

Committee Secretary □
Senate Standing Committee on Environment and Communications
P.O. Box 6100 □
Parliament House □
Canberra ACT 2600

Dear Sir/Madam

Environmental Protection and Biodiversity Conservation Amendment (Great Barrier Reef) Bill 2013

I strongly support the intent of this Bill to protect the Great Barrier Reef from those impacts from developments and other activities that might further accelerate the decline of the Great Barrier Reef. I am acutely aware that the nearshore reefs are already stressed and degraded to the point where recovery will require a massive effort.

I am concerned that the way that Clause 24G has been framed potentially reaches much further than the expressed intent to simply the control port development. It could be viewed as actually potentially prohibiting approval of any developments that do not deliver a net benefit for the Great Barrier Reef world heritage values. The relevant clause states:

24G Minister cannot approve any developments which do not deliver a net benefit for the Great Barrier Reef world heritage area

- (1) Notwithstanding any other provision of this Act, or of any regulation made for the purpose of this Act, the Minister must not approve the taking of an action that impacts the Great Barrier Reef world heritage area if the action will not deliver an overall net benefit for the world heritage values of the Great Barrier Reef world heritage area.

The Explanatory Memorandum says that the purpose of this clause is intended to prohibit "... approval of any developments that do not deliver a net benefit for the Great Barrier Reef world heritage area". However the actual clause in the Bill refers to a "net benefit for the world heritage values". The "world heritage area" and "world heritage values" are very different things. The world heritage values that contribute to the "Outstanding Universal Value" of the Great Barrier Reef include a long list of species, not all of which are listed as threatened, vulnerable or endangered (thus requiring particular protection). Values also include some more intangible elements, such as indigenous and european heritage values.

Unlike the earlier clause 24D(vi) (and indeed most of the rest of the EPBC Act), which refers to "significant impact", clause 24G does not include any qualifier with respect to the level of impact. It seems that any impact at all, possibly on any of the very long list of 'values' that are identified for the GBR, might not be able to be approved by the Minister unless a net benefit can be demonstrated? Is this the intent?

For example recreational fishing in the Great Barrier Reef impacts on a number of 'values' collectively called 'fish'. Could this clause be interpreted to preclude approval of recreational fishing under current or future GBR Zoning Plan – including

in those parts of Queensland that are outside of the GBR Marine Park but inside the World Heritage Area?

The World Heritage boundary is also indeterminate in that it also potentially extends on the landward side to the limit of tidal influence. This means that many land-based developments that would otherwise not be caught by the EPBC Act clause could also be impacted by this clause?

Thinking of Defence activities at Shoalwater Bay Training Area, which also include bombing ranges on Commonwealth islands that are Part of the GBR WHA — does this clause imply that because these activities do not contribute to a net benefit for the GBR they must stop — or that future changes could not be approved?

I may be missing something here but perhaps this clause has merely omitted the word “significant” from before the “impacts” which would seem to me to more accurately reflect the intent of Recommendation 8 of the World Heritage Committee’s Decision (36 COM 7B.B). This calls on the Government to ensure that developments affecting the Great Barrier Reef demonstrate an overall net benefit to the protection of the Reef’s Outstanding Universal Value (and not each and every item of the subset of the OUV that are the “values”).

I would be grateful if during its deliberations the Committee could satisfy itself that the Bill as drafted here has actually considered the potential for these unintended consequences and that the breadth of the prohibition on activities in 24G is what the Parliament actually intends.

Yours Sincerely

Colin Trinder

15 April 2013