

# Environmental Defender's Office Of Northern Queensland Inc.

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Environmental Protection Agency  
P.O. Box 15155  
City East QLD 4002

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Dear Sir/Madam

## **QUEENSLAND MARINE PARKS REGULATION REVIEW 2006**

We refer to the above matter and welcome the opportunity to make submissions about the review of the Queensland Marine Parks Regulation.

The Environmental Defenders Office of Northern Queensland (EDO-NQ) is a community legal centre that specialise in public interest environmental law in North Queensland.

The EDO-NQ support the consistent Commonwealth /State management options that ensure continued preservation and ecologically sustainable development of the Great Barrier Reef – World Heritage Area (GBR-WHA). To that end we support any options that are consistent with the *Great Barrier Reef Marine Park Act 1975* and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In this submission, we make the following recommendations (citing page references from the Regulatory Impact Statement):

1. *Fees*, Schedule 1 & 2: page 7. The EDO-NQ supports option 3 given the minimum amount of revenue (\$20,000pa) to be generated from areas outside GBR joint permit arrangements.
2. *Commercial Activity Agreements*: page 10-12. The EDO-NQ support option one. The proposed Commercial Activity Agreements (CAAs) in high demand areas appear to benefit only the tourist operators and are neither transparent nor in accordance with the National Competition Policy. The EDO-NQ do not support CAAs that are at the discretion of the Chief Executive or are subject to negotiation. The reason the EDO-NQ does not support CAAs is that there would be no public scrutiny of such Agreements or third party appeal rights prior to their finalization. Nor is it proposed that there will be effective 'public access' to completed Agreements through a searchable register. In any event, if commercial agreements were accessible with 'commercially sensitive' information removed, the public would not be adequately informed through any such disclosure. The EDO-NQ advocate that there should be

public access provided in the Regulations of any permits or CAAs that is publicly accessible, preferable also on the internet. In relation to permits, the EDO-NQ also say that permit should be for shorter time periods. At present the GBR area is undertaking significant changes and other events such as coral bleaching and effects of climate change that will require continuous monitoring. It is important that the permit system is likewise able to adapt to such changes, so if for example circumstances change, permits in a particular area can be reviewed without significant delays. If the first come first served basis is problematic, then these provisions can be amended to allow for suitable management arrangements for the allocation of tourism permits. However, the EDO-NQ does not see that allowing trading in permits and other such activities will enable appropriate regulation that protects the sensitive environmental values of marine parks. In relation to sustainable visitor capacity, it is important that work on this is informed by expert scientific evidence about the effects of tourism or other impacts on the marine park. Consultation with key stakeholders, some of whom have economic interests in the area, will not necessarily provide a mechanism for ensuring that any capacity is environmentally sustainable.

3. *Standardisation of Zone Names and Objectives*: page 15. The EDO-NQ favour option 1 to ensure Commonwealth/State consistency.
4. *Regulatory Notices and Declarations*: page 18. Regulation 26. The EDO-NQ prefer option 1 being the provision of regulatory notices as the preferred management tool. This will enable action to be taken quickly to
5. *Merit Review of Decisions*: page 22. The EDO-NQ supports a merit review procedure similar to the Commonwealth in the Administrative Appeals Tribunal. Merit reviews should also be extended to third parties (particularly public interest groups). Further the EDO-NQ say regulation 10 should be amended to include that the chief executives decision be accompanied by a 'Statement of Reasons' setting out the facts relevant to the decision, evidence supporting those facts and reasons for the decision based on the facts and evidence.
6. *Declaration of Marine Parks, Schedule 4*: page 23 RIS. Marine Park declarations and boundaries should be consolidated and boundaries (where relevant) coincide with the boundaries of the GBR-WHA. It is considered preferable for Schedule 4 to also contain maps/diagrams in addition to coordinates, to ensure the public is able to understand the joint boundaries.
7. *Management of permissions*: page 24. Regulation 9AA/AB. The EDO-NQ say that the notice provisions in regulation 9AA should be amended to remove the discretion in the Chief Executive for requiring notice so that **all** applications must be advertised in accordance with regulation 9. The public should have the right to comment through a public submission period prior to any decision. The issuing of permits should adopt a system similar to the assessment under the EPBC Act for greater public consultation. Further the matters for consideration in Regulation 9AB should be amended to include specifically the precautionary principal, ecologically sustainable development, the objects of the Marine Parks Act, cumulative impacts of development, the environmental history of the applicant and where relevant the World Heritage Values of the GBR. Cumulative impacts are a key issue, as looking

at any particular area in isolation may not provide the full picture of the amount of say tourist operators visiting a particular area. It is vital that the Regulations set out clear guidelines for decision makers. In a recent case in the Supreme Court, *Alliance to Save Hinchinbrook v Clive Cook & Ors*, the EPA argued that the precautionary principle did not apply because it was not specified in the *Marine Parks Act 1982*. This makes it vital to ensure specific requirements are spelt out in the Regulations.

8. Accreditation of Management Plans: page 25. Unzoned Marine Parks. Regulation 31. The 'minimization' of regulation or 'basic management' until zoning is finalized is unsound given the average time for settlement of Zoning Plans is often 2 yrs. The status quo should be maintained and no new developments permitted in this time while zoning plans are being finalized. The Chief Executive should not be able to 'accredit' any approvals until zoning is finalized.

Should you have any further queries please do not hesitate to contact us on the numbers listed above.

Yours faithfully,  
**EDO-NQ**



**Kirsty Ruddock**  
**Principal Solicitor**