

Submission no 40

11.1.5

2 July 2015



MACKAY
CONSERVATION
GROUP

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2 July 2015

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane QLD 4000
By email: ipnrc@parliament.qld.gov.au

Dear Sir/Madam,

Sustainable Ports Development Bill 2015

We welcome the opportunity to provide a submission on the management of the Sustainable Ports Development Bill (**Ports Bill**).

Mackay Conservation Group has been active on the issue of port development over many years. The last few years have seen an increase in community concern over the pace and scale of port developments, particularly their impact on the Great Barrier Reef World Heritage Area. Less publicised, but just as important to the local community here are the health impacts of port developments including from dust and noise. Concerns have also been raised about the impacts on the local professional and recreational fishing industries.

The Committee is no doubt aware of the declining health of the Reef, with more than 50% coral loss across the Reef. The situation for seagrasses in particular off the Mackay coast is particularly poor. Dugong numbers have decreased 90% since 1960. The Reef is facing pressures from multiple sources, including port development, but climate change is no doubt its most serious challenge. Small amounts of warming in ocean temperatures impact heavily on corals, and 3 degrees of warming will completely destroy the Great Barrier Reef. At current levels of emissions we will certainly reach 3 degrees of warming and the Reef will be lost forever.

Our region is the site of three Priority Port Development Areas, the Port of Hay Point, Mackay and Abbot Point. These PPDAs are targeted for expansion and development and we provide further submissions on this issue below. This region has just seen a massive and rapid expansion in the coal industry over the last ten years, and is now undergoing a painful contraction. Many in our community are questioning the benefits of the coal boom as profits have flowed offshore and to other regions in

the State. Riding a boom and bust commodity cycle hurts communities, and is not necessarily 'sustainable development.'

We support the comments made in the submissions by the Environment Defenders Office Queensland, the Australian Marine Conservation Society and the World Wildlife Fund. We endorse the specific suggestions made by EDO-Q in relation to improvements in the wording of the Bill to more fully implement election promises. We are providing this submission in order to provide a local perspective on port development in the context of the Sustainable Ports Bill.

Mackay Conservation Group welcomes the implementation of key election promises into the Sustainable Ports Bill, including bans on dredge spoil dumping in the World Heritage Area, but would like to raise the following issues:

- The importance of implementing ban on transshipping
- Banning dumping of dredge spoil from all sources
- Implementing a framework for maintenance dredging
- Development within Priority Port Development Areas

- Development in the Great Barrier Reef Marine Park

Mackay Conservation Group welcomes the opportunity to express our views in Committee Hearings for this Bill. We are also happy to discuss any of the issues we raise in our submission at any time.

Yours faithfully



Ellen Roberts
Co-ordinator
Mackay Conservation Group

Ban on trans-shipping must be implemented, as promised

As the Committee is no doubt aware, the Australian Labour Party committed to a ban on transshipping as part of their *Protecting the Great Barrier Reef* policy:

A Labor Government will also prohibit trans-shipping operations within the Great Barrier Reef Marine Park.

We congratulate the ALP for recognising community and scientific concern about transshipping. However we are concerned that this matter has been omitted from the Sustainable Ports Bill. This is particularly an issue for the Mackay Conservation Group because of the Bowen Basin Terminal Project, the current proposal for a 30 million tonne transshipping expansion of the Port of Hay Point.

The Mitchell Ports group applied under the Environment Protection and Biodiversity Conservation Act in July 2014, and the project was subsequently found to engage Federal government obligations. We understand that the Bowen Basin Terminal Project has been refused Co-ordinated Project status, and that no application has been made under State legislation for the relevant State approvals.

We support the suggestions made by the Environment Defenders Office Queensland in relation to how the Queensland government could meaningfully implement this ban.

If transitional provisions apply to the Bowen Basin Terminal project, we endorse the comments of EDO Queensland in relation to the Clause 60 of the Bill. We believe that these transitional provisions should be deleted to ensure that the ban applies to existing proposals.

The Bowen Basin Terminal project includes transshipping operations both in the Great Barrier Reef Marine Park and within port boundaries. In this context we believe there is no reason that the ban could not be extended to all transshipping operations, not just those that include barging operations in the Great Barrier Reef Marine Park. One of the key dangers of transshipping operations is risk of ship accidents and collisions resulting in losing significant amounts of coal dust into the marine environment. This happened in Colombia in 2013 and led to the Colombian government implementing a similar ban on transshipping.

Ban on offshore dumping of dredge spoil should be fully implemented, as promised

We welcome the commitment to ban sea based dumping within the entire Great Barrier Reef World Heritage Area:

'Queensland Labor will ban sea-based dumping of capital dredge spoil within the Great Barrier Reef World Heritage Area' – ALP Policy, 'Saving the Great Barrier Reef', page 4.

Given the amount of dredge material disposed of within port boundaries (within the World Heritage Area, but not the Great Barrier Reef Marine Park), this is an important complement to the Federal regulations banning dumping in the marine park. However we believe that clause 34(2) places an unnecessary restriction on the ban, limiting it only to dredging associated with port facility development.

It is our understanding that this would allow for the dumping of dredged materials from developments like the proposed development at Shute Harbour in the Whitsundays or the new proposed re-vamp of Lindeman Island. Water quality in the Whitsundays is reaching a crisis point, with tourism operators seeing a massive decline in water quality over the last ten years. Operators are having to cancel scuba

and snorkel trips because visibility is too poor for tourists to safely swim, according to Whitsundays Charter Boat operator Al Grundy:

Whitsundays tourism operator Al Grundy told the forum water quality in the Whitsundays had declined 45% in the past 10 years. He said sometimes the water quality was so poor, they couldn't let tourists swim or snorkel. Mr Grundy said that on some days boats carrying tourists would arrive out on the reef and staff would carry out a risk assessment and realised the water quality was too poor.¹

Soft corals are declining rapidly, and the Whitsundays has just seen its first outbreak of Crown of Thorns starfish, which exploit stressed coral reefs. In this context, large dredging projects, even where they don't necessarily involve port related facilities should not be allowed to dump in the ocean causing a further deterioration of water quality.

Implementation of a maintenance dredging framework

Maintenance dredging is also absent from this draft a Bill and we call on the Committee to implement a maintenance dredging framework. NQBP sought a 350 00m³ dumping permit for maintenance dredging for the Port of Hay Point earlier this year, and close to 1 million m³ is dumped per year on average in the Great Barrier Reef World Heritage Area. Any maintenance dredging framework should make explicit reference to obligations in the London Protocol in relation to sea dumping being a matter of last resort, and provide guidance on the correct way to calculate relative economic impacts of different onshore or offshore dumping proposals.

As noted above, water quality in the Whitsundays had deteriorated rapidly over the last 10 years, which coincides with a massive capital dredging and dumping operation carried out in 2006 at the Port of Hay Point. Any maintenance dredging will continue to have an impact on the Whitsundays.

We would welcome the opportunity to have further input into any maintenance dredging framework.

Priority Port Development Areas and Master Planning Processes

While we appreciate the limitations on port developments outside the Priority Port Development Areas, we would like to highlight some of the issues with two of the PPDAs within our area, the Ports of Hay Point and Abbot Point. The ALP's promise is to utilise **existing** infrastructure in these port areas, and we hope the master planning process is not translated into a rush to develop and expand the PPDAs:

'We will optimise the use of existing port infrastructure in four ports within the World Heritage Area, Townsville, Abbot Point, Mackay-Hay Point and Gladstone, and prohibit capital dredging outside these ports.' – ALP Policy, 'Saving the Great Barrier Reef', page 4.

¹ 'Calls for 'false marketing' of Great Barrier Reef to stop', Pamela Frost, Sunshine Coast Daily, 10 Jun 2015, <http://www.sunshinecoastdaily.com.au/news/calls-for-false-marketing-great-barrier-reef-stop/2666478/>

Inappropriate expansion within PPDA's

The World Heritage Committee has repeatedly expressed concern about **any** port developments that threatened Outstanding Universal Values, even if these are in existing port areas. The controversy surrounding the proposed Abbot Point development is an example here.

The existing facilities at Abbot Point have been underutilised for many years, and even with a recent rise in ship movements through the port the existing terminal is still only operating at half capacity. The priority should be to ensure that existing facilities are used before expanding any ports. This may require co-operation between mining companies but will be of ultimate benefit to the environment.

It is our submission that both Abbot Point and Hay Point have unique sensitivities that make them unsuitable for continued port expansions. The Port of Abbot Point is located within the Caley Valley wetlands that support tens of thousands of migratory birds as well as a number of endangered species including the Australian Painted Snipe. One of the causes of degrading water quality up and down the Reef coast is the continued destruction of wetland areas. Wetlands play a crucial role in connecting the Reef and the mainland, and are vital water filters, particularly during heavy rain events. Studies have highlighted contamination of groundwater from the existing port facilities which will have pollution impacts throughout the wetlands themselves.

While it's not known exactly where humpback whales give birth after their Northern migration, it is believed to be in the area to the South of the Whitsundays off Mackay. Migrating whales are impacted by underwater noise, which interrupts their navigation systems and causes stress. They are also subject to ship strike which unfortunately goes largely unreported.²

Port expansions will impact the growing human population around Hay Point as well. The population of the immediate Hay Point area has been growing over the last decades and now numbers several thousand people living adjacent to the ports in the coastal hamlets of Hay Point, Half Tide, Salonika Beach, Timberlands and Louisa Creek. There are currently three expansion proposals for the Port of Hay Point in various stages of development. One of these expansion proposals is the Bowen Basin Terminal Project which will have the most impact on Half Tide, Hay Point, McEwen's Beach and Salonika Beach. The other two planned expansions are to additional coal stockpiles over the existing township at Louisa Creek or further towards Hay Point itself.

All of these expansion proposals will result in increased coal dust and noise for residents throughout the area. A survey of residents in 2013 revealed that increased coal dust was the major concern in relation to port expansions. There is no reliable and publicly available monitoring data to appraise whether the ports are meeting air quality standards.

North Queensland Bulk Ports has been purchasing homes in Louisa Creek after residents were unable to tolerate increased levels of coal dust there. NQBP continues to demolish houses in Louisa Creek even though it has not confirmed plans for expansion of the port over the Louisa Creek area. Seven houses are currently slated for demolition but there has been no confirmation of expansion plans.

² International Fund for Animal Welfare, Collision Course, *the Increasing Risk of Ship Strike in the Great Barrier Reef*, <http://www.ifaw.org/sites/default/files/ifaw-collision-course-increasing-risk-of-ship-strikes-to-whales-in-great-barrier-reef-2014.pdf>

We believe that, given environmental and human health impacts within existing port areas, the importance of this should be made clearer in the draft Bill. Currently the Minister is required to consider environmental and community impacts as a subset of State interests. Particularly with the last LNP government, we have seen State interests and State development defined solely as the development of private commercial interests, taking precedence over environmental or community impacts.

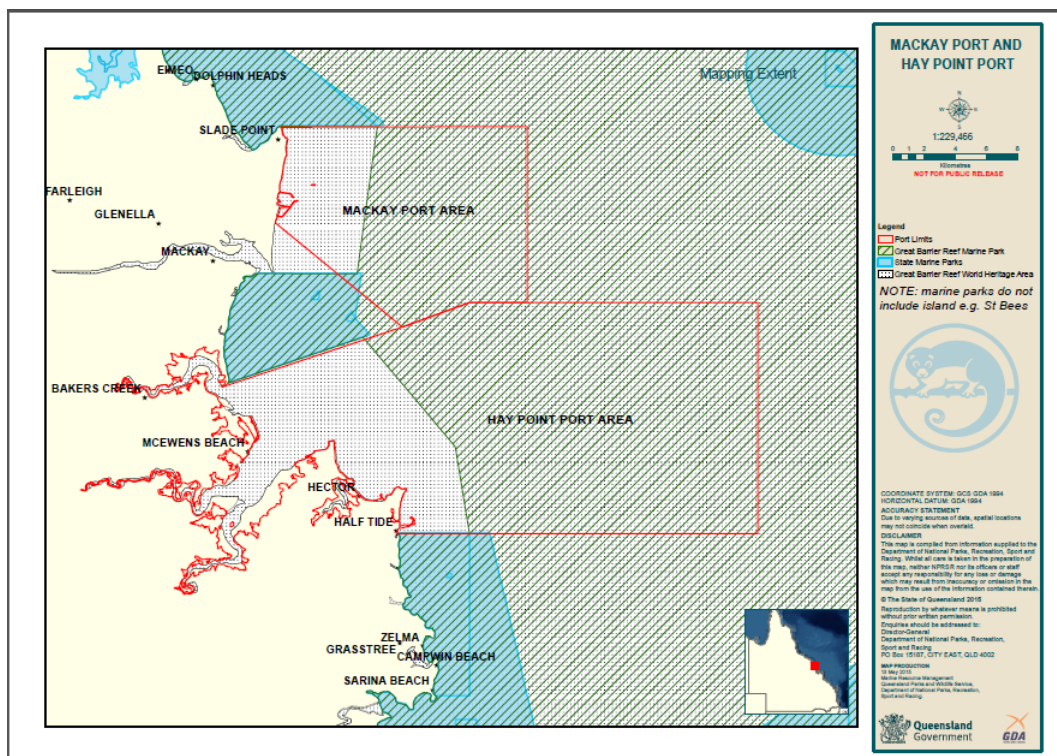
While we welcome the recognition of the importance of principles of ecologically sustainable development and the overall commitment to environmental protection in the Bill we would appreciate clarification on why community and environmental interests are defined as a subset of State interests.

One option would be to amend the Bill to remove the word 'State' from Section 8(1)(b) 'interests affected or likely to be affected by...'

Boundaries of port areas as identified by port master plans

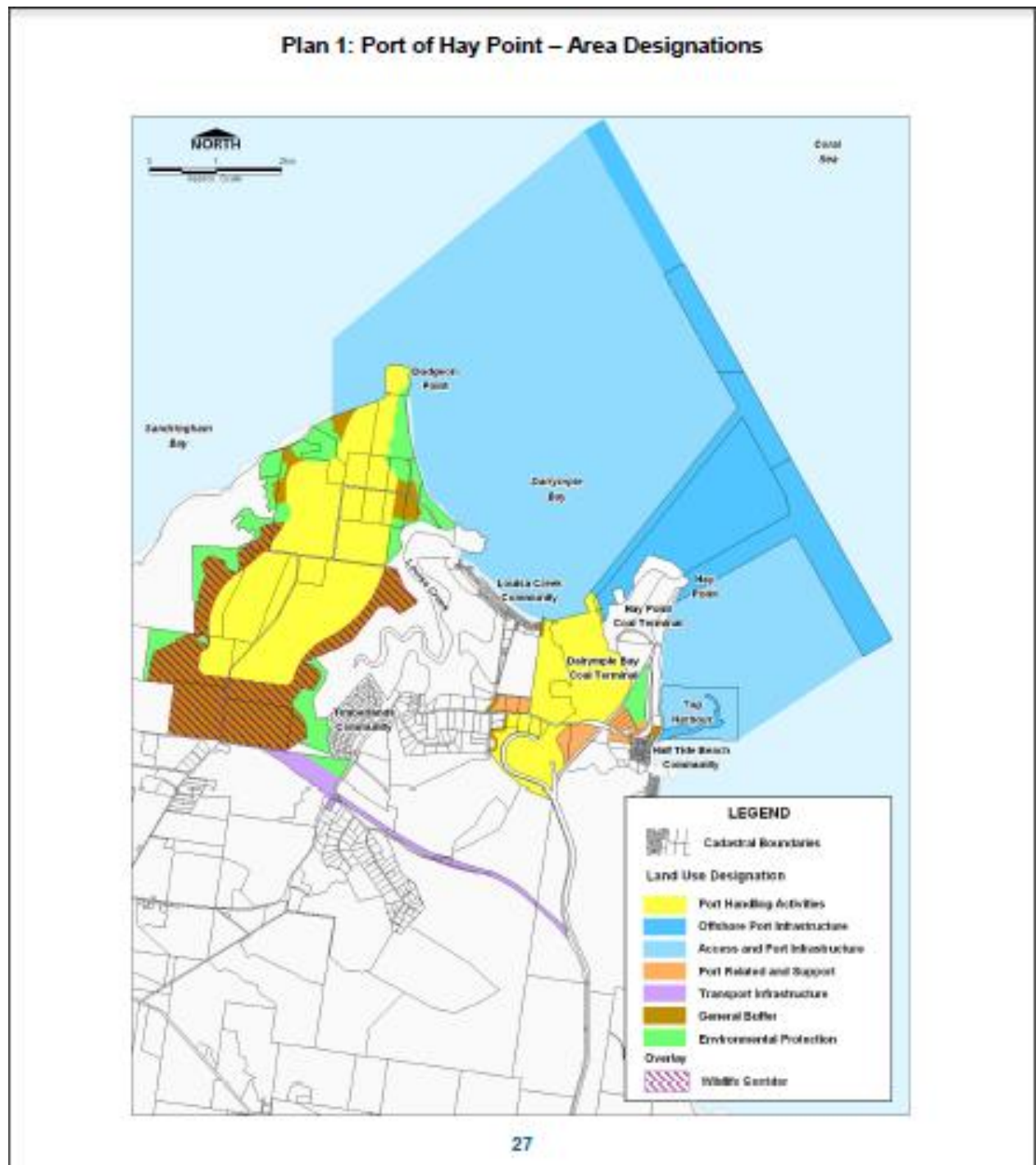
The purpose of the port boundaries in the Transport Act is to regulate safe passage of ships rather than provide for port planning and expansion. As evidenced by the map below the Transport Act boundaries for the port of Hay Point are around 10km wide. The port limits include mangroves, estuaries and the Mount Hector conservation zone and beaches used by migratory birds. The proposal at Dudgeon Point, cancelled in June 2014, was considered to be an expansion of Hay Point even though it was 4km from the existing coal terminals.

The sections relating to master planning in the Act anticipate that the port will extended beyond existing port limits, but these sections should also include any necessary limitations on expansions.



The land use plan for the Port of Hay Point, developed by North Queensland Bulk Ports identifies area of Dudgeon Point for continued port expansions. However given the location of the site, the previous Dudgeon Point expansion required 14 million cubic metres of dredging. It did not utilise any existing port facilities requiring separate rail and road transportation into the site. If the purpose of the Act is to limit port development to existing port facilities then this should be made clear.

The land use plan for the Port of Hay Point appears simply to adopt the marine Transport Act boundaries and apply them to the adjacent areas on land. However if the priority is protecting and maintaining the Great Barrier Reef World Heritage Area, then existing Transport Act boundaries should not be considered the starting point for the port master planning area.



We support the EDO's comments that the importance of protecting the Great Barrier Reef World Heritage Area must be recognised in the master planning provisions in the Act.

Improved community consultation processes

There is an urgent need for improved community consultation processes in relation to port developments. It is heartening that the Queensland government is taking this role from North Queensland Bulk Ports given the interest of the port authority in promoting port development rather than balancing community interests. For example members of the Hay Point community were disappointed to hear that NQBP had been in discussions with the Mitchell Group for two years before the EPBC Referral for the Bowen Basin Terminal made in July 2014. However the community was only alerted to the proposed expansion via the EPBC Referral appearing on the EPBC website, rather than directly from NQBP.

Currently information dissemination is intended to occur primarily through Port of Hay Point Community Reference Group meetings, however these meetings are now closed to the public after controversy surrounding the Bowen Basin Terminal expansion and other matters. As highlighted above, even the Community Reference Group is not alerted to proposed port expansions.

We support the public notification proposed for master plans (clause 11) and the requirement that master plans be reviewed as to their effectiveness in ameliorating environmental impacts of ports (clauses 14 to 17). To ensure the community is able to be meaningfully involved in master plan preparation, linked to upholding transparency and accountability in governance which is discussed below:

- We suggest that this review should be a public process, the Minister should publish an invitation to the public inviting submissions and all relevant supporting documents should be available to the public to inform their submissions.
- The community needs to be able to see supporting documentation about the existing state of the master planned areas and what progress has been made against the objectives and measures. The supporting documentation behind each master plan review should be made available on the public register (clause 56).
- The making or amending of port overlays should also be subject to public consultation to ensure there is no ability for Minister's to make changes to these statutory instruments that do not reflect master plans which were subject to public consultation (clause 22).

Further, every 10 years is too long to be updated on achievement of priority management measures (clause 14). We are aware that planning scheme reviews are constantly delayed and so we suggest 7 years is a more appropriate time period.

Finally, there is no reference to the outstanding universal value (OUV) of the GBRWHA in the Bill or master plans. Since the Bill's key purpose is the protection of the GBRWHA, the Bill should be amended to include reference to the OUV.