

## CHAPTER 5

### OTHER ISSUES

#### **Social and economic effects of Port Hinchinbrook on Cardwell**

5.1 Supporters of the Port Hinchinbrook development hold out various hopes from it - growth of Cardwell ensuring the retention of essential services, to turn around the decline that followed the end of the timber industry in the 1980s; jobs for young people as an alternative to leaving town; perhaps a high school to replace the dangerous hour-long drive to Tully.<sup>1</sup>

‘The Port Hinchinbrook development is the first opportunity in this town’s 130-year history to have a major employer in our district. We are counting on it to reverse the trend of splitting up our families. We love it up here. We live here by choice and would love to have the opportunity to keep our family units together.’ (L Hallam, Cardwell Chamber of Commerce, Evidence 30 July 1998, p 9)

5.2 Others argue that the benefits are uncertain:

‘The people of Cardwell are mostly small shopkeepers and retired people who enjoyed the quiet style of the little fishing town. They had only to research the effects of the Port Douglas resort which resulted in an exodus of many of the original population, hit by high real estate values and loss of trade to self contained resort shops.’ (M Mackay, Submission 47, p 129)

5.3 Friends of Hinchinbrook listed 26 public statements about Port Hinchinbrook job creation by Cardwell Properties, Cardwell Chamber of Commerce and local MPs from 1993 to 1997, to show how speculative the estimates were (they ranged from 400 to 3,500). ‘We feel it is cruel to raise hopes so unrealistically.’<sup>2</sup> The North Queensland Conservation Council (NQCC) asks whether local businesses will be displaced by new businesses at Oyster Point, and whether ‘the now heavily residential nature of the development will result in a collapse of land prices in Cardwell’? The NQCC stresses that there has been no assessment of these impacts.<sup>3</sup> The Cairns and Far North Environment Centre argued that ecotourism will be a better source of local business opportunities and employment than large resorts:

‘Ecotourism will provide, and is now providing, small business opportunities for residents from the small local populations along the Hinchinbrook Coast. Large increases in population and large tourist

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1 For example Kookaburra Holiday Park, submission 72, p 242; R Walker, Submission 137, p 617; L Hallam (Cardwell Chamber of Commerce), Evidence 30 July 1998, p 12,19.

2 Friends of Hinchinbrook, Submission 129, p 589 & attachment 6.

3 North Queensland Conservation Council, Submission 112, p 452.

operations will result in long-term environmental degradation and widespread unemployment.’ (Cairns and Far North Environmental Centre, Submission 50, p 143)

5.4 The Committee asked the Queensland government, among other things, whether the State has any statutory responsibility to assess the social and economic impacts of large development proposals, and whether in fact the State has considered the likely social and economic effects of Port Hinchinbrook on the local area. In its answers the State passed over these questions in silence.<sup>4</sup>

5.5 The underlying issue is, what is the proper scope of the public interest in the effects of private developments in a free enterprise society? We have environmental impact assessment laws, but we do not have ‘social impact assessment’ laws (except indirectly in planning policies). Developments may have social costs as well as benefits - as, for example, when the construction of out-of-town shopping malls causes the death of old-established main streets, to the detriment of people who do not have a car to drive to the mall. Our planning laws are not good at accounting for these costs, especially where they are incurred not all at once but through a long period of gradual reaction (as with the gradual decline of the main street in the example just given). In this case, we are considering a development that will more than double the population of a rather isolated small town. On the face of it this might have significant impacts for better or worse, and some study of them, as an input to a decision on the development application, would have been prudent.

#### *Infrastructure needs of the development*

5.6 Environmental groups were concerned that the infrastructure needs of Port Hinchinbrook have not been properly considered. They point out that Cardwell’s water supply (from Meunga Creek) is even now scarcely adequate in dry times, and they fear that increased demand will lead to pressure for construction of dams in the area, particularly in the ‘scenic and environmentally valuable upper reaches of the Herbert River.’<sup>5</sup>

5.7 The developer replies:

‘From day one of our application we have offered to supply our own water from three creeks which run through our own property. At the Cardwell Shire’s request we have agreed to co-operate with them so that by economy of scale they will be able to improve water reticulation through the township of Cardwell.’ (Cardwell Properties P/L, Submission 83, annexure C, p 4)

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4 Qld Department of Premier and Cabinet, further information 21 April 1999, p 702ff.

5 Wildlife Preservation Society of Queensland (Townsville Branch), Submission 97, p 399. Also D Anderson (Concerned Residents of Cardwell Shire Inc.), Evidence 30 July 1998, p 80.

5.8 Cardwell Shire Council says it is confident that Meunga Creek can supply Port Hinchinbrook and Cardwell. Installation of water meters in the last two years has significantly reduced peak demand.<sup>6</sup>

5.9 Environment groups note the developer's past proposals for upgrading of Dallachy airstrip north of Cardwell (which is now suitable only for light aircraft). According to Cardno and Davies (1994), the project anticipated upgrading of the Dallachy airport 'to accept regular public transport aircraft of the Boeing 737 type.' According to the 1994 Environmental Review Report, 'The developer plans a staged development ... that will, within 7 to 10 years, incorporate an upgrade of the Dallachy Airport to accept commercial jet aircraft (with further possible upgrading depending on the international visitor component)'.<sup>7</sup>

5.10 The Cardwell Shire Council Corporate Plan 1995-99 says, 'the construction of a regional airport at Dallachy is seen as important in the long term ...'<sup>8</sup>

5.11 In his submission to this inquiry, the developer said:

'The Cardwell Shire Council has questioned upgrading of their airstrip to accept commuter traffic but they have allocated land for this purpose. It will not require clearing in the Edmund Kennedy National Park.' (Cardwell Properties P/L, submission 83, annexure C, p 4)

5.12 On the other hand, the Wildlife Preservation Society claimed that upgrading Dallachy 'will require major clearing in both State Forest and Edmund Kennedy National Park (included in the Wet Tropics World Heritage Area), and will result in infrastructure and noise and air pollution inappropriate to the two World Heritage Areas ... Clearing of native vegetation to accommodate the airport will result in further displacement of mahogany glider habitat.'<sup>9</sup>

5.13 The key point of concern is that the more distant, longer term, incremental impacts of the development seem not to have been considered in the development approval process.

#### *Economic viability of the development*

5.14 The Committee notes submissions arguing that the viability of Port Hinchinbrook as a business is dubious. The North Queensland Conservation Council said:

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6 J Pettigrew (Cardwell Shire Council), Evidence 30 July 1998, p 93-94.

7 Cardno & Davies, *Port Hinchinbrook Resort at Cardwell - compilation of information...*, March 1994, p 23; Queensland Department of Environment and Heritage, *Environmental Review Report - Port Hinchinbrook*, May 1994, p 10.

8 Cardwell Shire Council, *Corporate Plan 1995-99*, p 14

9 Wildlife Preservation Society of Queensland, Submission 121, p 499. Similarly Wildlife Preservation Society of Queensland (Townsville Branch), Submission 97, p 399.

‘Virtually all coastal resorts are losing money. Laguna Quays recently sold at approximately 1/10th of construction costs. There is ample evidence that the days of integrated resorts are over ...’ (North Queensland Conservation Council, Submission 112, p 451)

5.15 The Wilderness Society submitted a 1996 affidavit by Mr Dean Dransfield, an accountant specialising in the tourism industry.<sup>10</sup> Mr Dransfield said:

‘... resort development in the Whitsundays and Far North Queensland has an unusually high development risk profile. This perceived risk is caused by the numerous economic failures of both island and mainland resorts and the subsequent resale of those facilities at substantial discounts to development costs ... resort development is considered high risk and in general terms not presently economically viable.’ (‘Dransfield affidavit’, p 9-10, tabled at hearing 10 August 1998; ref: Evidence p 216)

5.16 On the other hand it was argued that if a developer wants to risk his money, that is nobody else’s business:

**Senator Ian Macdonald:** ‘I would have thought that the economics of the development are a matter for the developer and no-one else. If he goes broke, if he wants to risk his money, surely that is his role and not anyone else’s.’ (Evidence 30 July 1998, p 45)

5.17 As well, it should be noted that the failure of a *resort owner* does not necessarily imply the failure - closure - of *the resort*. The viability of a business depends not only on cash flow but also on its ability to service capital debt (or yield an acceptable rate of return on equity, as the case may be). An operation may turn out non-viable for the entrepreneur, who has funded the entire development cost; but it may be perfectly viable for the lucky buyer who gets it for only a fraction as much and so does not need as much income to service their debt.

‘They spoke about failed resorts. Let us look at those failed resorts. Hamilton Island: is that a failed resort? It is now owned by one of the wealthiest companies in Australia, and going quite well ... All these things have had hiccups, but it has not cost the taxpayers a cent. They have gone on from strength to strength.’ (K Williams, Cardwell Properties P/L, Evidence 10 August 1998, p 309)

5.18 The Committee comments: it is true that public authorities have no business to be concerned *on behalf of the developers* about the risks that developers take. On the

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10 The Friends of Hinchinbrook obtained Mr Dransfield’s affidavit to use in their 1996 Federal Court challenge to Senator Hill’s consents under the *World Heritage Properties Conservation Act 1983* (see chapter 3). The prime purpose of the affidavit was to describe *types* of information which, in Mr Dransfield’s opinion, Senator Hill could have and should have obtained before deciding that there was no prudent and feasible alternative to consent (given that his reasons for consent included the expected economic benefits of the development - see paragraph 3.38 above). Contrary to some claims in evidence, the affidavit was not an assessment of the feasibility of Port Hinchinbrook. It made no comments specific to Port Hinchinbrook.

other hand, they have every right to be concerned *on behalf of the public* about the risk that a failed development will leave the public to pick up the tab for environmental remediation. We have the example of the failed Tekin development at Oyster Point. The failed Magnetic Quays development on Magnetic Island near Townsville was also mentioned:

**Senator Reynolds:** ‘I do not want to see the environment violated and left - for how many years now ? - for five years as an absolute disgrace and eyesore - as happened on Magnetic Island.’ (Evidence 10 August 1998, p 217)

5.19 This raises the question of bonds for environmental remediation:

**Senator Hogg:** ‘... should there be some sort of trust account that developers must pay into such that, should they suffer a financial crisis and go bankrupt, then it is not the public purse that is going to pay for the remediation of the site[?]’ (Evidence 24 August 1998, p 342)

5.20 The Committee affirms the correctness of demanding environmental bonds from proponents of major developments that might have significant environmental effects. If private development activities damage the public realm, it is only fair that the developer, not the public, should pay. We acknowledge the difficulties of estimating the risk of failure, the risk of damage and costs of remediation, and deciding how big bonds should be and how long they should be held for.

‘I think it is a case of horses for course, Senator, with due respect ... It is a very difficult question and, as I said, you have to find a line of balance between the imposition you put on the developer and whether or not that will discourage development entirely.’ (K Williams, Cardwell Properties P/L, Evidence 24 August 1998, p 342-3)

5.21 Arguably, the more difficult it is to estimate these things, the more strongly should the precautionary principle apply in considering the application in the first place. Prevention is better than cure. The fact that an authority holds a bond (or may demand one) should not be an excuse to allow less rigorous environmental management - especially when, as may often happen, the costs of remediation are large and uncertain.

5.22 The Committee notes that Mr Dransfield’s evidence and similar submissions referred to the risks of North Queensland resort development in general. We presume that the circumstances of different developments may differ greatly. We have no basis for drawing any conclusion about the viability of Port Hinchinbrook in particular.

## Other environmental issues for the Hinchinbrook Region

### *Aquaculture*

5.23 There are several prawn and fish farms in the Hinchinbrook Channel, and several more under construction or approved. One prawn farm covers 127 hectares - about three times the size of the Port Hinchinbrook 'Development Site'.<sup>11</sup> Effluent from farms can be extremely polluting: the Committee heard that 'a single one hectare [prawn] pond ... could have a nutrient loading roughly equivalent to a resident population of 300-500 people, based on typical nutrient concentrations in secondary treated sewage.' This is a particular concern in the slow-flushing Hinchinbrook Channel: 'a flushing period of 50 days may be needed to eliminate wastewater from a single source discharging into the channel ...'<sup>12</sup>

5.24 Hinchinbrook Shire Council supports aquaculture for its job creation:

'... the only labour intensive industry in our shire is tourism or aquaculture ... We have had about three aquaculture projects in the Hinchinbrook area knocked on the head, mainly because of environmental concerns ... I have always said that you must have respect for the environment and where at all possible avoid any degrading effects. But at the end of the day jobs have to be created.' (G Giandomenico, Hinchinbrook Shire Council, Evidence 30 July 1998, p 72)

5.25 The National Parks Association of Queensland sees possible benefits from prawn farming in taking pressure off the 'destructive effects' of trawling, gill-netting and line fishing in the Great Barrier Reef Marine Park - *providing* effluent is treated before disposal.<sup>13</sup>

5.26 On the other hand, environment groups have serious concerns about whether the environmental impacts of aquaculture in the Hinchinbrook Channel are being controlled adequately. The North Queensland Conservation Council quoted a 1994 Department of Environment briefing paper:

'The establishment of the leases for the purpose of aquaculture did not consider the possible effects of the discharges, either individually or combined. The views of the Department of Environment and Heritage and Water Quality Council of Queensland were not considered prior to the granting of leases ... The Department of Primary Industries is encouraging the establishment of prawn farms ... In the Northern Region, the licensed discharge of wastewaters from prawn farms is about equal of greater than the licensed volume of all other industries combined ... The risk to the Hinchinbrook Channel is that the constant input of nutrients, algae and

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11 Department of Primary Industries (Qld), further information 12 March 1999, p 281.

12 North Queensland Conservation Council, further information 17 March 1999, p 362-3, quoting a Queensland Dept of Environment briefing paper 25 March 1994.

13 National Parks Association of Queensland Inc., Submission 94, p 368.

bacteria will upset the ecology of the area. The volumes proposed for discharge from existing and potential prawn farms are very large - in the order of 20,000+ cubic metres per day. This is the equivalent in volume to the wastewater generated by a population of over 1 million people. Discharges of this magnitude are normally the subject of major impact assessment processes ...' (North Queensland Conservation Council, further information 17 March 1999, p 362-3, quoting a Department of Environment (Northern Region) briefing paper, 25 March 1994)

5.27 On this 1994 information there is fair cause for concern. The Committee has little information on the Queensland government's actions since then or the present position. According to the Department of Primary Industries (DPI), 'this [further aquaculture development in the Hinchinbrook Channel] would be subject to very tight scrutiny by DPI and DEH.' The Department of Primary Industries submitted its recent discussion paper on 'Sustainable Growth of Coastal Aquaculture Policy.' The paper proposes a risk assessment procedure for aquaculture proposals that 'have potential to cause an environmental or disease impact on existing aquaculture facilities.'<sup>14</sup>

5.28 The Committee notes with some concern that this paper, although it makes a few token references to avoiding environmental harm from aquaculture developments, is actually firmly focussed on avoiding risk of disease to existing nearby aquaculture developments. It does not propose a risk assessment process relating to possible environmental harm in general.

5.29 As to the actual environmental impacts from aquaculture effluent in the Hinchinbrook Channel: apart from the reasonable fear that 'the constant input of nutrients, algae and bacteria will upset the ecology of the area', the Committee heard no evidence on what the impacts are, or who is researching them. It seems that the impacts are unknown:

**Senator HOGG**—... who should be monitoring the impact of the aquaculture[?]

**Mr Veitch**—The Department of Primary Industries.

**Senator HOGG**—Do they?

**Mr Veitch**—No. They are not resourced to do so. (V Veitch, Sunfish, Evidence 30 July 1998, p 27)

5.30 According to the North Queensland Conservation Council (NQCC), the size of Seafarm [a 127 hectare prawn farm at Pig Creek, about 8km south of Cardwell] has doubled since 1994. The NQCC submitted a video and photos showing 'the dirty, green, foaming waste stream coming out of the Seafarm discharge point and hence into the Hinchinbrook Passage ... The photos show discharges that should be unacceptable anywhere in Australia, and clearly contravene the provisions of the *Environment Protection Act (Qld)*.' The NQCC claims that 'leases are readily

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14 Dept of Primary Industries (Qld), *Discussion Paper - Sustainable Growth of Coastal Aquaculture Policy*, no date [1999], in Dept of Primary Industries, further information 12 March 1999, p 279ff.

freeholded according to DNR [Department of Natural Resources] land-use criteria, not QDEH [Queensland Department of Environment and Heritage] criteria ... Land-use decisions are made by DNR whose philosophy and culture are not environment-protection-based.’<sup>15</sup>

5.31 The Department of Environment and Heritage requires aquaculture license holders to monitor the water quality of their discharges.<sup>16</sup> The North Queensland Conservation Council lists ‘self-monitoring of wastes’ as a cause of environmental problems.<sup>17</sup> According to Sunfish NQ:

‘DoE [Department of Environment] ... are scared to prosecute big companies like CSR or big aquaculture companies. I will not say who told me, but I know that in Burdekin there were reports of about 10 aquaculture plots putting in more effluent and causing problems. A spokesman for DoE said, “We can’t touch them, they’re too big.” (V Vitale, Sunfish NQ, Evidence 30 July 1998, p 27)

5.32 In evidence the Queensland government said: ‘Please be assured that any future proposals to establish aquaculture or agricultural activities on State land in the vicinity of the Hinchinbrook Channel will be subject to rigorous suitability assessment, particularly in respect of environmental issues.’<sup>18</sup> In a general comment to the Committee, the State said:

‘The Department [of Environment and Heritage] is actively working in conjunction with the aquaculture industry, other Government agencies, in particular the Department of Primary Industries, and interested members of the community to develop new technologies to improve the quality of aquaculture discharges and to manage any environmental impacts on the receiving environment and waterways such as the Hinchinbrook Channel.’ (Qld Department of Premier and Cabinet, further information 21 April 1999, p 712)

5.33 In the absence of evidence from the Queensland government specifically answering the claims of environmental groups, the Committee hesitates to draw strong conclusions. However, the evidence above is no cause for complacency. It seems that the authorities do not know the impacts of aquaculture effluent on the admittedly slow-flushing Hinchinbrook Channel, and are not researching them.<sup>19</sup> The discussion paper on ‘Sustainable Growth of Coastal Aquaculture Policy’ does not consider

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15 North Queensland Conservation Council, further information 12 March 1999, p 269, 20 March 1999, p 358.

16 Qld Department of Premier and Cabinet, further information 21 April 1999, p 712.

17 North Queensland Conservation Council, further information 20 March 1999, p 359.

18 The Hon. R Welford to NQCC, 20 November 1998, in North Queensland Conservation Council, further information 12 March 1999, p 275.

19 We note that licensees must monitor discharges, but this is not the same as researching the environmental effects of discharges.



environmental impacts. This does not seem to be best practice management of a World Heritage Area. As we have stressed throughout this report, ‘managing any environmental impacts’, worthy though it is, is no substitute for upfront environmental impact assessment to inform decisions on development applications.

### **Recommendation 8**

**The Committee recommends that the Commonwealth and the Queensland governments should research the environmental effects of aquaculture on the Great Barrier Reef World Heritage Area.**

**The Committee recommends further that pending improved knowledge of the environmental effects of aquaculture on the Great Barrier Reef World Heritage Area, discharge of effluent to the World Heritage Area should not be permitted and no new aquaculture permits in the area should be issued.**

#### *Cane farming*

5.34 Much of the Herbert River delta at the south end of the Hinchinbrook Channel is under sugar cane. Development of land for cane usually involves drainage schemes that can affect estuarine and coastal water quality. Runoff may contain chemicals from fertilisers, and drainage schemes may expose acid sulfate soils. Proposals in the Herbert River catchment next to the Hinchinbrook Channel also involve works in mangrove areas. Nitrogen and phosphorus are two main chemicals used in sugar cane fertilisers. It is estimated that these chemicals now flow off the east Queensland coast in quantities between three and five times greater than before European settlement.<sup>20</sup>

5.35 Acid sulfate expert Dr Bowman described problems arising from expansion of caneland:

‘My personal opinion is that excavations and developments such as the Port Hinchinbrook site are fairly minor in terms of their impact on acid sulfate soils and the consequent environmental effects compared with the more extensive impacts that result from industries such as drainage for sugar cane. We have a site at the southern end of the Hinchinbrook Channel that we monitored for about nine months—the project is now finished—showing production of very large quantities of acid ... it is being produced by lowering of the watertable due to drainage for sugar cane production, and it is also producing acid, iron, aluminium and other metals that are going straight into Hinchinbrook Channel ... It is not all cane land, it is only on acid sulfate, and we do not really know how extensive that is, but we think it is fairly extensive. Where areas are being drained and we have looked at it, it is definitely producing toxic leachate.’ (Dr G Bowman, CSIRO, Evidence 10 August 1998, p 276-7)

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20 Environment Australia, Submission 157, p 757.

5.36 Prof. Melville described Tweed Shire Council's 1990 initiative in drawing up Australia's first government guidelines for dealing with acid sulfate soils. He thinks that in Queensland there is less acceptance of the potential problems:

'Within New South Wales, I believe that the industry generally accepts that acid sulfate soils are an issue that they are addressing successfully in many cases ... I think there is a contrast between New South Wales and Queensland in this respect. I do not believe that the Queensland sugar industry does broadly accept that acid sulfate soils are an issue or a problem. That is part of the problem of education, I suppose.' (Prof. M Melville, Evidence 10 August 1998, p 226)

5.37 The North Queensland Conservation Council claimed that 'There is now massive sugarcane expansion east of the Bruce Highway into areas below three metres AHD [Australian Height Datum] into intertidal areas and areas that are really marginal land.'<sup>21</sup> Mr Sheedy of Herbert River Canegrowers denied this:

'One of the criteria that we have with assigning new land is that it should be above three metres AHD. There are some lands which are presently under sugarcane cultivation which were developed years ago and which would be probably not quite three metres AHD ... When three metres AHD was decided as a benchmark that was thought to be a good measure by our technical advisers from the Department of Natural Resources and the old DPI in Queensland in regard to acid sulfate soil disturbance—that you could cultivate the soils above that level without too much risk at all of disturbing acid sulfates that may be deeper down in the soil profile.' (P Sheedy, Canegrowers Herbert River District, Evidence 30 July 1998, p 70)

5.38 Herbert River Canegrowers generally stressed that they are 'going through a very detailed planning study for any expansion of canegrowing in our district', and 'the industry in the Herbert has both a planning process and a condition on the development of new assignment that will ensure that no new development will create an acid sulfate problem.'<sup>22</sup>

5.39 Sunfish NQ claimed that the Sugar Industry Infrastructure Package for the Murray-Riversdale area has allowed the development of 11,000 hectares of ground that was previously wetland.<sup>23</sup> Mr Giandomenico of Hinchinbrook Shire Council said that the land was 'nowhere near wetlands or anything':

'All the wetlands at the moment have been mapped, and we as a council, in conjunction with the canegrowers, are working vigorously to stop any expansion anywhere near wetlands.' (G Giandomenico, Hinchinbrook Shire Council, Evidence 30 July 1998, p 76)

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21 J Tager (North Queensland Conservation Council), Evidence 31 July 1998, p 198.

22 P Sheedy (Canegrowers Herbert River District), Evidence 30 July 1998, p 68; Canegrowers Herbert River District, Submission 165, p 3-4, Evidence 24 August 1998, p 348ff.

23 V Veitch (Sunfish NQ), Evidence 30 July 1998, p 27.

5.40 Sunfish NQ had concerns about pollution from canegrowing:

‘There are significant point source pollution problems ... Victoria Mill was partially blamed for the fish kill at Victoria Creek when it released low quality effluent into the top of the catchment during an unscheduled shutdown after heavy rain...Macknade Mill ... has received criticism from local residents and anglers for a number of years due to apparently careless release of toxic effluent. Much of this is released into the top of Macknade Creek catchment which flows north towards Hinchinbrook Island ... It is unable to sustain native populations of fish and is badly affected by invasive pasture grasses due to the removal of the riparian vegetation along its banks. Other pollution concerns include the past practice of dumping sump oil, and this still continues on some properties, as does the uncontrolled dumping of old pesticide and herbicide containers.’<sup>24</sup>

5.41 Sunfish argues that ‘since land clearing began in the region there has been a significant build up of sediment at the mouths of most of our rivers and estuaries ...’

‘The key to controlling sediments is in development and maintenance of riparian strips ... Although this has been law in some other states since the early part of the century, there are no such mechanisms to protect these critical areas in Queensland.’ (Sunfish NQ, Submission 122, p 526)

5.42 Sunfish NQ also claimed that fish kills and red spot disease have been caused by acid runoff.<sup>25</sup> Sunfish submitted several diseased fish caught in creeks of the Herbert delta at the southern end of the Hinchinbrook channel.<sup>26</sup>

‘What we have offshore is the Great Barrier Reef World Heritage Area. We have to stop using it as a big blue wheelie bin.’ (V Veitch, Sunfish NQ, Evidence 30 July 1998, p 26)

5.43 Herbert River Canegrowers denied claims that fish kills and red spot disease in the Herbert region are caused by acid runoff or other pollution from canegrowing. They provided research showing that red spot disease may occur naturally and has complex causes.<sup>27</sup>

‘There is sometimes that association of acid sulfate with red spot disease in fish, but the veterinary biologists tell us that the problem occurs in a lot of cases where there are otherwise healthy streams simply through desalination with a major flush, changes in temperatures and things of that kind.’ (P Sheedy, Canegrowers Herbert River, Evidence 24 August 1998, p 360)

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24 Sunfish NQ, Submission 122, p 525.

25 Sunfish NQ, Submission 122, p 523-4.

26 V Veitch (Sunfish NQ), Evidence 30 July 1998, p 20.

27 J Marohasy (Canegrowers Herbert River District), Evidence 24 August 1998, p 355.

5.44 Herbert River Canegrowers described its code of practice for sustainable canegrowing, and generally argued:

- ‘At the most, there are 898 hectares of shallow cane cultivation [in the Herbert region] overlaying an area that could have potential acid sulfate soils beneath the surface ... We are very confident that, in all of those areas that are under existing production, there is not going to be any further disturbance. They are developed to the extent that they are ever going to be developed. Where those drainage projects are proposed, there may be some disturbance. That is the disturbance that is going to be managed and mitigated through the management plan ...’
- ‘The positive side of those water management projects is that they also include the enhancement of wetlands in those areas.’
- ‘What I cannot emphasise enough is what the stream monitoring, which we have done under our water watch program, has come up with ... There is not a low pH amongst the lot.’
- ‘[In the Tully-Murray and Herbert regions] We are 100 per cent trash blanketing [an environmentally preferable alternative to burning off] ... so there certainly are not many sediments running off from the cane lands in the Herbert. We use relatively low levels of nitrogenous and other fertilisers compared with other industries.’
- ‘The emphasis now, as we develop sugar cane, is still on trying to preserve the riparian areas along flow paths and wetlands, things like that. They are certainly being identified. A lot of priority is now given to holding onto those.’
- ‘Canegrowers has plans for a very ambitious tree planting initiative ...’<sup>28</sup>

5.45 The above evidence is not completely consistent. The Committee did not try to go into the matter in any more detail and has no basis for drawing any conclusion, except to say on the one hand, canegrowing obviously has potential environmental impacts; on the other hand, it seems that Herbert River Canegrowers are aware of this and say they are working to control them. We note that the code of practice on sustainable canegrowing is advisory rather than mandatory, and that scientists who have examined the issue have several outstanding concerns.

#### *Dungeness marina proposal*

5.46 The North Queensland Conservation Council (NQCC) described the ‘Club Hinchinbrook’ 50 berth marina and resort development, which is proposed at Dungeness near Lucinda at the south end of the Hinchinbrook Channel. The NQCC has similar concerns about environmental impacts at Dungeness as at Port Hinchinbrook, and believes that the *Environmental Impact Statement and Planning Report* produced for Hinchinbrook Shire Council in 1997 was inadequate. The NQCC

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28 P Sheedy & J Marohasy (Canegrowers Herbert River), Evidence 24 August 1998, p 350,357ff.

submitted to the inquiry a permit assessment record obtained by Freedom of Information, in which a Department of Environment professional officer listed concerns about the development. The NQCC said: ‘The Department of Environment itself, the only department charged with the protection of the natural environment, does not stand up for its portfolio as do other departments. Instead, it conspires with local government and development interests to undermine its own legislation and its own charter.’<sup>29</sup>

5.47 The Environmental Defender’s Office of North Queensland had a particular concern that in this case Hinchinbrook Shire Council owns the site and assumed the role of development proponent, intending to hand over the site to the actual developer once approvals are in place. Thus Council was in the position of applying to itself for the necessary approval. In the EDO’s view this creates an obvious conflict of interest:

‘The site of the development is freehold land owned by the Hinchinbrook Shire Council (HSC). The HSC apparently called for expressions of interest in developing the site and chose as its preferred developer, Bursill Enterprises Pty Ltd ... the HSC has retained ownership of the site and applied to itself for development approval ... it is difficult to understand how the Council could avoid, let alone be seen to avoid, a conflict of interest between its financial interest in the land and investment in the expressions of interest process and its duty to fairly and objectively assess the merits of the application in accordance with sound planning principles ...’ (Environmental Defender’s Office of North Queensland Inc., Submission 90, p 3)

5.48 The EDO accepted that there are sometimes good reasons for Councils to apply to themselves for planning consent (for example, where the development is a public facility), but argued that this was not the case here: Dungeness was always intended as a private recreational development. The EDO argued that to avoid the perception of conflict of interest the Council should have sold the land first and let the buyer apply for development approval in the normal way.<sup>30</sup>

5.49 The Committee invited Hinchinbrook Shire Council to answer these claims. The Shire said:

‘Council maintains that its role in the planning process for Dungeness was in accord with State legislation and its planning scheme. The Council has completed, at great expense, its Environmental Impact Study (EIS) and further, has provided environmental management plans to the relevant agencies to finalise the process ... [Council] anticipates that all issues will be satisfactorily resolved ... The Council has at all times acted within and according to the Laws of this State, and refutes any suggestion to the contrary ...’ (Hinchinbrook Shire Council, further information 22 July 1999, p 796a-b)

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29 North Queensland Conservation Council, further information 12 March 1999, p 302ff.

30 R Silva (Environmental Defender’s Office of North Queensland Inc.), Evidence 31 July 1998, p 200.

5.50 The Committee did not gather enough evidence on the Dungeness proposal to comment on the environmental impacts.

5.51 On the procedural matter - the Council applying to itself for approval - the Committee comments:

- There is undoubtedly a *potential* conflict of interest between the Council's duty to protect the public interest in orderly planning decisions, and its interest in maximising the value of its land by approving the development.
- This potential conflict of interest is inevitably present where a council owns land proposed for development. In this regard, whether the council acts as proponent, or whether the developer (as future buyer of the land) acts as proponent with the owner's consent, is not the main issue. In the first case, the council carries out environmental assessment; in the second, it will receive an environmental assessment provided by the proponent. The fear of environment groups is that in the first case a council may short-cut environmental assessment; in the second, it may assess the proponent's environmental assessment leniently, to ensure that the development is approved.

5.52 The Committee suggests that there is a need to ensure a process of transparent and independent assessment of such applications. The EDO suggested 'at minimum, there should be a legislative obligation to establish strong and effective "Chinese walls" in a local authority's handling of such applications'.<sup>31</sup> The Committee suggests that the signs of probity would include:

- there is a strategic plan that shows that the land is surplus to community requirements and the development is appropriate to the site;
- the development application is assessed independently - for example, by external consultants whose role is to put themselves in the shoes of the council's planning staff;
- If the application is approved, the site is then sold by open tender to ensure that the best price is received and to prevent any charge of favouritism between the council and a particular developer.

5.53 The Committee has no evidence from which to make any specific comment on the Dungeness proposal.

### **The role of science in this type of debate**

5.54 The role of scientists in the Port Hinchinbrook debate has been controversial. Several scientists who have been professionally involved with the development gave evidence to this inquiry, and most of these were concerned about inadequate environmental impact assessment. As well, on several occasions concerned scientists

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31 Environment Defender's Office of North Queensland Inc., Submission 90, p 6.

in general (not limited to those who have had direct professional involvement) have lobbied publicly on Port Hinchinbrook. In late 1994, around the time of Senator Faulkner's proclamations halting work, an estimated 200 scientists signed a letter to the Minister expressing concern about the poor environmental impact assessment and the lack of baseline data from which to estimate impacts. In December 1995 six eminent scientists headed by Sir David Attenborough wrote to the Prime Minister urging him to stop the development. In August 1996 (when the new Commonwealth government was reconsidering the matter) an estimated 200 scientists wrote to the Minister for the Environment, Senator Hill, in similar terms.<sup>32</sup> On 14 January 1997 the Australian Academy of Science wrote to Senator Hill urging the government to develop better environmental assessment procedures consistent with the status of a World Heritage Area.<sup>33</sup> Nine internationally renowned scientists had a letter published in *The Australian* (17 April 1998) calling on the Queensland and Commonwealth governments to stop the development.<sup>34</sup>

5.55 This high profile has attracted criticism. Supporters of the development claim that scientists are biased:

'Even scientific research in the area is questionable. Many studies, often publicly funded, seek to find evidence to support the point of view of opponents to the development, rather than gathering data and then drawing unbiased conclusions from it.' (Cardwell Air Charter, Submission 88, p 341)

5.56 Or they claim that for every study an opposing study can be found:

'A particularly contentious issue has been the widely conflicting and often misleading information provided through the media and the great variation in the data provided in scientific reports and environmental impact assessment studies.' (Cardwell Chamber of Commerce, Submission 123, p 535)

5.57 The fact that scientists have personal as well as professional opinions arouses suspicion:

'We have numerous examples of scientists who are being used, who are absolute opponents of the Port Hinchinbrook development and are being put forward as experts in certain fields.' (L Hallam, Cardwell Chamber of Commerce, Evidence 30 July 1998, p 14)

5.58 The Australian Academy of Science comments generally:

'Science has a big stake in the consideration of development proposals with significant environmental impact. All sides in public debates use evidence

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32 North Queensland Conservation Council, further information 18 June 1999, p 745ff. Senate *Hansard*, 17 November 1994, p 3244.

33 Prof. F Talbot, Submission 128, attachment.

34 A copy is at A Bunbery, Submission 40, p 103.

produced by researchers to support their cases, generally selectively. Governments use the scientific credentials of the impact assessment process to confirm that they have discharged their public duties in relation to the proposed development. In the resulting debates many of us feel that the good name of science is not always enhanced by the causes to which it is harnessed.’ (G Nossal, Australian Academy of Science, to Senator R Hill, Minister for the Environment, 14 January 1997; attachment to Submission 128, Prof. F Talbot)

5.59 The Committee comments: scientists are entitled to have personal opinions, and to express them. It is quite natural that they will have personal opinions about matters that they have come into contact with through their work. They in turn have a responsibility to keep their research results and their personal opinions clearly separate and, when expressing themselves as experts, to state clearly the limits of their expertise. In particular, this means distinguishing statements of scientific results from opinions on matters of policy drawing on scientific results. For example, to say ‘On present information, we do not know how serious this impact will be’ is a scientific statement. To continue, ‘Accordingly, we should refuse the development application/ approve the application on the following conditions to minimise risk/ postpone a decision pending further research ...’ is a matter of opinion, which scientists are as well entitled to express as anyone.

5.60 The Committee notes that in the absence of perfect information estimating and evaluating risks always has a subjective element to it. Statements about risk use words that do not have exact meanings (‘Slight risk’, ‘moderate risk’, ‘severe risk’...). Even when risks can be quantified by statistics and probabilities, the results are notorious for their poor correlation with the psychological reality of risk in the mind of the general public. In this situation the scientist’s professional judgment about risk (choosing words like ‘slight’, ‘moderate’ or ‘severe’) stands somewhere between a value-free scientific statement and a personal opinion. Because of the lack of thorough upfront environmental impact assessment of Port Hinchinbrook, such statements about risk have been prominent in the scientists’ contribution to the debate.

5.61 The Committee stresses that (setting aside the unsubstantiated general accusations quoted from paragraph 5.55), we heard nothing to suggest that any of the scientists concerned have behaved unethically by biasing their research to support personal opinions, or by putting forward personal opinions as though they were scientific statements. All the scientists that gave evidence were very conscious of the distinction and careful to avoid these traps.

5.62 The Committee suspects that criticism of scientists also arises from misunderstandings about the nature of science and the role of scientific statements in political debate. Decision-makers want clear answers, and may become impatient with scientists whose conclusions are cautious and hedged about with qualifications about the need for further information. Non-scientists with a simplistic view of science as ‘fact-finding’ may not understand that two scientists can disagree without it meaning that one of them is wrong or biased.



‘It’s the social curse of scientific illiteracy ... scientific and cultural thinking is not like business thinking. The skill with which the developer has sown the seeds of doubt about the scientific arguments of the case for a precautionary approach to development within the region exploits the scientific illiteracy of politicians. When politicians act recklessly instead of safely, and defend themselves by claiming that you can’t get two scientists to agree, it reveals a crucial technical incompetence.’ (A Thomas, Submission 131, p 600)

5.63 The Australian Academy of Science points out that ‘evidence on complex environmental matters is seldom complete and unambiguous.’<sup>35</sup>

5.64 Furthermore, even when scientific results *are* clear, they cannot dictate what in the end are political decisions about the right balance between conservation and development. ‘If you destroy the habitat, the species will die’ is a value-free scientific statement. ‘So what should we do about it?’ is the consequential political question. In answering such questions the precautionary principle should apply. Decisions should be made on the best possible information - and deciding how much information is necessary should draw on the professional consensus of the experts concerned. Decision-makers must be prepared to acknowledge unwelcome as well as welcome information. Dr Preen comments:

‘My observation has been that scientists can put in information, and if it agrees with the people making decisions then it becomes the best scientific advice available. If it disagrees with the direction that the people making the decisions want to go, then it is said that scientists ‘disagree on this matter’. Look at the history of reports done on Oyster Point. There must have been six or so reports done. They were all just replaced by another one until a report came up that said that the project would go ahead without undue harm within 100 or 200 metres of the site. And all of a sudden that one was the best scientific advice available ...’ (Dr A Preen, Evidence to Senate ECITA References Committee Commonwealth Environment Power Inquiry, 24 April 1998, p 213)

5.65 The reference is to Dr Reichelt’s 1996 report which summarised the comments of six scientists, who in turn were reviewing an ‘Environmental Risk Assessment’ produced by Sinclair Knight Merz (SKM) for the developer.<sup>36</sup> The six reviews and Dr Reichelt’s summary of them were part of the advice gathered by Senator Hill before his August 1996 consent under the *World Heritage Properties Conservation Act 1983* which allowed work to resume (see paragraph 2.28). Dr Preen:

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35 G Nossal, Australian Academy of Science, to Senator the Hon. R Hill, Minister for Environment, 14 January 1997.

36 Sinclair Knight Merz, *Port Hinchinbrook - environmental risk assessment with reference to activities requiring ministerial consent*, March 1996. R Reichelt, *Overview of the scientific reviews of “Port Hinchinbrook Environmental Risk Assessment with reference to activities requiring Ministerial Consent”*, 9 June 1996.

‘... some of those six broadened it out into the big issues, because clearly that was what it was all about. But Russell Reichelt, who summarised it, cut it back down, qualified their comments all the time, came up with this conclusion that there would be no unacceptable impact within 100 to 200 metres of the dredging area. So I guess he was being directed by his terms of reference ... Basically, I think the process was cooked to get an outcome.’ (Dr A Preen, Evidence to Senate ECITA References Committee Commonwealth Environment Power Inquiry, 24 April 1998, p 212-3)

‘Unfortunately the Commonwealth made obviously political decisions in directing its scientific reports to confine themselves to the actual site or immediately adjacent area. Such serious limitations fly in the face of ecological reality ...’ (P Valentine, Submission 136, p 612)

5.66 The Committee stresses that the complaint is *not* that Dr Reichelt acted unprofessionally, but rather that the government’s view of the question was unreasonably narrow. Four of the six reviewers, though not specifically asked, commented to the effect that ‘... [the SKM report] focuses almost entirely on the local impacts of the proposed development’ or ‘... decisions on developments such as Port Hinchinbrook [need] to be made in a more regional context.’<sup>37</sup> Dr Reichelt reported these views in his summary. The complaint is essentially that the Minister, in making his decision, seized on the one sentence in Dr Reichelt’s summary most favourable to the development (‘... could go ahead without significant impact on the immediate environment around Oyster Point, that is, within a few hundred metres ...’) and passed over all the cautions.<sup>38</sup>

5.67 The Committee notes that the SKM report explicitly limited itself to ‘the activities requiring ministerial consent’ - dredging the access channel and implementing a beach and foreshore management plan. It considered the matter narrowly, dealing with things like the possible effects of dredging on seagrass beds.<sup>39</sup> This raises the question of whether such an assessment should also consider the broader knock-on ‘effects’ (if we may call them that) of one action (such as dredging) in *enabling* a total development that may have other environmental impacts. In the

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37 R Reichelt, *Overview of the scientific reviews of “Port Hinchinbrook Environmental Risk Assessment with reference to activities requiring Ministerial Consent”*, 9 June 1996, p 6.

38 The Hon. R Hill, *Statement of Reasons for my decisions under ... the World Heritage Properties Conservation Act 1983* (attachment K to Environment Australia, Submission 157), p 4. Senator Hill’s reasons quote verbatim the key sentence of Dr Reichelt’s summary (‘... could go ahead without significant impact on the immediate environment around Oyster Point, that is, within a few hundred metres ...’) and make no reference to any other part of it.

39 ‘This document only examines issues which are directly relevant to the consent application as all State Government requirements to commence works have been satisfied except for an approval under the EPA (1994) covering discharge of waters from the spoil disposal ponds. The document includes information relevant to that process if such discharge is required.’ Sinclair Knight Merz, *Port Hinchinbrook - environmental risk assessment with reference to activities requiring ministerial consent*, March 96, p 3.

case of Port Hinchinbrook the question is sharpened by the arguments about the lack of up-front whole-project environmental assessment.<sup>40</sup>

5.68 The Committee comments: such problems only confirm the need for thorough up-front whole project environmental assessment of significant proposals. If after that the whole project is approved, detailed consequential applications may reasonably be considered as formalities (subject of course to satisfying relevant detailed conditions). The point is that if up-front whole-project environmental assessment has been done, proponents and public authorities should be confident that the possible environmental effects of the detailed matters are insignificant or have already been allowed for.

5.69 Other relevant comments are at paragraph 3.65ff.

#### *Claimed intimidation of scientists*

5.70 The Committee heard various evidence concerning harassment and intimidation of scientists, presumably either because they had spoken out as personally opposed to Port Hinchinbrook, or because they gave professional advice unwelcome to Port Hinchinbrook's supporters. For example:

'I have been defamed for expressing my views. I care for my reputation and I do not expect to be defamed further.' (J Sammut, Evidence 10 August 1998, p 234)

'It is our understanding that individuals from CSIRO have been subject to some harassment in the press and by other individuals.' (Dr S Rogers, CSIRO, Evidence 10 August 1998, p 284)

'I will read the following article from the *Courier Mail* [13 September 1997]: "Mr Williams also warned James Cook University researcher Tony Preen that he would be sued unless he withdrew allegations that Port Hinchinbrook would harm seagrass beds and dugongs. 'I'll serve a writ on Monday if he does not give me an all-out apology for the comments he made in the *Townsville Bulletin*,' Mr Williams said." There has been a lot more of that. Several SLAPP [strategic litigation against public participation] writs have been issued during the progress of this development. That sort of intimidation is what keeps a lot of people from speaking out.' (Dr A Preen, Evidence to Senate ECITA References Committee Commonwealth Environment Powers Inquiry, 24 April 1998, p 210)

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40 Senator Hill's reasons for consent were not limited to the matters dealt with by SKM, but also considered broader whole-project effects - effects of increased boating on dugongs; effects of increased tourism in the region; aesthetic effects on the wilderness area (on these matters his consent relied heavily on the proposition that these matters 'would be addressed by the proposed [Cardwell/Hinchinbrook] Regional [Coastal Management] Plan'). This acknowledges that the effects of a particular action may validly be defined to include not only its local effects (e.g. effects of dredging on seagrass), but also its broader effects in *enabling* a whole project that may have other impacts.

‘... Mr Williams has made defamatory comments about me in the context of the Valentine report and it was discussed (in 1994) at senior levels of James Cook University whether he should be sued. The University legal advisers indicated that it would cost a minimum of \$30,000 to get into court with Mr Williams and such funds were not available. I was invited to take up the action personally but unfortunately I do not have access to that kind of money either. Such is the nature of injustice in our country.’ (P Valentine, further information 25 September 1998, p 34)

5.71 Dr Ellison said:

‘This is a highly controversial development. For individual scientists there is concern about speaking about it at many levels ... This [James Cook] University is excellent in encouraging scientists to speak within their scientific expertise. Other state employers would not give that privilege ...’ (Dr J Ellison, Evidence to Senate ECITA References Committee Commonwealth Environment Powers Inquiry, 24 April 1998, p 210)

5.72 Disagreements among scientists are aired in a different style from disagreements among businessmen or politicians. Wealthy developers are more used to resorting to the law than private individuals. The developer commented:

‘The only people or scientists who have cause to be concerned about legal action are those who use their supposed scientific credentials to make defamatory or damaging statements and then cannot back up those statements. That is normal commercial practice.’ (K Williams, Cardwell Properties P/L, Evidence 10 August 1998, p 311)

**CHAIR**—At the end of last year you wrote to the Queensland Department of Natural Resources. I think you were complaining about a report that month which you regarded as ‘unnecessarily alarming’, your words... You said: “If you will not agree to amend this report and remove the reference to low risk or comparatively quantify such risk then I shall have no alternative but to take this matter up further with the relevant authorities and my legal advisors.” Is that not intimidatory and threatening?

**Mr Williams**—I do not think so. I am taking the risk. I can only win a case if they are wrong and I am right. (K Williams, Cardwell Properties P/L, Evidence 10 August 1998, p 320)

5.73 On the weight of evidence the Committee concludes that some scientists have been threatened and intimidated during the Port Hinchinbrook debate. The Committee thinks that this type of behaviour is unacceptable. It is acceptable to criticise scientific research on its scientific merits - that is, to test it against scientific standards of accuracy, objectivity and logic. Scientists do this to each other all the time through the conventions of peer review and debate on published work. It is not acceptable to threaten scientists or to denigrate their professional ethics or professional competence generally, simply because their findings are unwelcome or because one disagrees with their personal opinions on matters of public interest. There are public policy reasons

for saying this: if people are afraid to speak out, public authorities do not get the expert advice that they ought to be getting, and are more likely to make bad decisions.

### **Some general questions**

#### *How to ensure independent environmental assessment*

5.74 A common complaint is that environmental studies produced by proponents (in practice, consultants paid by proponents) are likely to be biased in favour of the development - since a consultant who produces the desired conclusion is more likely to get the next job. This has been a debating point (without any fruitful outcome) for as long as Australia has had environmental impact assessment laws. The Committee comments briefly:

- The means of ensuring more independent assessments are not hard to find, if the political will is present. For example, instead of proponents engaging consultants directly, it would be possible for planning authorities to choose a consultant by lot from a short list of tenderers with the necessary expertise (the developer would still pay for the consultancy). Then consultants would know that they could not be discriminated against in future tenders (whether by the proponent or by the authority) if they reach unwelcome conclusions.
- The thoroughness of the authorities in setting the terms of reference for environmental impact studies is most important.
- As noted in paragraph 5.59, it is important to distinguish scientific findings from professional advice on questions of policy. Some heat is taken out of this problem if the objective side of studies is distinct and recognisable (and therefore, amenable to peer review), and the more subjective conclusions are clearly marked off and open to debate in policy terms.

5.75 The Committee notes with approval that under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) it is an offence to provide information in an environmental impact statement under the Act with reckless disregard as to whether the information is false or misleading.<sup>41</sup>

### **Recommendation 9**

**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.**

#### *The right balance between environment and development*

5.76 The Committee has discussed the concerns of environment groups about the poor environmental impact assessment and development approval process used at Port

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41 *Environment Protection and Biodiversity Conservation Act 1999* (Cth), section 489.

Hinchinbrook. Aside from this, it is obvious that the main substantive cause of the Port Hinchinbrook dispute (and many similar disputes) is disagreement over the right balance between environmental conservation and economic development.

5.77 To speak of ‘balance’ in this way implies that environment and development must conflict. We digress to emphasise that this is not necessarily so. Intelligent environmental management and intelligent development may be beneficial to both the environment and the economy (‘no regrets’ greenhouse reduction policies, for example). Many things beneficial to both the environment and the economy are not done not only because of ignorance, inertia or vested interests. The benefits of conservation may seem less than the benefits of development only because the value of environmental capital is not put into the equation. Or costs of conservation may fall in one place and benefits in another, and although the benefits may outweigh the costs, this will not mollify those who bear the costs. Or costs of development may fall on future generations (through degradation of environmental capital) and benefits in the present - and persuading people to forgo present gain for the sake of future generations will always be a political challenge.

5.78 With those provisos, it is true that in the realm of practical politics conservation and development often conflict. How should we handle such conflict better than was done at Port Hinchinbrook?

5.79 On the need for a balance between conservation and development, it was striking how similar was the rhetoric of both supporters and opponents of Port Hinchinbrook - at a general level. Supporters said, ‘Of course we support the environment, but we need development too.’ Opponents said, ‘Of course we support development - providing it is environmentally responsible.’

‘We must have a balance between economic growth and protection of the environment... We cannot allow developers to do as they please. They must be responsible for protecting our environment. The same must go for environmentalists: they must allow responsible development.’ (F Smith, Submission 20, p 51)

‘It is inferred that if you are not a supporter [of Port Hinchinbrook] you are therefore anti-progress or anti-jobs, which is of course not the case. We also have families and wish to see the area prosper, but development must be appropriate and sustainable.’ (D Anderson, Concerned Residents of Cardwell Association Inc., Evidence 30 July 1998, p 81)

5.80 In detail, of course, the two sides mean very different things by such statements. For example, different people give different value to environmental goods such as an ‘unspoilt’ natural landscape. Environment groups deplored the aesthetic impact of Port Hinchinbrook on the landscape of the Hinchinbrook Channel; but someone with different views can say:

‘Port Hinchinbrook is not a uranium mine or some smoke belching factory. This is a project that all Australians can enjoy.’ (G Smith, Submission 21, p 53)

5.81 Environment groups were concerned about the possible effect of Port Hinchinbrook on the endangered mahogany glider; but someone with different views can say:

‘The Department of Primary Industry’s expansion programme, planting pine trees to the south of Cardwell, was stopped when the Mahogany Glider was discovered in the path of the pine forests. The fact that the ‘bloody squirrel’ was deemed more important than the jobs of the workers infuriated the community.’ (Mr & Mrs C Ollerman, Submission 72, p 244)

5.82 Different people give different weight to ‘conservation’ versus ‘presentation’ (both of which are envisaged by the World Heritage Convention) and the wilderness experience. From this flows the debate about controls on visitation to the island national parks, and the accusation that environment groups or park managers have a ‘lock-up mentality’:<sup>42</sup>

‘This area is amongst the most beautiful in the world and we must look after it to ensure it continues to be beautiful. There is, however, no point in maintaining anything if people are not able to see and appreciate it ... the type of operations which have little or no impact on the environment should have almost no restrictions placed on them. Obviously scenic flights fit this bill as do cruises on comfortable vessels which have no need of a shore visit.’ (Cardwell Air Charter, Submission 88, p 338-9)

‘An aircraft flying overhead is really quite intrusive when you have been sitting there and the only noise you have made during the day is pushing through the bush yourself, occasionally meeting someone else, listening to some birds.’ (P Sutton, Wildlife Preservation Society of Qld (Hinchinbrook Branch), Evidence 30 July 1998, p 114)

5.83 This suggests the need for more information and education about why the environment of the island national parks is fragile and why visitation needs to be controlled, both for the sake of the natural environment and for the experience of the visitors themselves. On some criteria very specific controls may be indicated (for example, to prevent campers damaging bird nesting sites); on other criteria the appropriate level of control will remain a matter of debate (for example, what limits are desirable to preserve ‘the wilderness experience’).

5.84 Different people have different ideas about what the precautionary principle should mean in practice, and how much information is enough in environmental impact assessment having regard to the significance of the proposal. Environment groups deplored what they called the lack of sufficient research into the potential impacts of Port Hinchinbrook; by contrast Hinchinbrook Shire Council (speaking of the Dungeness marina proposal) said:

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42 G Giandomenico (Hinchinbrook Shire Council), Evidence 30 July, p 66.

‘... our experience has been that generally they [State government departments] require environmental studies that are unrealistic, irrelevant and designed to frustrate, delay and hopefully result in Council or the developer abandoning the proposal. Council does however fully support the carrying out of Environmental Impact Assessment studies that are relevant to a development ...’ (Hinchinbrook Shire Council, Submission 59, p 196)

5.85 Of course, what is ‘relevant’ may be disputed. The precautionary principle,<sup>43</sup> though it aims to entrench in decision-makers’ minds an attitude favourable to the environment; cannot objectively decide what type of information and what level of detail is enough in the individual case. This will remain a matter of judgment, which should take account of professional advice and community norms.<sup>44</sup> Some think that in assessing Port Hinchinbrook the authorities have not been cautious enough;<sup>45</sup> others, too cautious.<sup>46</sup> Prof. Saenger commented:

‘In areas where further scientific research or information gathering is required about a likely adverse impact, no decision should be finalised until that research or information gathering has been undertaken. Unfortunately, in practice, the precautionary principle is often invoked in relation to fanciful (possible but not likely) impacts to stop a project rather than initiate appropriate research. In my view, the latter is a misuse of this important principle.’ (Prof. P Saenger, further information March 1999, p 297)

5.86 Words like ‘possible’ and ‘likely’ are themselves largely subjective (with provisos mentioned in paragraph 5.60). How much effort is warranted to pre-empt a ‘possible but not likely’ impact should have regard to the significance of the site, the likelihood of the impact and the likely severity of the impact if it does occur; but in the end it is a matter of opinion. On matters of detailed scientific research, the Committee suggests that the advice of the relevant expert group should have considerable weight - as, for example, in evidence to this inquiry about what constitutes a ‘good’ acid sulfate management plan.

5.87 Finally, different people give different value to the trade-off between acknowledged environmental costs and benefits of other sorts:

‘Cardwell have never had a safe anchorage point; now they have. Those are issues that you have to take into account. If they are detrimental to the

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43 The precautionary principle: ‘Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.’ *National Strategy for Ecologically Sustainable Development*, Commonwealth of Australia, December 1992, p 8.

44 The precautionary principle may suggest that certain information should ‘obviously’ be gathered, or certain decisions should ‘obviously’ be made a certain way; but the underlying value judgments must still be made, even if by tacit agreement.

45 For example, D Haigh, Submission 17, p 171: ‘... the international environmental “precautionary principle” was ignored or set at such a high threshold as to be useless.’

46 For example, Cardwell Chamber of Commerce, Submission 123, p 539.



environment in a minute way—that is my personal belief—then you have to accept it. If you are going to build a road you are going to have to clear land. Anything you do is going to have an impact somewhere along the line. At the end of the day you have to minimise those impacts, assess them and try to improve things somewhere else. It can be done.’ (G Giandomenico, Hinchinbrook Shire Council, Evidence 30 July 1998, p 73)

‘Of course, jobs are important. People want economic security and jobs, but there are surely gentler ways of achieving these than by the destruction of wilderness, tranquillity, wildlife and a way of life that this inappropriate development inevitably would bring.’ (M Thorsborne, Friends of Hinchinbrook, Evidence 30 July 1998, p 38)

5.88 The Committee suggests that these different views about the value of environmental costs and the right balance between conservation and development arise partly, sometimes, from lack of information, which environmental impact assessment can remedy:

‘A public assessment process often goes a long way towards reducing the level of dispute, because at least you have a more agreed foundation of scientific fact upon which to base debate and to move on from.’ (J Johnson, Environmental Defender’s Office Ltd, Evidence 10 August 1998, p 289)

5.89 However, the Committee suggests that primarily, and most often, different views reflect the different value systems of different people, and their different subjective evaluations of the natural environment versus human activities. Environmental impact assessments, though essential to allow debates to proceed with full information, will not change these underlying views. Deciding between these conflicting values, case by case, is a matter for the political process, hopefully reflecting broad community values. The Committee stresses again that-

- decisions need to incorporate an orderly, transparent process of environmental assessment and public consultation, so that all interest groups may be confident they will be heard, and may respect the outcome even if they do not agree with it;
- decisions need to be consistent with an overarching regional plan that looks to the long term, to avoid the tyranny of small decisions whose cumulative effect may degrade the environment even though none of them seems objectionable taken individually (this is discussed further from paragraph 5.103).

5.90 The parties to these disputes should remember that, although they disagree on details, they do agree on many fundamentals.

‘The interesting thing about it is that the consensus for what we would like the place to look like in 20 years time is very strong. There have been some public meetings held where people were asked what their vision was for this area in 20 years time. There was very little disagreement about what we would like it to be in 20 years time. The major area of disagreement is how we get there in small steps. That is the process that is going to be time

consuming and will take a long time to get through.’ (P Sutton, Wildlife Preservation Society of Queensland (Hinchinbrook Branch), Evidence 30 July 1998, p 116)

*Local interests versus national interests*

5.91 Under this heading two questions arise: who should decide major development applications; and in that decision, whose interests should prevail? The questions are related since most people would probably give the same answer to both, on the grounds that the easiest way of serving one group’s interests is to give the decision to them.

5.92 Opinions on this varied. On the first question, the Shire Councils and Cardwell interest groups naturally thought that power should be local. Throughout their evidence ran a strong undercurrent of local resentment against outside interference, whether by ‘Townsville academics’, the Queensland government or the Commonwealth:

‘I believe that matters of planning and permits to develop or operate should be the province of the local councils. GBRMPA and DoE being government agencies and therefore not subject to private sector economic realities should be the collators of research and advisers to the Councils on matters concerning crown lands, but with all decision-making in the hands of the democratically elected Local Councils.’ (Cardwell Air Charter, Submission 88, p 340)

‘At the end of the day in the local area, we should have regard to people who want to use the area; but it is the local people who should be in control of their own destiny. I can guarantee you that it gets up my nose when people from Canberra, South Australia or Melbourne tell me what we should do with our district.’ (G Giandomenico, Hinchinbrook Shire Council, Evidence 30 July 1998, p 74)

5.93 Others thought that local Councils are ill-suited to making major land-use planning decisions with environmental implications:

‘Local councils, whether they be in the Hinchinbrook region or whether they be in Nowra in New South Wales or Broome in Western Australia, are unable to manage natural resources from a holistic perspective for the benefit of all Australians. The only body that can do that is the federal government.’ (V Veitch, Sunfish NQ, Evidence 30 July 1998, p 22)

5.94 Most environmental groups clearly mistrust local control, since the burden of their submissions was that the State and Commonwealth governments should have but did not protect the World Heritage Area from the local Council’s original decision approving the Oyster Point development. Some said explicitly that the Commonwealth should take greater control of environmental management.<sup>47</sup> More

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47 For example, Queensland Conservation Council, Submission 117, p 477.

evidence on this is in this Committee's report on *Commonwealth Environment Powers*, May 1999.

5.95 Mr Valentine said, 'Recent changes in State laws [the *Integrated Planning Act 1997* (Qld)] are placing more and more responsibilities on poorly resourced Local Government with a history of environmental ignorance and abuse ...'

'... It is difficult to expect good environmental outcomes when Local Governments are staffed by engineers but not environmental officers and scientists; where the concept of community participation remains novel and where large developments are automatically welcomed in a time of perceived economic need. These are the more typical conditions in local governments adjacent to our World Heritage sites.' (P Valentine, Submission 136, p 613-614)

5.96 Mr Valentine recommended that the Commonwealth should fund employment of environmental officers in local government areas including or abutting a World Heritage property.<sup>48</sup> The Committee agrees. See paragraph 5.150 and following.

5.97 Townsville Enterprise thought that in the approval process for 'major projects' (which would be defined by clear criteria), while all levels of government might be involved, there should be one 'overriding body' - probably the State government - which, by agreement, would have control of the process.<sup>49</sup>

5.98 As for whose interests should prevail, there was more consensus that both local and broader interests need to be considered. But how these interests should weigh in the balance, where they conflict, is a matter of opinion:

'I certainly want to see the aspirations, the hopes and the dreams of the local people respected, but not at the expense of those who are further away who have an equally passionate interest. Similarly, I do not want the far ones to dominate the locals ... the Hinchinbrook Channel is not any one person's body. It belongs to the future as much as the present. So some wise decisions, recognising long-term consequences, have to be taken. I do not believe that we can consider only the locals, and I do not believe I could generate a mathematical formula which would give you the right balance, because in the end what we are looking at here are value judgments, not adding up and taking away.' (P Sutton, Wildlife Preservation Society (Hinchinbrook Branch), Evidence 30 July 1998, p 117-118)

5.99 Whenever the costs of some government policy or decision fall more hardly on some than on others, there will be objections. This is particularly the case in land-use planning. Many government decisions create winners and losers who are widely scattered among the whole population, and so less likely to unite in objection; but land-use controls, though they may be national in importance (as in the case of World

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48 P Valentine, Submission 136, p 614.

49 R Power (Townsville Enterprise Ltd), Evidence 31 July 1998, p 156.

Heritage protection) are also inherently local in effect, and so very likely to be controversial.

5.100 It is beyond the scope of this report to consider the general question of the right roles of the three levels of government in environment protection and development control (this is discussed in this Committee's recent report *Commonwealth Environment Powers*<sup>50</sup>). In the Committee's view both local interests and broader interests must be considered in decisions on development applications. Where World Heritage is involved it seems reasonable that broader interests should have relatively greater weight - though this does *not* mean that local input may be omitted from decision-making procedures. Where local interests and broader interests conflict, deciding the balance between them is fundamentally a matter for political debate.

5.101 The Committee notes Mr Valentine's concern about the trend to delegate more matters to relatively ill resourced local councils. This is a matter of concern. Wherever decision-making power lies, adequate resources should be allocated so the decision-making authority can make responsible, fully informed decisions. It is not good enough to delegate the power out of a general philosophy of devolution, without ensuring the necessary resources.

#### *The Regional Coastal Management Plan*

5.102 Many witnesses on both sides of the Port Hinchinbrook debate stressed the need for better regional planning policies so that developers know in good time what sort of developments will or will not be acceptable in certain locations.

'Oyster Point has been polarised into a conflict situation because the rules haven't been clear to anyone. That's obviously been a problem for the developer, it's been a problem for the conservation lobby, it's been a problem for the local council.' (Prof. H Marsh, *Four Corners*, 23 September 1996)

'The lack of clear, unambiguous guidelines and planning continues to foster an atmosphere of uncertainty, increased risk, and is considered detrimental to the long-term development of jobs in this region ... Virtually all current problems stem from one simple fact: there is no coherent regional planning mechanism that enables all stakeholders to understand what is and is not likely to constitute acceptable development.' (Townsville Enterprise, Submission 78, p 266,268)

5.103 As well, a key purpose of regional planning is to set out a long-term vision, so that the environment is not unintentionally degraded by the accumulation of small changes. It is easy to say, 'The cove is beautiful and unspoilt, but surely a *little* campsite would do no harm?' What happens when, ten years later, people have

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50 Senate Environment, Communications, Information Technology and the Arts References Committee, *Commonwealth Environment Powers*, May 1999.

forgotten how the cove used to be, and someone says, ‘The cove is no longer unspoilt, the campsite is there - surely it would do no harm to enlarge it?’ One purpose of regional planning should be to foresee these situations and to set rules that can be followed from the start.

‘I do not think the issue of incremental change on coastlines has been solved by any government ... Incremental change is the big problem for managing coastal habitats, and site-specific focused inquiries and evaluations contribute to the problem ... I do not think you need a scientific evaluation to know that putting a resort on top of a coastal habitat will alter that bit of coastal habitat. How much of that coastal habitat do you want to retain? Are you happy to see that little bit changed? Those are the sorts of questions that could be addressed by a regional approach.’ (Dr R Reichelt, Australian Institute of Marine Science, Evidence 31 July 1998, p 135)

5.104 The Memorandum of Understanding which the Commonwealth and Queensland signed in 1996, at the time when the Commonwealth gave consents under the *World Heritage Properties Conservation Act 1983* necessary for the Port Hinchinbrook development to resume, aimed to expedite a ‘Cardwell/ Hinchinbrook Regional Coastal Management Plan.’ The plan is the first to be made under the *Queensland Coastal Protection and Management Act 1995*. The effect of a plan is (in brief) to give the State government a development control power over declared coastal waters and land up to 400m inland from the high water mark. The Minister must appoint a regional consultative group to help prepare a plan, including representatives of local government, tourism, conservation, industry and Aboriginal and Torres Strait Islander interests. The consultative group must seek community involvement during the preparation of the plan.<sup>51</sup>

5.105 A general criticism of this scheme is that the Act, although it contains a suitable purpose clause referring to biological diversity and ecologically sustainable development, creates no explicit obligation to protect the coastal environment:

‘The lack of substantive obligations imposed on the Minister or other responsible authority means that the actual taking of conservation initiatives under the *Coastal Protection and Management Act 1995*, in common with all other [Queensland] statutes dealing with environmental matters, is entirely up to the discretion of the responsible authority. Past experience has proven that this is not adequate to ensure that ESD and the preservation of

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51 *Coastal Protection and Management Act 1995* (Qld), sections 19,31,48,103. A regional coastal management plan, as well as describing policies for coastal management, may declare ‘control districts’, which may include coastal waters and land up to 400 metres inland from the high water mark. A regional plan may make provisions about anything on which a regulation may be made under the Act. The Governor in Council may make regulations concerning (among other things) ‘the use or development of land in a control district.’ The *Integrated Planning Act 1997* (Qld) does not explicitly command local Councils to make their decisions on development applications consistent with a regional coastal management plan, presumably because, by virtue of section 31 of the *Coastal Protection and Management Act*, this obligation is conferred by the plan itself.

biodiversity will be achieved.’ (M Peterson, *Environmental Law Reform in Queensland*, 1996, p 55)

5.106 Many submissions were concerned about the delays in making the Cardwell/Hinchinbrook Regional Coastal Management Plan. For example:

‘Unfortunately, state governments do not like taking orders from Canberra and National Party governments like doing so even less. Consequently, the Borbidge government dragged its feet deliberately over the implementation, or at least the preparation, of a coastal management plan. It should have been in place by May 1998, but the current state of affairs is that it will not even be published in draft form until early 1999.’ (D Kimble, Community for Coastal and Cassowary Conservation, Evidence 30 July 1998, p 115)<sup>52</sup>

5.107 On the other hand, it was argued that local ownership of the plan is important, and working through controversial issues inevitably takes time:

‘It would be very nice to get such a plan in place quickly but if you do that you do not have local ownership of it. I think you will have heard enough today to realise that local ownership of a planning process like this is very important. It is not effective to simply impose a plan on a group of people if they are not comfortable with it. The really time consuming process is that public consultation process that allows the local people to see the sense of the plan and feel a sense of ownership of it. In the end they will be the ones who police it and drive it.’ (P Sutton, Wildlife Preservation Society of Qld, Hinchinbrook Branch, Evidence 30 July 1998, p 116)

5.108 Some thought that the consultation process was ‘unnecessarily politicised’<sup>53</sup>, or would be captured by development interests:

‘The Queensland Government is also likely to favour short term economic gain over long term environmental protection in the preparation of its Regional Management Plan. Queensland legislation requires the advice of the Regional Consultative Group, which includes representatives of local government, tourism and industry and consequently has a strong interest in advancing the economic aspects of the development, to be taken into account.’ (The Hon. R Jones, Submission 156, p 723)

5.109 Others seemed to fear it being captured by environmental interests:

‘The people whom I come in contact with in the shire—just the average person in the street—have had it up to their back teeth with inquiries... Basically, they have lost faith in the system to protect the majority rights. (A Harvey, Hinchinbrook Shire Council, Evidence 30 July 1998, p 70)

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52 Also for example, Wildlife Preservation Society of Qld (Tully & District Branch), Submission 41, p 141; Giringun Elders and Reference Group Aboriginal Corporation, Submission 143, p 640.

53 Giringun Elders and Reference Group Aboriginal Corporation, Submission 143, p 654.

5.110 Some criticised what they see as the Commonwealth opting out of the process, in spite of the Commonwealth's duty to protect the Great Barrier Reef World Heritage Area:

'The Regional Plan on which the [Commonwealth] Minister relied legally for his [1996] consent decision has simply not eventuated. What's left of it, according to Marc Rowell (Member for Hinchinbrook and Minister for Primary Industries (Qld)), is "in the hands of the Hinchinbrook and Cardwell Shire Councils" (Herbert River Express, 30/5/98). So much for Commonwealth protection of World Heritage.' (Cairns and Far North Environment Centre, Submission 50, p 149)

'There is no expertise in World Heritage management on any Queensland Government agency involved in the plan. There is no direction or overt recognition of the high standard of management required of a World Heritage area. World Heritage is merely a consideration among the social, economic and political issues when in fact it should be the dominant issue driving the determination of the final plan.' (D Haigh, Submission 57, p 185)

5.111 On the other hand, Environment Australia said:

'The agreement on the development of a regional plan for the Hinchinbrook area is a significant achievement. Commonwealth involvement in the regional planning process will give it the capacity to address in an integrated manner the full range of developments that could impact on World Heritage and National Estate values.' (Environment Australia, Submission 157, p 754)

5.112 The above comments date from mid-1998. The Committee has no details of the present situation. We note the recent comment of Cardwell Shire Council that, from its point of view, the situation has improved:

'The Draft Regional Coastal Management Plan had a very turbulent start especially as in the early stage of the draft plan the consultative committee had no ownership of the plan. The original draft did not represent the views and desires of the populace. With the withdrawal of the original draft, the engagement of an independent consultant and the rewriting of the draft in a systematic manner the wheels have definitely not fallen off the Regional Coastal Management Plan.' (Cardwell Shire Council, further information, 4 March 1999, p 117)

5.113 The Queensland government described the change of direction:

'In April 1998 the then Minister for Environment (Brian Littleproud) directed that the planning process for the draft Cardwell/Hinchinbrook Regional Coastal Management Plan (originally proposed to be completed by 30 June 1998) be amended, following community concern in relation to the level of consultation for the Plan. The new planning process commenced on 30 April 1998.... The content [of the plan] has been thoroughly evaluated in

order to achieve the highest possible level of consensus for the document. A strong majority of Regional Consultative Group members support the document.’ (Qld Dept of Premier and Cabinet, further information, 21 April 1999, p 710)

5.114 The Committee understands that the draft Cardwell/Hinchinbrook Regional Coastal Management Plan is now in the hands of the State Minister and has not yet been advertised for public comment under section 34 of the *Coastal Protection and Management Act 1995*. The Queensland government advised that it is planned for release for public comment by August 1999 with the final plan gazetted by January 2000.<sup>54</sup> The State said that the vision for the plan is to achieve:

‘... an ecologically sustainable managed region where World Heritage values are protected with:

- large areas of linked natural vegetation, clean rivers and coastal areas supporting biodiversity;
- compact and contained towns;
- a viable tourism industry with emphasis on ecotourism;
- a sustainable fishery;
- efficient use of suitable land for agriculture, horticulture, timber production and aquaculture, with value-added industries; and
- strong community involvement in management and development, particularly from Aboriginal people;

- all contributing with equal importance to social, cultural, ecological and economic security.’ (Qld Dept of Premier and Cabinet, further information, 21 April 1999, p 709)

5.115 The Committee affirms the importance of regional planning to prevent future Port Hinchinbrook style disputes, by giving more certainty to developers about what types of development will or will not be acceptable in what locations, and giving more confidence to the community that regional environmental issues have been adequately considered. As the Queensland government put it:

‘The “ground rules” for a wide range of developments will be addressed in the Cardwell/Hinchinbrook Regional Coastal Management Plan through the Plan providing comprehensive criteria for the assessment of proposed developments in the planning area.’ (Qld Dept of Premier & Cabinet, further information 21 April 1999, p 709)

5.116 As well, as noted in paragraph 5.103, a regional planning approach is necessary to prevent the unintended degradation of the environment by gradual attrition.

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54 Qld Dept of Premier and Cabinet, further information 21 April 1999, p 708. More recent advice: a draft Plain English version of the plan is expected to be released for public comment by December 1999, and the section 34 draft is expected to be released by mid-2000. J McIlwain (Qld Department of Premier & Cabinet), pers. comm. 20 September 1999.



‘Having a clear vision for the longer term makes short term decisions very easy.’ (T Tootell, Submission 15, p 42)

5.117 A plan cannot always prevent case by case dispute, but at least, when dispute happens, one side or the other should be able to point clearly to the plan as supporting their position, which should allow the question to be decided more quickly and with less acrimony than we saw at Port Hinchinbrook. But it will only work if the plan represents not just the right rhetoric, but also a real commitment by all concerned, flowing through to individual development control decisions:

‘How did the two local authorities (Hinchinbrook and Cardwell) decide to support this mega-scale project [Port Hinchinbrook] in the light of their respective draft regional strategies (in 1994) which indicated their goal was for low-key environmental friendly developments? ... The implications here are that formal plans are of so little meaning that they may as well not exist. But such an outcome will ensure hundreds more development conflicts. The solution must come from more meaningful plans and greater commitment to their outcomes ...’ (P Valentine, Submission 136, p 612)

5.118 Long-term goals are always at risk from the temptations of short-term expediency. The prospect of more Port Hinchinbrook-style disputes up and down the coast should be enough motive for decision-makers to resist the temptation.

#### *The Hinchinbrook Island National Park Management Plan*

5.119 Similar concerns to those relating to the Regional Coastal Management Plan were also expressed, both by environment groups and development interests, in relation to the Draft Management Plan for Hinchinbrook Island National Park.<sup>55</sup> Environment groups (as far as they mentioned it) generally approved the draft plan as it stands, and feared that the current delay in finalising it foreshadows a weakening:

‘The most recent proposed plan for these islands was, on the whole, a document which took into account the sensitivities of these wilderness areas and which we supported with a few exceptions ... Where is this plan now? Has it been declared or has it been put under hold so that the visitor numbers and usage may be altered and increased to suit new proposals in the area?’ (Wildlife Preservation Society of Qld (Tully & District Branch), Submission 49, p 141)

5.120 Development interests resented the delay as creating lack of security for tourist operators:

‘After nine years the Hinchinbrook Island draft management plan is still not a legislative document. For tourism to grow in this area there has to be some certainty for the future ... In the absence of management plans there is no

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55 The draft management plans for Brook Islands National Park and Goold Island National Park raise similar issues, and comment in evidence on the Hinchinbrook Island plan also applies to them implicitly if not explicitly.

security of tenure for anyone involved in tourist operations in this area.’ (W Whiteman, Cardwell Chamber of Commerce, Evidence 30 July 1998, p 4)

5.121 There is dispute on the direction of the national park management plan concerning the need to control visitation. The Wildlife Preservation Society, for example, thought that the most recent version ‘takes into account the sensitivities of these wilderness areas’ adequately.<sup>56</sup> By contrast, Hinchinbrook Shire Council thought that the Hinchinbrook Island plan ‘puts a stranglehold on any possibility of reasonable [commercial] activities being introduced ... It’s the same lock up/no go mentality which prevails throughout.’<sup>57</sup>

‘... unless the community is vigilant against these attempts to “lock up” the island we will be denied access to our own backyard.’<sup>58</sup>

5.122 The Shires do not think that present levels of use cause a problem.<sup>59</sup> They also resent the imposition of the plan by ‘Bureaucratic State Government Department Officers’ without (as they see it) enough consideration of local views:

‘The remoteness of the architects of these plans has also contributed to the lack of suitability of the plans to gain widespread public support.’<sup>60</sup>

5.123 As noted in paragraph 5.83, where controls on use are based primarily on considerations of ‘the wilderness experience’ (as opposed to more clearly visible environmental harm) they are bound to be controversial, since the value different people attach to the wilderness experience is a very subjective matter.

5.124 In the Committee’ view, the purpose of management plans is to look to the long term, to pre-empt the cumulative impact of incremental changes which might seem innocuous when viewed from day to day, but which over time add up to a situation which no-one has planned or wanted and which might be very hard to undo later. It is not hard to think of places around the world where incremental tourist developments over many years have spoilt the thing that the tourists came to see. No one would want that fate to befall the Hinchinbrook region. So when the Shire Councils say ‘the developments which have taken place within the Hinchinbrook Island/Channel area ... *have not* in Council’s opinion caused any detrimental effects to the environment’,<sup>61</sup> or ‘it is absolute nonsense to suggest that the channel and island *is* under threat from development pressure’<sup>62</sup> [emphasis added], the comments are not quite to the point, because they speak only of the present, not the future. A plan is

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56 Wildlife Preservation Society of Qld, Tully & District Branch, Submission 49, p 141.

57 Hinchinbrook Shire Council, Submission 59a, p 202-3.

58 Hinchinbrook Shire Council, Submission 59, p 196.

59 Hinchinbrook Shire Council, Submission 59, p 196; Cardwell Shire Council, Submission 158, p 792.

60 Hinchinbrook Shire Council, Submission 59, p 195. Cardwell Shire Council, Submission 158, p 792.

61 Cardwell Shire Council, Submission 158, p 792

62 Hinchinbrook Shire Council, Submission 59, p 196.

made not only in response to a present situation, but also to prevent the unwanted results foreseen from an unplanned future. A threat may seem far-off now; but by the time it seems close, it may already be too late to act. The purpose of strategic planning is to prevent the threat getting that close.

### *Ecotourism*

5.125 The meaning of 'ecotourism' is not very exact, but the key elements seem to be:

- the natural environment is the attraction, with a component of education in the tourist experience;
- the tourist operation does not itself degrade the environment, and preferably contributes to protecting the environment - for example, by the financial contributions of visitors or the involvement of operators in conservation projects;
- there are benefits for local host communities.<sup>63</sup>

5.126 For example:

'Ecotourism is nature based tourism that is ecologically sustainable and is based on relatively undisturbed natural areas; is non-damaging and non-degrading; provides a direct contribution to the continued protection and management of protected areas used; and is subject to an adequate and appropriate management regime.'<sup>64</sup>

5.127 The Hinchinbrook region, with its national parks and World Heritage Areas, is fertile ground for ecotourism:

'A large proportion of the land area of the Cardwell and Hinchinbrook Shires (68 per cent in Cardwell Shire) is now National Park, World Heritage Wet Tropics, State Forest or other environmentally protected land ... The Cardwell and Hinchinbrook Shires do have enormous eco-tourism potential.' (Cardwell Chamber of Commerce, Submission 123, p 534)

'Living in North Queensland I come in contact with overseas tourists on a daily basis. These people visit this region specifically to enjoy the natural environment and not to stay at large resort style accommodation that is duplicated elsewhere in the world. It is the uniqueness of the North Queensland environment that attracts foreign spending. Visitors come here to have a wilderness experience not a five star experience.' (K Rickart, Submission 13, p 27)

5.128 There was general support for an emphasis on ecotourism in the future development of the region:

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63 Commonwealth Department of Tourism, *National Ecotourism Strategy*, 1994, p 15ff.

64 P Valentine, 'Nature-based tourism' in *Special Interest Tourism*, eds M Hall & B Weiler, Belhaven Press, London 1991.

‘We do not want development to the extent of other areas such as Whitsunday, Gold Coast or Cairns, but we do want to be able to establish small eco-tourism ventures that will provide employment opportunities for our young people ...’ (Hinchinbrook Shire Council, Submission 59, p 196)

‘The people of Cardwell have a valid desire for employment opportunities, as do most Australians. Appropriate development, on a smaller and more local scale, has limitless possibilities. Conservationists endeavour to protect the most beautiful, the most valuable, and the unique places. They know that these special places will automatically increase in value as the rest of the world is altered by humans. We can all support the Cardwell area in sustainable development.’ (R Street, Submission 43, p 114)

5.129 As noted in paragraph 5.114, the vision of the Cardwell/Hinchinbrook Regional Coastal Management Plan is for ‘a viable tourism industry with emphasis on ecotourism.’

5.130 This raises the obvious question of whether the Port Hinchinbrook development is consistent with that vision. Cardwell Shire Council seems to think so:

‘Ecotourism does not prohibit large resorts ... The Port Hinchinbrook project is an integral part of the future economic development of the region. The population residing or visiting the development will ensure the viability of existing and future ecotourism ventures in the region.’ (Cardwell Shire Council, further information 4 March 1999, p 118)

5.131 Environment groups obviously do not agree. Ecotourism is not only nature-orientated but is also itself sympathetic to the environment. On this score we recall the Committee’s mixed verdict on actual environmental impacts of Port Hinchinbrook - particularly the threat to dugongs from increased boat traffic; the aesthetic impacts; the likely pressure of increased tourism on the islands (see chapter 4). To be most charitable, Port Hinchinbrook does not pass with flying colours. But that is history: we cannot blame Port Hinchinbrook for being inconsistent with a policy decided years later. A commitment to ecotourism in the region does suggest that the authorities should hesitate before approving any more Port Hinchinbrooks.

#### *World Heritage management of the Great Barrier Reef*

5.132 The Great Barrier Reef World Heritage Area extends from Bundaberg to Cape York. It is by far the biggest World Heritage Area in the world. As Prof. Marsh pointed out, this creates special problems for managing development in the region consistent with world heritage values:

‘The massive size of the GBR WH ... creates specific problems. In particular, determining the level of activity that should be allowed to occur in or adjacent to the WHA. This is the nub of the Port Hinchinbrook dispute.’ (Prof. H Marsh, Submission 125, p 554)

5.133 Cardwell Shire Council described the early hostility to World Heritage in the area:

‘In 1986, world heritage was thrust upon the residents of North Queensland by the rest of Australia. Most North Queenslanders agreed with the concept of world heritage but vehemently disagreed with the way it was implemented.’ (R Hunt, Cardwell Shire Council, Evidence 30 July 1998, p 91)

5.134 Mr Valentine thought this resulted, at least in part, from lack of community consultation and information:

‘We have also failed to properly inform our communities about the meaning and nature of World Heritage (required by the [World Heritage] Convention) and this has led to very significant misinformation being accepted and dispersed in many communities.’ (P Valentine, Submission 136a, p 780)

5.135 Environment Australia believes that the situation has improved:

‘We have advanced considerably since the early, sometimes conflictual, listing of World Heritage areas. As a result of patient, cooperative work with the States and with stakeholders, there is now substantially greater local community acceptance of the value of World Heritage listing. With this in mind, the government has put considerable effort into community consultation, particularly in the case of prospective new nominations such as the Greater Blue Mountains Area and Convict Sites.’ (Environment Australia, further information 25 March 1999, p 416)

5.136 The 25 year strategic plan for the Great Barrier Reef World Heritage Area asserts the principle of ‘multiple use’ of the area:

‘Sustainable multiple use: non-destructive activities which can continue forever, that is, in such a way that maintains the widest range of opportunities for appropriate sustainable use, and does not adversely affect the ecological integrity of its natural systems.’ (GBRMPA, *The Great Barrier Reef: Keeping it Great: a 25 year strategic plan for the Great Barrier Reef World Heritage Area, 1994-2019*, p 13)

5.137 The concept of multiple use has evolved over time. The equivalent concept in the *Great Barrier Reef Marine Park Act 1975* is ‘reasonable use’: in making zoning plans for the reef the Great Barrier Reef Marine Park Authority must have regard to (among other things) ‘regulation of the use of the Marine Park so as to protect the Great Barrier Reef while allowing the reasonable use of the Great Barrier Reef Region.’<sup>65</sup> Dr Cass, introducing the bill for the GBRMP Act in 1975, commented:

‘Undoubtedly the future declaration of marine parks and reserves will be difficult for most countries. Those with highly developed technologies will be torn between the desire physically to exploit the sea’s resources and the demands of conservationists and recreationists for areas to be reserved ...

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65 *Great Barrier Reef Marine Park Act 1975*, section 32(7).

However, conservation and protection of the Great Barrier Reef will be the paramount aim of the [Great Barrier Reef Marine Park] Authority in all zones of the Marine Park.’ (the Hon. M Cass, Minister for Environment, House of Representatives *Hansard*, 22 May 1975, p 2680)

5.138 Some submissions were unhappy with the concept of ‘multiple use’, regarding it as compromising ‘the high purpose of World Heritage listing’.<sup>66</sup> On the other hand, Prof. Marsh regards a national park level of conservation as impractical for such a huge area:

‘It is relatively easy and uncontroversial to develop guidelines for protecting the World Heritage values of a small World Heritage site - it can be ‘locked up’ and given a level of protection equal to a national park. Affording this level of protection to the GBR WHA is impossible, as it would block coastal development from Cape York to Bundaberg.’ (Prof. H Marsh, Submission 125, p 554)

5.139 According to GBRMPA, ‘We will never totally win the ultimate conservation goals of locking a place up, nor will we fully satisfy a pro-development ethos ...’

‘We are in the middle trying to manage a balanced reasonable use. The words ‘reasonable use’ are subjective ones. We have heard in a number of other inquiries and estimates hearings that some people think it is reasonable and some people do not. Unfortunately for us, we are in the middle trying to balance that with the best available advice ...’ (C Cook, Great Barrier Reef Marine Park Authority, Evidence 31 July 1998, p 143)

5.140 Prof. Marsh regretted that, as she put it, ‘the [1994] 25 year plan for the Great Barrier Reef World Heritage Area has never been implemented.’<sup>67</sup> Environment Australia commented on the difficulty of obtaining commitment from diverse stakeholders:

‘To claim that it has never been implemented is to imply that the only party is GBRMPA. Other parties have readily abandoned commitment when faced with perceived threats by government to their economic circumstances or rights of access. The State of the Reef Report which was released by GBRMPA last November recognises that many of the management issues on the Reef are complex and their resolution involves consultation with a diverse range of stakeholders.’ (Environment Australia, further information 25 March 1999, p 422)

5.141 Several submissions regretted the lack of a timely management plan for the Hinchinbrook area before approval of such a major development as Port Hinchinbrook. For example:

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66 Friends of Hinchinbrook, Submission 129, p 586. Similarly D Haigh, Submission 57, p 171.

67 Prof. H Marsh, Submission 125, p 555.

‘When an area is nominated for world heritage, that nomination ought to be accompanied by a plan of management so that it is clear, ahead of time, what the nomination and acceptance of an area of land of world heritage will mean.’ (J Johnson, Environmental Defender’s Office Ltd, Evidence 10 August 1998, p 288)

5.142 Environment Australia pointed out the logistical problems of making management plans for such a huge area as the Great Barrier Reef:

‘Management plans for the GBR have been developed and revised progressively. This is necessarily a time consuming process due to the complexities of the issues involved. Nevertheless, zoning plans and highly detailed management plans have been completed for 348,000 square kilometres of the GBR Marine Park. They have involved extended consultation with clients, required the resolution (where possible) of often strongly put and conflicting industry and conservation group positions, and have demanded pioneering planning approaches that were novel on a world scale. The two latest Plans of Management cover only 5 per cent of the GBR Marine Park (Cairns and Whitsundays), but these areas comprise over 95 per cent of the tourism use of the GBR World Heritage Area.’ (Environment Australia, further information, 25 March 1999, p 415)

5.143 Several submissions argued that management plans for the reef should include buffer zones - areas outside the World Heritage Area where developments may affect World Heritage values. The point was made specifically in relation to Port Hinchinbrook (which is separated from the Great Barrier Reef World Heritage Area only by the intertidal mudflat), but it also applies more generally, since activities like land clearance and agricultural development may cause runoff that affects the reef. According to Environment Australia, ‘Many of the issues affecting the GBRWHA occur outside the area over which GBRMPA has direct jurisdiction. As such GBRMPA and the Commonwealth more broadly, has no capacity to control landuse policies which ultimately affect the GBRWHA.’<sup>68</sup>

5.144 Of course, in theory the powers of the *World Heritage Properties Conservation Act 1983* could be invoked to prohibit any act on Queensland soil that ‘is likely to damage or destroy’ the World Heritage Area, however distantly or indirectly.<sup>69</sup> This would have huge practical and political difficulties. Environment Australia claimed that the veto power under the Act is ‘designed as a means of last resort’. It said that ‘despite the absence of regulatory powers, the [Great Barrier Reef Marine Park] Authority generally acts as an ‘advisory body’ to Queensland during the assessment process for proposals which may have downstream impacts on the Great Barrier Reef Marine Park.’ Environment Australia said that ‘the proposed Environment Protection and Biodiversity Bill would, were it passed, provide incentives for the State government, local authorities and the proponents of major land

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68 Environment Australia, further information 25 March 1999, p 416.

69 *World Heritage Properties Conservation Act 1983*, sections 6,9.

based developments to pay more careful regard to the protection of World Heritage values.’<sup>70</sup>

5.145 The *Environment Protection and Biodiversity Conservation Act 1999* was assented to on 19 July 1999. The Act prohibits a person from taking an action that will have or is likely to have a significant impact on the World Heritage values of a World Heritage property without the approval of the Commonwealth Minister for the Environment and Heritage. An action does not need Commonwealth approval if it is of a type covered by a bilateral agreement between the Commonwealth and the relevant State. Management plans made pursuant to bilateral agreements may be disallowed by either House of the Commonwealth Parliament.<sup>71</sup>

5.146 This Committee, in its recent report on Commonwealth Environment Powers, recommended that the *World Heritage Properties Conservation Act 1983* should be amended to apply to a defined and adequate buffer zone around World Heritage properties which takes into account the natural ecosystem to which the property belongs.<sup>72</sup>

5.147 Because Queensland land management decisions may affect the World Heritage Area, there is clearly a need for co-operative regional plans that take into account World Heritage values:

‘... we have to devise means of maintaining those values, [means] which are compatible with the reasonable use of the GBR WHA and adjacent coast. This will require integrated regional-scale planning and coastal zone management and education of local Councils and the general public about World Heritage and what it means to the Region ... Integrated planning guidelines that are understood and accepted by all stakeholders need to be developed for the region.’ (Prof. H Marsh, Submission 125, p 554-5)

5.148 Prof. Marsh described the example of the city of Bath (UK), where world heritage considerations are explicitly incorporated into the planning scheme, to achieve a balance between world heritage protection and continuing economic activity.<sup>73</sup> Environment Australia agrees that incorporating world heritage as a ‘key material consideration’ in planning schemes is desirable:

‘As well, World Heritage cities are living areas where changes and growth can occur. I would contend that this analogy is appropriate to the GBR and is more relevant than the ‘National Park’ model.’ (R Beale, Environment Australia, further information, 25 March 1999, p 414)

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70 Environment Australia, Submission 157, p 29-31; further information 25 March 1999, p 416-417.

71 *Environment Protection and Biodiversity Conservation Act 1999*, sections 11,29,46(6).

72 Senate Environment, Communications, Information Technology and the Arts References Committee, *Commonwealth Environment Powers*, May 1999, p 48.

73 Prof. H Marsh, Submission 125, p 555.



5.149 Environment Australia strongly supports a regional planning approach:

‘A similar approach is under consideration for the Daintree Region of the Wet Tropics World Heritage property. Strategic plans which incorporate broader regional considerations have already been developed for a number of other World Heritage Properties.’ (Environment Australia, further information, 25 March 1999, p 417)

5.150 It is vital that the principles of the strategic plan flow through to individual development control decisions. As noted in paragraph 5.95, some think that local Councils tend to be poorly resourced for considering developments with regional implications. Mr Valentine suggested that the Commonwealth should fund a program of specialist environmental officers in local government areas in or abutting World Heritage Areas, to help improve standards of environmental management. He also recommended that the Commonwealth fund a program of regional planning for areas abutting World Heritage properties, conditional on using best practice planning processes.<sup>74</sup> Environment Australia supported the concept of appointing specialised environmental officers to work with local councils, and commented that it has certain relevant activities already:

‘An Environmental Resource Officer has been funded by the Commonwealth to work with Queensland agencies on environmental issues, including matters relating to World Heritage. The Commonwealth also provides funding to various state government agencies to employ specialist officers who provide liaison and management coordination across the various levels of government in a number of World Heritage properties. A key role for these officers is to coordinate the development and implementation of strategic planning and community consultation processes.’ (Environment Australia, further information, 25 March 1999, p 417)

5.151 Mr Valentine’s recommendations are rather more ambitious than the activities Environment Australia described. The Committee agrees with Mr Valentine’s recommendations.

### **Recommendation 10**

**The Committee recommends that the Commonwealth should work with the Queensland Government and local councils whose decisions may affect the World Heritage values of the Great Barrier Reef, to expedite making regional plans that explicitly take into account world heritage conservation as a key material consideration in land-use planning and development control decisions.**

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74 P Valentine, Submission 136, p 614-615.

**Recommendation 11**

**The Commonwealth should fund a program of regional planning in local government areas where planning decisions may affect World Heritage values of World Heritage areas. Funding should be conditional on using best practice planning processes.**

**The Commonwealth should also fund a program of information and education about World Heritage conservation in those local government areas.**

5.152 Of course, measures to protect World Heritage significance cannot be made without adequate statements of significance. This suggests the need for comprehensive and up-to-date assessment of world heritage values, and risks to them, to inform strategic planning.

**Recommendation 12**

**The Committee recommends that the Commonwealth, in co-operation with the State, should expedite studies to identify Australia's World Heritage properties or potential World Heritage properties and to update as necessary their statements of World Heritage significance.**

**Recommendation 13**

**The Committee recommends that the Commonwealth, in co-operation with the States, should expedite research into risks to the World Heritage values of Australia's World Heritage properties.**

5.153 Australia was one of the earliest parties to the World Heritage Convention and has played a significant role in supporting the Convention and supporting World Heritage globally. Australia has acknowledged a duty to 'identify, protect, conserve, present and transmit to future generations' its World Heritage sites.<sup>75</sup> Australia is the leading nation in the world in natural World Heritage sites, having 13 sites listed. Australia is a relatively wealthy party, particularly among those responsible for tropical ecosystems. This suggests that Australia should feel a special responsibility:

'The experts'<sup>76</sup> regarded that [in the Great Barrier Reef World Heritage Area] there was a real chance of effective conservation management in

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75 *Convention for the Protection of the World Cultural and Natural Heritage* [World Heritage Convention], 1972, article 4.

76 An expert group commissioned to assess the World Heritage values of the Great Barrier Reef: Lucas P and others, *The Outstanding Universal Value of the Great Barrier Reef World Heritage Area*, GBRMPA, 1997.

Australia which did not exist in many other tropical ecosystems ... for most tropical developing countries the challenge of looking after the natural environment is very great and very hard to achieve. So I would contend that Australia has a special responsibility.' (Prof. H Marsh, Evidence 31 July 1998, p 162-3)

5.154 Australia should feel an opportunity and a responsibility to set an example in best practice World Heritage management. The Australian Democrats do not believe that this has been done in the Hinchinbrook Channel.