all over Australia and internationally.

KAFDA is extremely concerned about the current health of the GBR and the additional pressure created by proposed, large scale industrial development will only make the situation worse. Our group met with representatives of IUCN and UNESCO during the WHC Reactive Monitoring Mission in 2012, again in 2013 in Europe and has provided various submissions to those organisations. KAFDA supports the current 2014 recommendations to the WHC for greater protection of the Reef from poor water quality, industrial developments and shipping and specifically the protection of the Fitzroy Delta and urgent attention to the management of the Great Barrier Reef Marine Park and adjacent coastal zones.

In addition a member of our organization has been on both the GBRMPA Capricorn Coast Local Marine Advisory Committee and a representative of the Recreational Boating Sector on the GBRMPA Tourism and Recreation Reef Advisory Committee working full time voluntarily to keep abreast of and make sense of the issues that directly effect the GBR and GBRWHA in specifically the Fitzroy Delta area and Reef wide generally.

Numerous submissions from KAFDA (which are attached for your records) have been made with regard to activities within the Great Barrier Reef, including but not limited to the following:

1. Response to FTP TOR
2. Submission to the TOR for the GBR Strategic Assessment both components
3. Submission to the GBR Port Strategy
4. Submission to the amendments to the EPBC Act
5. Submission to the GBR Strategic Assessment

These submissions are made by ordinary community member working voluntarily and extremely hard to understand the system and have some kind of effective strategic input into matters that gravely effect them. However, these efforts, despite the promises of "effective community consultation" appear to have little or no effect. A similar situation has occurred (although much more costly to the government) with the advice of the TRRAC regarding port development in or near the GBR being largely ignored.

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SPECIFIC EXAMPLE

We would like to take this opportunity to submit details of a specific example that epitomizes the lack of “authority” for GBRMPA and the to effectively manage or protect the waters of the GBR.

There are 15 documents attached that detail communications between GBRMPA and SEWPAC during the latter part of 2011 and were obtained under the FOI Act. They represent a clear example of advice provided by GBRMPA to the Australian government being ignored with consequent financial and potentially environmental impacts. We ask the Senate Committee to note the following:

1. Document “5. Email – Fitzroy Terminal – GBRMPA views.pdf” - GBRMPA requests a meeting with regard to the proposal on Tuesday 6 September 2011 in Canberra.
2. The clear and definitive advice in document “6. Signed – Fitzroy Terminal Letter.pdf” from GBRMPA to SEWPAC that the project posed “seven risks with an extreme consequence rating” in “multiple stages of the proposed action including during construction and operation” and went on to summarize the proposal to “have unacceptable and high risk impacts on the values of the Great Barrier Reef World Heritage Area and the Great Barrier Reef Marine Park...” This letter is signed as received in hard copy by SEWPAC on 6 September 2011.
3. However, the decision letter, document “15. Decision on Referral.pdf” refers the project as a “controlled action” under the EPBC Act and was dated 5 September 2011. This was clearly done so without due consideration of the critical information provided by GBRMPA in the letter received 6 September 2011 or any meeting as requested by GBRMPA in in “5. Email”
4. Environmental impact statement (EIS) process with regard to the Fitzroy Terminal Project as details on the Queensland Government website details are listed in the table below:

| Date | Activity |
|---------------------------------|---|
| 5 May 2014 | 'Coordinated project' declaration lapsed |
| 4 May 2012 | Terms of reference for EIS (PDF icon 423 KB) released. |
| 30 January 2012 to 2 March 2012 | Draft terms of reference for EIS public consultation. |
| 31 October 2011 | Gazettal of 'coordinated project' declaration. |
| 5 September 2011 | Project deemed a 'controlled action' by Commonwealth Minister for the Environment. More information |
| 8 August 2011 | Project referred to Commonwealth Minister for the Environment. |
| 16 June 2011 | Application, including initial advice statement (PDF icon 6.2 MB), submitted. |

5. In addition the Australian government through its agency GBRMPA under the EPBC Act on 17 April 2012 released Guidelines for an Environmental Impact Statement for the Fitzroy Terminal Project (EPBC 2011/6069/GBRMPA G34627.1). It would appear, to the best of our ability to search the public arena of information, that the EPBC referral of this project is still active despite the lapsing of the ‘Coordinated project’ at a Queensland government level after two years on May 5 2014. Despite the Minister’s discretion under s155 of the EPBC Act to request the submission of an EIS within a “specified reasonable period” this appears not to have been done.

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6. The consequent result of this situation means that the recently released Queensland Ports Strategy has not upheld the recommendation in point 5 of the 2014 UNESCO Report - *Draft Decision: 38 COM 7B.63 below and consequently placed the listing of the GBRWHA at risk:*

5. Further welcomes the State Party's intention to focus port development to the Priority Port Development Areas (PPDAs) and its confirmation that these will exclude the Fitzroy Delta, Keppel Bay, and north Curtis Island, as well as the State Party's stated commitment to "protect greenfield areas from the impacts of port development", and urges the State Party to ensure the finalized Queensland Ports Strategy ensures the above mentioned commitments are fully integrated and are consistent with the LTPSD and confirms that no port developments or associated port infrastructure are permitted outside the existing and long-established major port areas within or adjoining the property;

GENERAL CONCERNS

KAFDA also has general concerns with regard to the following issues that affect the ability for the various government agencies to effectively and efficiently manage, improve and protect the Outstanding Universal Values of the Great Barrier Reef or to adequately stop the rapid decline of the Great Barrier Reef.

Boundaries and Jurisdiction

1. There is no cohesive alignment of management boundaries between the GBRMP, National Marine Park, State Marine Park and the GBRWHA and the agency designated to protect this precious area, GBRMPA, has no jurisdiction over the balance of the GBRWHA outside the GBRMP. To quote GBRMPA Chairman Russell Reichelt at the consultation meeting for the Strategic Assessment of the GBR in Townsville in December 2014 he indicated "that it is do difficult to keep track of the different boundaries and jurisdictions that he can barely understand it himself"
2. GBRMPA has no management control over islands and coastal intertidal waters within the GBRMP.
3. GBRMPA has no management control over direct impacts of coastal catchments that flow into the GBR.
4. The Queensland government is in a position of "conflict of interest" as a management body as it owns and operates the Ports Corporations which are having a direct and catastrophic effect on water quality flowing out into the waters of the GBR.
5. The convoluted collection of various and so called protection areas such as Fish Habitat Areas, Habitat Protection, Significant Wetland, Marine National Park and so on are bear no resemblance to actual effective protection.

Independence, Resourcing and Capacity

1. Clearly from the example of the Fitzroy Terminal Project application and referral process GBRMPA had no independent authority to inform the decision to prevent the referral of this project which ultimately has lapsed as unviable. It was clear from the outset that this project posed "extreme risk to the GBR yet this project application was allowed to progress. The financial cost to the proponent in planning and preparing an EIS, the financial cost to the government in following through with the steps of the approval process and the emotional and financial expense to the community in having to fight this application are all enormous. In the mean time opportunities for sustainable tourism growth on the Capricorn Coast have been severely impeded by the threat of industrialisation.
2. The example of Gladstone Harbour and the ongoing issue with the ability of the Queensland government to administer, monitor and ensure compliance of major industrial port development have been admitted in their own report.

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3. The recent job cuts in both GBRMPA and the Queensland Department of Environment and Qld Marine Parks and severely reduced the capacity of these organisations to manage, monitor or ensure compliance.
4. The recently passed amendments to the major projects legislation diminish accountability and mean that:
 - a. According to the draft Qld Approval Bilateral, this Bill would apply to all matters of national environmental significance, including the Great Barrier Reef Marine Park and World Heritage. The Bill does not appear meet the standards of the EPBC Act.
 - b. The Coordinator General, responsible for promoting development, is proposed as decision-maker yet has an insolvable conflict of interest, whereas under the EPBC Act the Federal Environment Minister makes decisions.
 - c. The Bill includes inferior public access to information compared to the EPBC Act and falls below standards for transparency.
 - d. The Bill includes inferior accountability provisions as less people qualify to go to Court to remedy illegality compared to the EPBC Act, and the declarations power is too narrow. The Bill falls below basic standards of accountability for public interest environmental legislation. For example in 2003 and 2004, the Nathan Dam Federal Court case was successful in correcting serious legal errors that impacted on the Great Barrier Reef but the applicants would not have qualified to go to Court under the inferior proposed rules in the Bill.
 - e. Weakened rules apply in the Bill as to if an action must undergo assessment and approval as a 'bilateral project declaration' compared to a 'controlled action' decision by the Commonwealth.
 - f. The Bill lacks any power to reject clearly unacceptable project whereas such efficient powers exist under EPBC Act. This risks wasting public time and money.

Strategic Assessment

1. The issue of the major threats to the GBR has been well researched and document and as we have heard so many times before, water quality, natural disasters, COTS, cyclone, floods and climate change. The science is clear from the locations where the research has been conducted but has it been conducted in the areas where the most stress is occurring? The bleeding wounds – coastal corals and ecosystems in the southern GBR where the greatest amount of port and coastal development is or is proposed to be. These have not been studied to the same extent as the appealing and oft visited offshore and inshore reef areas.
2. The Strategic Assessment and the Long Term Sustainability Plan do not address the current extremely urgent matters that need to be address.
3. Issues with lack of resourcing noted above mean that these document take far to long to come to fruition and the lack of cohesive working arrangements between GBRMPA and the Queensland Government which were apparent to anyone who participated in the community consultation process of Strategic Assessment have proved a significant impediment to the effectiveness of this mechanism.

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Community Concern

From the outset of KAFDA's formation, we have been representing the community perspective and throughout the many meetings, community events, surveys and community feedback we have discovered a number of recurring concerns:

1. The shock when they discover that the GBR WHA is not protected from port or industrial development.
2. The shock when they discover that GBRMPA does not protect the GBR from port or industrial development.
3. That GBRMPA does not have effective management of the activities that may effect the GBR.
4. That the Queensland government is supposed to be managing the port and industrial development application, approval and compliance process yet is the major port owner and operator.
5. That little to no compliance activities with regard to management of ports are actually conducted as evidenced by the Queensland government's own recent report.
6. That they believe that the GBR WHA should be protected from any industrial port development, dredging and dumping of dredge spoil within its waters.
7. That it is apparent that the current and planned management regime will clearly not address the urgent issues affecting the GBR and that there is little trust that there is the capacity or willingness to do so.

Sincerely,

Ginny Gerlach
Director/Coordinator
Keppel and Fitzroy Delta Alliance