

# Chapter 1

## Referral to the committee

1.1 On 10 May 2007, the Senate referred the Great Barrier Reef Marine Park Amendment Bill 2007 (the bill) to the Senate Environment, Communication, Information Technology and the Arts Committee for inquiry and report by 15 June 2007.

1.2 In accordance with the usual practice, the committee advertised the inquiry in *The Australian* on Wednesday 16 May 2007 calling for submissions by Monday 28 May 2007. The Committee also directly contacted a number of relevant organisations and individuals to invite submissions.

1.3 The committee received only one submission by the deadline of 28 May 2007. However, the committee received a considerable amount of correspondence after the deadline for submissions had closed. Submissions are listed in Appendix 1.

1.4 The committee decided that, given the limited number of submissions received by the deadline, and the comprehensive consultation undertaken as part of the *Review of the Great Barrier Reef Marine Park Act 1975* (GBRMPA Review),<sup>1</sup> no hearings would be held as part of the inquiry. However, the committee did put a number of questions on notice to the Department of Environment and Water Resources.

## Acknowledgement

1.5 The committee thanks those organisations and individuals who made submissions and provided correspondence to the inquiry. The committee also thanks the Department of the Environment and Water Resources for its prompt response to the questions placed on notice by the committee.

## Purpose of the bill

1.6 The bill proposes to amend the *Great Barrier Reef Marine Park Act 1975* (the Act) to implement key recommendations of the GBRMPA Review.

## Background to the bill

1.7 In 1975, the Australian Government enacted the Act, which established a Marine Park in the Great Barrier Reef region and also created the Great Barrier Reef Marine Park Authority (Authority) to manage the park.

---

1 Review of the *Great Barrier Reef Marine Park Act 1975*, Commonwealth of Australia, 2006.

1.8 The Authority was established as a statutory authority and body corporate. The Authority currently comprises four members, including a Chairperson, a member nominated by the Queensland Government and one member to represent the interests of the Aboriginal communities adjacent to the Marine Park.<sup>2</sup> The Authority is currently subject to the *Commonwealth Authorities and Companies Act 1997*.

1.9 In addition, the Act established a statutory consultative committee — the Great Barrier Reef Consultative Committee — to advise the Authority and the Minister for the Environment and Heritage. Currently, the Great Barrier Reef Consultative Committee must have at least 13 members, and the Queensland Government nominates at least one third of these members.<sup>3</sup> The Authority has also established a number of non-statutory consultative committees, including four Reef Advisory Committees and 11 Local Marine Advisory Committees.<sup>4</sup>

1.10 Zoning plans are one of the key mechanisms for park management established by the Act. Since July 2004, the Marine Park has been covered by a single zoning plan: the *Great Barrier Reef Marine Park Zoning Plan 2003*.<sup>5</sup>

### ***GBRMPA Review***

1.11 In the context of the 2004 Federal Election, the Australian Government made a commitment to review the Act 'to improve the performance of the Great Barrier Reef Marine Park Authority, its office holders and its accountability frameworks'. The former Minister for the Environment and Heritage, Senator the Hon. Ian Campbell, formally announced the review on 23 August 2005. The review was conducted by a review panel chaired by Mr David Borthwick, Secretary of the Department of the Environment and Heritage, and assisted by Ms Barbara Belcher, First Assistant Secretary, Department of the Prime Minister and Cabinet and Mr Jonathan Hutson, General Manager, Department of Finance and Administration.<sup>6</sup>

1.12 Public submissions to the review were invited on 23 August 2005, with a closing date of 30 September 2005. The Chair of the Review wrote to all key stakeholders advising them of the review, inviting them to make submissions and offering for the panel to meet with them. This formal correspondence to participate included the 21 Indigenous organisations with a particular interest in the Marine Park as advised by the Authority.<sup>7</sup> The review panel received a total of 227 submissions and held 36 meetings with key groups and interested persons in Cairns, Townsville,

---

2 GBRMP Act, s. 10.

3 GBRMP Act, s. 22.

4 GBRMPA Review, p. 9.

5 GBRMPA Review, p. 9.

6 GBRMPA Review, pp 4-5.

7 Correspondence from the Department of the Environment and Water Resources, received 8 June 2007, p. 1.

---

Brisbane, Sydney and Canberra. The review panel reported to the Minister for the Environment and Heritage in April 2006.<sup>8</sup>

1.13 The government released the *Review of the Great Barrier Reef Marine Park Act 1975* in October 2006. The GBRMPA Review made 28 recommendations which aim to improve the performance of the Authority, its office holders and its accountability frameworks. The Australian Government endorsed the GBRMPA Review and its recommendations.

1.14 Key recommendations of the GBRMPA Review included:

- the retention of the Authority as a separate statutory authority, but with revised governance arrangements (recommendations 5-10 and see also the discussion of the 'Uhrig Review' further below);
- that processes for engaging with stakeholders be improved, in particular that the zoning plan development process be made more transparent and accountable (recommendation 17);
- that there be no alterations to the current zoning plan for the Marine Park for a minimum of seven years (recommendation 17(a));
- that a peer reviewed 'Outlook Report' be published every five years documenting the condition of the Marine Park, effectiveness of management and the risks and pressures on the ecosystem (recommendation 14); and
- that the Great Barrier Reef Consultative Committee be reconstituted as a non-statutory Advisory Board reporting directly to the Minister for the Environment and Heritage (recommendation 15).<sup>9</sup>

1.15 The GBRMPA review also made recommendations directed towards better integration of the Act with the *Environment Protection and Biodiversity Act 1999*. In his second reading speech, the Minister for the Environment and Heritage indicated that further amendments to implement those recommendations would follow in a subsequent bill.<sup>10</sup>

### *Uhrig Review*

1.16 The GBRMPA Review also encompassed the outcomes of a review conducted in 2003 by Mr John Uhrig into the corporate governance of statutory authorities (Uhrig Review).<sup>11</sup> Among other matters, the Uhrig Review recommended two templates for good governance of statutory authorities:

---

8 GBRMPA Review, pp 5-6.

9 GBRMPA Review, pp 167-172.

10 The Hon. Mr Malcolm Turnbull, Minister for the Environment and Water Resources, *House of Representatives Hansard*, 28 March 2007, p. 6. See also GBRMPA Review, pp 172-175.

11 Mr John Uhrig AC, *Review of the Corporate Governance of Statutory Authorities and Office Holders*, June 2003.

- a 'Board Template' for situations where government decides to delegate full powers to act to a board, or where the Commonwealth itself does not fully own the assets or equity of a statutory authority; and
- an 'Executive Management Template' for other cases.<sup>12</sup>

1.17 The Uhrig Review recommended that the legislative basis for statutory authorities be simplified – the *Financial Management and Accountability Act 1997* (FMA Act) should be applied to budget funded statutory authorities; while the *Commonwealth Authorities and Companies Act 1997* (CAC Act) should be applied to authorities that are legally and financially separate from the Commonwealth.<sup>13</sup> It also examined the way in which membership of boards was established, and observed:

Representational boards will not provide effective governance and skills and expertise can be accessed as and when required, just as the interests of stakeholders can be addressed through other means. Consequently, consideration should be given to alternative forms of interaction with stakeholders.<sup>14</sup>

1.18 The GBRMPA Review recommended that the Authority remain a separate statutory authority and, as a consequence of the Uhrig Review, it recommended that the Authority:

- be constituted consistently with the Uhrig review executive management structure, with an overarching governance role for the Minister; and
- be subject to the FMA Act, rather than the CAC Act.<sup>15</sup>

### **Outline of the bill**

1.19 The bill proposes to amend the GBRMP Act to implement key recommendations of the GBRMPA Review. These include amendments to:

- change the governance arrangements of the Authority in light of the Uhrig Review. This includes:
  - applying the FMA Act to the operations of the Authority, instead of the CAC Act;
  - expanding the maximum size of the Authority by one member; and
  - removing the requirement for one member to be appointed to the Authority to represent the interests of the Aboriginal communities

---

12 Uhrig Review, pp 10-12.

13 Uhrig Review, pp 10-12.

14 Uhrig Review, p. 50.

15 See GBRMPA Review, recommendation 9, pp 154, 169.

---

adjacent to the Marine Park with the requirement for one member to be nominated by the Queensland Government remaining;<sup>16</sup>

- replace the Great Barrier Reef Consultative Committee with a non-statutory advisory board reporting directly to the Minister;<sup>17</sup>
- require the Authority to prepare a 'Great Barrier Reef Outlook Report' every five years. The report would be reviewed by an expert panel appointed by the Minister and tabled in parliament;<sup>18</sup>
- provide that the current zoning plan for the Great Barrier Reef Marine Park cannot be amended for at least seven years;<sup>19</sup>
- amend the process for developing and amending zoning plans for the Great Barrier Reef Marine Park, with the aim to make the process more transparent and accountable. Key changes proposed include:
  - the Minister, rather than the Authority, will be responsible for any future decision to amend or revoke a zoning plan;<sup>20</sup>
  - the public release of 'operational principles' on which the development of the zoning plan will be based, and a statement of the environmental, economic and social assessments of relevance to the zoning plan; and<sup>21</sup>
  - increasing the minimum public comment period for draft zoning plans from one to three months.<sup>22</sup>

---

16 GBRMP Act, s. 10; item 14 of Schedule 1 and Explanatory Memorandum, pp 2 and 5.

17 Item 17 of Schedule 1; see also GBRMPA Review, recommendation 17, pp 170-171.

18 Item 32 of Schedule 1: proposed s. 54. Note that existing annual reporting requirements would be retained.

19 Item 28 of Schedule 1.

20 Item 28 of Schedule 1 – proposed s. 37.

21 Item 27 of Schedule 1 – proposed ss. 34 and 35.

22 Item 19 of Schedule 1.

