

Chapter 1

Introduction

Referral to the Committee

1.1 On 1 September 2008, the Senate referred the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008 (hereafter 'the bill') to the Senate Environment, Communications and the Arts Committee for inquiry and report by 15 September 2008.

1.2 Details of the inquiry were placed on the committee's website and the committee also wrote to a number of organisations and stakeholder groups inviting written submissions by 8 September 2008.

1.3 The committee received submissions from 142 individuals and organisations, as listed at Appendix 1. The committee also held a public hearing in Canberra on Friday, 12 September 2008. A list of those who gave evidence at this hearing is at Appendix 2. The committee thanks all those assisted the committee with its inquiry.

Origins of the bill

1.4 In 2005-06, a review of the *Great Barrier Reef Marine Park Act 1975* was undertaken. DEWHA comments that:

The Review involved extensive public consultation. 227 submissions were received and the Panel responsible for the review held 36 meetings with key stakeholders. The Review Panel made 28 recommendations directed at strengthening legal, governance and policy frameworks relating to management and long term protection of the Great Barrier Reef.¹

1.5 Recommendations relating to governance, accountability and transparency in the management of the Reef were implemented in the *Great Barrier Reef Marine Park Amendment Act 2007*, which commenced on 1 July 2007. The final set of recommendations, which relate to the regulatory framework in place to manage the Reef, are addressed in this bill.²

1.6 The committee notes that this bill was developed over a long period of time following extensive consultation with government, peak environmental groups, other stakeholder groups and the general public. It notes that much of the bill is uncontroversial, and discusses the few issues subject to debate in the next chapter.

1 DEWHA, *Submission 75*, p. 1.

2 DEWHA, *Submission 75*, pp 1-2.

Outline of the bill

1.7 The bill amends the *Great Barrier Reef Marine Park Act 1975* (hereafter 'the Act') to reflect the 'significant change in scale, scope and nature of the challenges in securing the long-term protection of the Great Barrier Reef' since the commencement of the Act over 30 years ago.³

1.8 The primary object of the bill is to protect the Great Barrier Reef Marine Park in the long term by ensuring that the use of the Park is ecologically sustainable. In achieving this goal, due consideration has been given to Australia's obligations in the protection of world heritage, and the engagement of Park users and local communities in the management of the Great Barrier Reef region.

1.9 To realise the object, the bill deals with six specific issues, each with their own schedule in the bill:

- Objects and Applications;
- Matters related to the Great Barrier Reef Marine Park Authority;
- Proclaiming the Marine Park, Zoning Plans and Plans of Management;
- Environmental Impact Assessments;
- Investigation and Enforcement; and
- Offences and Civil Penalties.⁴

Objects and Applications

1.10 In practical terms, Schedule 1 of the bill repeals the previous object of the Act, which was enacted prior to the declaration of the Great Barrier Reef as a World Heritage Area in 1981 and introduced at a time when 'concepts such as ecological sustainability had not yet emerged and been adopted'.⁵ Under the amendment, the object of 'ecologically sustainable use' has been defined so as to integrate with an existing definition in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Matters related to the Great Barrier Reef Marine Park Authority

1.11 This schedule changes the Act by requiring that one member of the Great Barrier Reef Marine Park Authority (the Authority) be 'an Indigenous person with knowledge of, or experience concerning, Indigenous issues relating to the Marine

3 *Explanatory Memorandum*, p. 2.

4 *Explanatory Memorandum*, p. 2.

5 *Explanatory Memorandum*, p. 4.

Park'.⁶ This change not only acknowledges the large number of Traditional Owner groups along the coast of the Great Barrier Reef, but has a practical basis, recognising that expertise in the traditional use of the Park is of value in achieving the bill's object of ecological sustainability. A second change made by the bill relates to the administrative responsibility of the Authority.

Proclaiming the Marine Park, Zoning Plans and Plans of Management

1.12 Schedule 3 updates the development of zoning plans of the Marine Park, including (but not limited to) ensuring the protection of areas that are of high conservation value and managing competing usage demands on the Marine Park. The bill also modernises the requirements of developing zoning plans and plans of management to ensure integration with other Commonwealth and Queensland legislation. In addition, this schedule mandates that the Authority publicly consults on proposals to proclaim an area as part of the Marine Park, or to remove an area from the Marine Park.

Environmental Impact Assessments

1.13 Schedule 4 simplifies the requirements relating to environmental impact assessment and approval by establishing the:

...EPBC Act as the primary basis for environmental impact assessment and approval of actions in the Marine Park having a significant impact on the environment.⁷

1.14 This recognises the best practice environmental impact assessment processes of the EPBC Act.

Investigation and Enforcement

1.15 In addition to modifying investigation provisions to establish a single arrangement for the Act and the EPBC Act, Schedule 5:

- lists new enforcement mechanisms for the GBRMP Act, including: enforceable directions; a civil penalty regime; enforceable undertakings and infringement notices;
- encourages responsible use of the Marine Park by including the following changes: publication of offences; liability of executive officers; liability of permission and licence holders; remediation orders; environmental duty; and directions limiting access to the Marine Park;
- facilitates efficient enforcement action; and

6 *Explanatory Memorandum*, p. 7.

7 *Explanatory Memorandum*, p. 15.

- addresses emergency management.⁸

Offences and Civil Penalties

1.16 Schedule 6 reorganises some of the existing penalty provisions in the Act. It also establishes new offences under the Act, changes some existing offence provisions in the Act while establishing civil penalty provisions for many of those offences, and extends existing liability provisions.

Scrutiny of Bills Committee

1.17 It is the responsibility of the Scrutiny of Bills Committee to examine all bills which come before the Parliament and reports to the Senate whether such bills:

- (i) trespass unduly on personal rights and liberties;
- (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
- (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny. [see standing order 24]⁹

1.18 The committee notes that the Scrutiny of Bills Committee examined the bill in accordance with its usual processes and that there are no outstanding issues with the bill to be resolved.¹⁰

Additional reports

1.19 The committee notes that, in addition to the Dissenting Report that accompanies this majority report, there will be a further report provided by Senator Joyce.

8 *Explanatory Memorandum*, pp 24-26.

9 Scrutiny of Bills Committee, <http://www.aph.gov.au/Senate/committee/scrutiny/cominfo.htm> (accessed 12 September 2008).

10 Senate Scrutiny of Bills Committee, *Alert Digest*, No. 6 of 2008, 25 June 2008; Senate Scrutiny of Bills Committee, *Report on Legislation*, No. 7 of 2008, 27 August 2008.