

Submission to Senate Inquiry- Great Barrier Reef

ec.sen@aph.gov.au

2 June 2014

The story of Abbot Point

Until July 2013, when Bruce Elliot of GBRMPA took over responsibility for the Abbot Point sea dumping decision, the GBRMPA had made it clear in a number of documents secured under FOI that the impacts of dumping in the marine park were too high. In rating the risks associated with dredging and dumping, most of the risks were high or extreme. Very few were low. GBRMPA did not believe that conditions or offsets were achievable.

The change in decision-maker came only shortly after GBRMPA had met with Sewpac and indicated that they were going to recommend against approval of the dredging and were going to refuse a permit for dumping. It is difficult to see this shift in position as anything but political.

The reason for GBRMPA's opposition was well and frequently stated.

1. There were viable land based alternatives and the claim of disproportionate costs did not account for the costs of dumping in a World Heritage Area;
2. Trestles with little or no dredging was the preferred option of GBRMPA, land based disposal was 2nd preference and dumping in the Marine Park the last preference.
3. The condition of the inshore areas of the marine park at Abbot Point was poor and in decline. This included seagrass, corals and water quality.
4. Megafauna populations were in general decline – although at Abbot Point so little is known about the Indo-pacific humpback, the Snubfin dolphin and the striped dolphin that it is inconceivable that the Authority would approve such a massive development without even basic information on the population biology of these at risk species.
5. The Authority recognised in 2009 that in order to reverse the long term decline in the health of the GBR, greater resilience was needed. That meant several things: avoiding impacts and reversing declines was now a priority. GBRMPA also notes that cumulative impacts needed to be better assessed and that uncertainty must be met with precaution. The approval granted at Abbot Point failed on all these counts.
6. The quality of the modelling work done by NQBP was so poor that it could not be relied upon to accurately determine the extent of impacts.
7. The modelling commissioned by GBRMPA to look at the impacts of deep ocean currents called into question all previous modelling work conducted at Abbot Point. The modelling suggests regular resuspension of fines, potentially for years, and that the fine sediments will travel greater distances than indicated by previous modelling.

The independence of GBRMPA has never been weaker. When Minister Hunt approved the dredging he also made clear that he was 'approving' the dumping as well. His comments regarding dumping in his conditions of approval (before a decision had been taken by GBRMPA) were referred to by Bruce Elliot in his statement of reasons as part of his decision to give dumping approval. While legal – it is easy to see that Minister Hunt's statements exerted political pressure on the decision-maker. In fact,

based on his reasons and testimony in Estimates in May 2014, it seems clear that Mr Elliot ignored the overwhelming advice of his staff in favour of a decision justified only on the basis that he believed the 'new' conditions (they weren't – the conditions remained essentially unchanged for months) would overcome the impacts identified. When questioned by Senator Waters he depends for that opinion on an offset plan that hasn't even been written.

The Precautionary Principle is intended in part to deal with uncertainty. In light of the deep ocean current modelling, which calls into question the validity of previous modelling; in light of the woeful ignorance relating to inshore dolphin species at Abbot Point; in light of the poor and declining condition of the GBR at Abbot Point and the need to strengthen the systems there; in light of the already poor water quality, the uncertainty of deferred conditions etc etc etc, it is clear that precaution did not figure in the Abbot Point decision. Sadly, there has never been a greater need for precaution to be applied.

In fact, it is difficult to see that the precautionary principle is used at all in the management of the GBRMP. Following the publication of Outlook 2009, a number of GBRMPA documents indicate that management approaches in the GBRMP need to change. Because of the poor condition of the GBRMP and the need to build resilience, particularly in the face of climate change, the GBRMPA indicates that it cannot be business as usual; it must move towards avoiding impacts not simply attempting to manage them.

And yet, in the big decisions they have faced, they have utterly failed to avoid impacts and returned to the failed approach of managing impacts through conditions.

When the Strategic Assessment was announced, the Government maintained it could not put a hold on existing or pending development applications while that assessment was undertaken. That was not correct. The GBRMPA supported such an approach in early FOI documents. A draft briefing for the Chair prior to a meeting with the Minister saw him taking that position. No final brief was released and it is still unknown whether the GBRMPA chair recommended stopping the clock on developments while the Strategic Assessment was being undertaken.

Clearly, GBRMPA staff was once again overruled, although the FOI documents don't make clear whether that was an internal decision or whether it came via the Minister's office.

The Strategic assessments don't appear likely to help the Reef for the simple reason that even if the assessment was first class (which is isn't), it is clear that there is political will to help the coal and gas industry and there is not the political will to save the Reef. There may be a political belief that we can have both – but the evidence strongly suggests the days of having our cake and eating it too – at least in the context of the GBR are over. Politicians and decision-makers have to be very clear – and held very accountable – for decisions they are making now. These are stark choices. Currently, the Reef is being sacrificed to prop up an industry in terminal decline.

Australia is signatory to the London Protocol. The objective of that Protocol is to reduce the amount of waste dumped at sea. There has been almost no effort by GBRMPA, the State or Federal Governments to do just that. In fact, figures released by GBRMPA reveal that well over 95% of dredge spoil is dumped either in the Marine Park or the World Heritage Area. No planning has been done for land based disposal. No planning has been done to avoid dredging.

Instead we have massive port expansion to feed an industry that is most responsible for the current threats to the GBR.

Incredibly, at Abbot Point, a designated industrial development area sits directly adjacent to the Port and yet even this site – large enough to easily accommodate 3m cm of dredge spoil is deemed inappropriate because of costs. No value is given to the World Heritage Area in making that judgement with the result that the GBRMP continues to be sacrificed.

Even this – what should have been an easy decision for the Authority in light of the evidence they had and the view of their staff – couldn't be done.

There is some effort being made in relation to inputs into GBR catchments. It isn't enough. Little is being done regarding coastal development. Nothing is being done on climate change. Nothing is being done on shipping. The GBRMPA knows that shipping noise and dramatic increases in shipping numbers can have significant impacts on biodiversity. The United Nations Environment Program produced a synthesis report into the impacts of shipping noise. That report identifies 54 different marine species impacted by noise, including reef fish. And yet, GBRMPA has done nothing to determine whether the port expansions being proposed and developed will impact on these species in the Marine Park.

Similarly, the management of inshore dolphins has been characterised by wilful ignorance. At Abbot Point, there are 3 species of inshore dolphin that have been sighted – the Indo-Pacific Humpback, the Snubfin and the Striped Dolphin. No additional information on any of these species was required as part of the PER. The Cumulative Impact Assessment provides what little information we have. The Indo-Pacific Humpback may include new species or subspecies. This remains unknown. A single survey of the IPH found a population of 120 dolphins in the region. That is the extent of the information secured as part of developing the largest coal port on the planet. And it is significantly more information than secured for the Snubfin. There is no population count. Little is known of its population biology or behaviour. It is not known if it is a 'home' species or migratory. It is associated with seagrass but it isn't known if it is seagrass dependent. The Striped dolphin has been sighted 3 times at Abbot Point during the CIA. That is the extent of research and investigation carried out. There are no conditions or offsets that address these species – nor could there be in the virtual absence of information.

There is research being done. That is well and good – but if (like the Strategic Assessment) steps aren't taken to ensure we don't act in ignorance while we are undertaking research, we are utterly failing to get the point both of the research and precaution.

These dolphin species are not holothurians or cnidarians or benthic infauna. If the GBRMPA cannot even take steps to ensure the protection of species such as these, what faith can anyone have in their capacity to protect the species that are less attractive and about which they know even less?

The response of GBRMPA staff to the Abbot Point expansion was, for one of the few times in its history, strong, determined and precautionary. It was a short – lived reality unfortunately. Staff are leaving, funds are being cut, and political expedience rules again. If the GBRMPA cannot even make a strong decision at Abbot Point in light of UNESCO's concerns and a clearly outraged public, drastic change is urgently needed.

If precaution and protection are going to become the prevailing priorities of the GBRMP – as they should, significant changes are needed.

Recommendations

These recommendations are not comprehensive.

1. The GBRMP must become a full statutory authority again.
2. Board members must have relevant expertise (and not have vested interests in exploitation of the GBRMP as they currently do)
3. The GBRMP Act must be amended to ensure that there is no doubt that protection of the Marine Park is the primary objective of all actions taken by the Authority.
4. The GBRMP Act must be decoupled from the EPBC Act
5. Cumulative, synergistic and long term impacts must be properly assessed in development decisions
6. Lack of information or uncertainty regarding impacts must be understood as a legitimate basis for refusing to approve developments.
7. The use of conditions and offsets must change radically.
 - a. Conditions cannot impose assessments requirements that should have occurred as part of the impact assessment process;
 - b. Offsets are not to be used in protected areas
 - c. Conditions and offsets must be proposed in the EIS process and subject to public scrutiny
8. A review needs to be undertaken to determine the extent to which assessments and monitoring undertaken for developments in and adjacent to the GBRMP have accurately reflected the actual impacts and avoided the degradation of the Reef.
9. Powers to address land uses must be strengthened so that there is no doubt that GBRMPA is able to take steps to improve the quality of water coming into the GBRMP.
10. The GBRMP Act needs amendment to increase the rights of citizens to enforce the provisions of the Act, including full merits review.

Jeremy Tager
2 June 2014