



Australian Government
Great Barrier Reef
Marine Park Authority

Ms Christine McDonald
Secretary
Environment and Communications Legislation Committee
PO Box 6100
PARLIAMENT HOUSE
CANBERRA ACT 2600

Dear Ms McDonald

Inquiry into the Environment Legislation Amendment (Protecting Dugongs and Turtles) Bill 2019

Thank you for your letter of 18 February 2019 to Dr Ian Poiner, Chairperson of the Great Barrier Reef Marine Park Authority (the Authority) inviting a submission to the inquiry into the *Environment Legislation Amendment (Protecting Dugongs and Turtles) Bill 2019* (the Bill).

The Great Barrier Reef Marine Park (the Marine Park) stretches 2300km along the Queensland coast and covers 344,400km². The Great Barrier Reef is the largest coral reef ecosystem in the world and supports an outstanding array of plants and animals. It was inscribed as World Heritage in 1981 in recognition of its outstanding universal values and is a matter of national environmental significance protected under the *Environment Protection and Biodiversity Conservation Act 1999*.

There are more than 70 Aboriginal and Torres Strait Islander Traditional Owner clan groups that have long continuing relationships with the Great Barrier Reef region and its natural resources. The Authority acknowledges the continuing sea country management and custodianship of the Great Barrier Reef by Aboriginal and Torres Strait Islander Traditional Owners and respects their rights under the *Native Title Act 1993*, including their right to hunt on their land and sea country.

For over 40 years the Authority has managed this biologically diverse icon and multiple-use area, using the best available scientific information and input from marine managers, researchers, experts and Traditional Owners. The Authority is of the strong opinion that maintaining effective and meaningful partnerships with Traditional Owners is essential to protect cultural and heritage values, conserve biodiversity and enhance the resilience of the Great Barrier Reef into the future.

The Authority understands that turtle and dugong are important species for Aboriginal and Torres Strait Islander people's livelihoods, traditions, customs and connection and is based on conservation and sustainability of marine resources. It is the Authority's view that the best approach for managing the sustainable harvest of these species is by working in partnership with Traditional Owners and acknowledging that traditional lore and custom is an essential part of management and is based on sustainable practices and custodianship of sea country.

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The legislative framework established for managing the Great Barrier Reef Marine Park, underpinned by the *Great Barrier Reef Marine Park Act 1975*, recognises the Native Title rights of Indigenous people. This recognition is explicit in the Zoning Plan, which is central to the management of the Marine Park. The legislative framework provides for traditional use of marine resources and for the establishment and accreditation of Traditional Use of Marine Resources Agreements (TUMRAs). The Authority strongly supports the existing legislative management framework as it complements national processes established by the *Native Title Act 1993*, especially the working processes of Native Title Representative Bodies, Native Title Claims and Indigenous Land Use Agreements; provides a sound basis for achieving sustainable levels of harvesting as necessary for species conservation; encourages cooperative and culturally appropriate management between marine management agencies and Traditional Owner Groups on a wide range of sea country issues; is accepted as a management tool by at least the majority of Traditional Owner Groups and their representative bodies; is a scientifically valid basis for harvesting protected marine species in line with national threatened species management recovery plans; is workable on the ground and is legally binding for compliance.

This existing framework complements community-based measures to manage use of resources and promotes the sustainable use of protected species (for example turtles and dugong) and iconic (for example, barramundi cod and giant clams) species within the Marine Park, given the other sources of environmental and human related mortality that may impact upon these stocks. The framework also supports Traditional Owners in maintaining their cultural connections with the sea country of the Great Barrier Reef. This is achieved by working in sea country partnerships to develop and implement TUMRAs and supporting cooperative management arrangements.

The practise of traditional use of marine resources by Traditional Owners is the undertaking of activities, for the purposes of satisfying personal, domestic or communal needs and may include fishing; collecting (e.g. shellfish); hunting; looking after culture and heritage places and undertaking activities to educate younger generations about traditional and cultural rules and protocols in sea country. The Authority recognises traditional use is an integral part of the relationship with sea country and is guided by custom and lore.

A Traditional Use of Marine Resources Agreement is a formal management tool used by Traditional Owners to develop unique partnerships with both the Commonwealth and State governments. The Authority and the Queensland State Department of Environment and Science have jurisdictional responsibility for management of the Great Barrier Reef Marine Park, coastal waters and the inscribed World Heritage Area. Through these community-based TUMRAs, the Authority works with Traditional Owners to implement initiatives that reduce threats to turtles and dugongs and address a range of other activities that support effective sea country management. Traditional Use of Marine Resources Agreements are formal agreements developed by Traditional Owner Groups for their sea country areas in accordance with their Traditional lores and customs. TUMRAs are jointly accredited by the Commonwealth and Queensland State Marine Park management agencies under their respective environmental legislation and associated regulations.

A TUMRA can incorporate specific management strategies for: the conservation and sustainable use of key species and habitats; restoring and maintaining waterways and coastal ecosystems, maintenance and protection of significant heritage values including important places; traditional ecological knowledge, culture and language; research and monitoring of sea country; leadership and governance of knowledge management; education and information exchange; and compliance. The Authority highly values these agreements and the broad scope they provide to partner with Traditional Owners on management of the Great Barrier Reef.

The TUMRA program continues to make strong advances in regard to supporting Traditional Owners leadership on sustainable traditional use of marine resources, including take of dugong and turtle, and broader sea country activities. There are currently nine TUMRAs and one Indigenous Land Use Agreement in place covering about 25 per cent of the Marine Park coastline, with more under development. TUMRAs are supported by a compliance regime and can include specialised compliance capacity with the Traditional Owner group (for example as supported under the Capacity Building of Indigenous Ranger Strategy).

The success of the TUMRA program has been in working together in partnership with Traditional Owners and its recognition and value placed in community-based management. The Authority's relationships with Traditional Owners underpin the success of the TUMRA program and also will play a crucial role in further expanding the program in the future.

Scientific advice confirms Aboriginal and Torres Strait Islander peoples hunting of turtle and dugong is not a major threat to the species. Traditional hunting is considered to have a limited impact on the species' populations, compared to other threats such as climate change and degradation of foraging habitats and nesting sites. The Authority is focused on managing the broad range of threats to turtle and dugong including sustainable use by Traditional Owners. Traditional knowledge and sustainable practices under Aboriginal and Torres Strait Islander lore is critical to the ongoing management of sea country and migratory species like turtle and dugong in the Marine Park. The Authority is concerned that by including additional measures for developing, accrediting and implementing Traditional Use of Marine Resource Agreements as outlined in the Bill there will be a range of unintended consequences.

No dugong have been taken under TUMRAs since the establishment of the program in 2005 and the level of take of turtle in TUMRA areas is very low. It has been the experience of the Authority that Traditional Owners consider all the latest science and traditional lore and custom when considering harvest of these species in their sea country, and voluntarily adjust these figures according to the health of the ecosystem. Many Traditional Owner groups have put in place moratoriums on the take of these species as part of their TUMRA.

The additional measures proposed in the Bill risk significantly hindering and discouraging Traditional Owners from entering into TUMRAs or other voluntary sustainable management plans and may encourage Traditional Owners with a TUMRA to consider withdrawing. It would be a significant concern if these proposed changes resulted in less TUMRAs and reduced engagement and collaboration on the future management of the Great Barrier Reef, including the conservation of these species. The TUMRA program has also resulted in broader social, economic and environmental benefits to Indigenous communities along the Queensland coast which may also be affected if groups decide to withdraw. A core component of the TUMRA program is an effective Traditional Owner lead monitoring and reporting program which regularly provides updates to the Authority on the take of turtle and dugong. This is supported with TUMRA Compliance Plans which address any reported illegal hunting. The Authority is concerned Traditional Owners may be disappointed if further measures are imposed, given the TUMRA program is driven by Traditional Owner groups who have shown they are managing their sea country sustainably.

Traditional Owners partnerships extend across a number of Authority programs. Active participation of Traditional Owners in conservation actions, patrols of sea country and to support further planning in the Marine Park is crucial to successful management. The proposed measures outlined in the Bill will also likely result in negative impacts on a wide range of other Authority business with Traditional Owners, including: future act notification processes under the Native Title Act, permit assessments, planning processes, engagement and education programs, field management programs and Marine Park compliance matters. These are core

management activities and the involvement and support from Traditional Owners in the day-to-day management of the Marine Park now and into the future is critical.

Compliance of illegal hunting/poaching requires Traditional Owner involvement to establish if an activity is conducted within or outside the application of Native Title Act common law rights and interests. This is best managed through the existing partnership regime the Authority has with Traditional Owners that has been developed over time through land and sea country programs, particularly the development and implementation of TUMRAs. The Authority is concerned that effective compliance would be significantly hampered if Traditional Owner support was withdrawn as a result of the proposed changes.

The Authority's existing land and sea country programs also complement other Australian Government programs and outcomes such as Working on Country, Indigenous Protected Areas and Closing the Gap. The Authority considers that it is likely there will be flow-on impacts in other Indigenous Government programs if relationships with Traditional Owners are negatively affected by the proposed changes outlined in the Bill.

Elements of Schedule 1 of the Bill seek to duplicate the existing accreditation assessment required under the Great Barrier Reef Marine Park Regulations 1983. For example, the level of potential hunting levels possible under a TUMRA is part of the existing assessment in deciding whether to accredit a TUMRA (refer Regulation 89F(e) "*...conservation of protected species and, in particular, the capability of the relevant population of such species to sustain harvesting*").

The Bill also seeks to include animal welfare matters into the TUMRA development and accreditation assessment process. In Queensland, animal welfare is managed in accordance with the *Animal Care and Protection Act 2001*. This Act was amended in September 2012 to ensure animal welfare obligations apply to acts taken under Aboriginal tradition or Torres Strait Islander custom. This means a person is not exempt from animal cruelty legislation even if the activity was conducted under Native Title or a TUMRA.

The existing legislative regime for TUMRAs that this Bill seeks to amend was developed following extensive consultation and engagement with Traditional Owners, Aboriginal and Torres Strait Islander communities and the broader Australian and international community. The Authority is concerned the changes proposed in the Bill have not undergone prior and informed consultation with those likely affected, particularly Traditional Owners and relevant Government agencies charged with the responsibility for managing these iconic species and the habitats in which they reside.

Thank you again for the opportunity to make a submission on the Bill and the Authority confirms the submission may be published.

Yours sincerely

Dr Simon Banks
General Manager, Reef Protection Branch

4 March 2019