

## LAND USE PLANNING CONFLICTS WITH WORLD HERITAGE CONVENTION IN AUSTRALIA

### ABSTRACT

Despite its international status as a world heritage area, Australia's Great Barrier Reef (GBR) is under threat from development. Activities relating to primary resource extraction and increasing urbanization along the adjoining coastal lands not only threaten its status but illustrate the profound dilemma of development and the conservation of natural values. Criticisms of world heritage as a protective mechanism lie in the ambiguity in its operations particularly as there are no direct controls over the signatories (Evans, 2002) with the only leverage to exact compliance being the delisting or threat of delisting a property (Hazen,

2008; Maswood, 2000). Commentary suggests a lack of connection between the international intent of world heritage and the operationalization of it into national and local management regimes (Fowler, 2007; Lennon, 2006; Pendlebury, Short and While, 2009). Under the UNESCO consideration to put the GBR on the "in-danger" list, Australia has embarked on revising its development assessment process. This paper examines the newly devised strategic environmental assessment. While UNESCO is complementary to Australia's policy shift, it remains watchful over the management of the GBR and the port development that threatens its integrity.

This paper outlines the planning frameworks and Australia's response to UNESCO, concluding that proactive measures have been taken but there is conflicting evidence to demonstrate that these will not protect an internationally important place from development.

**KEYWORDS: WORLD HERITAGE - DEVELOPMENT- CONSERVATION**

## INTRODUCTION

The Great Barrier Reef, a natural world heritage area and arguably Australia's greatest icon, is under direct threat from development. Despite a layer of overlapping and ambitious conservation policies and management frameworks, the reef is deteriorating in places and the adverse impacts are real and immediate so that its status as a world heritage area is also under threat.

UNESCO, the international body responsible for world heritage, has sent a mission team to investigate the reef's integrity, focusing upon the outstanding universal values that put the reef on the world heritage list. The 2012 mission report pointed the finger of blame to the uncapped projected development of resource extraction's support operations, namely shipping and the associated ports, as the main threat to the reef's integrity (Douvere & Badman, 2012). UNESCO concluded that if the Australian Government did not attend to the lack of strategic environmental assessment associated with the development, then the reef would be placed on the in-danger list – a dire threat from UNESCO and a potential source of international embarrassment for the Australian Government.

In this context, land use planning, as it relates to world heritage areas, is an understudied aspect of sustainability. The unique laboratory of intensive development versus the conservation aims of retaining internationally recognized natural values provides the opportunity to explore competing objectives of sustainability. Further, there is an apparent conflict between international obligations arising from the World Heritage Convention and the land use planning frameworks that exist in the host country.

This paper will explore these aspects with attention given to the development controversies surrounding the Great Barrier Reef (GBR) which

is located in the Coral Sea along Australia's east coast and situated in a dedicated marine park over 3000 kilometres in length. Aspects of development including urbanization contributing to poor catchment run-off, port and shipping activities requiring dredging and dumping of soil into the sea will be the focus of the paper.

Following an exploration of the literature pertaining to land use planning and world heritage, including world heritage as a contested conservation measure, the paper will outline the complexities of the Australian land use planning framework. Australia is a federation and due to constitutional idiosyncrasies, land use planning decisions primarily fall to the states not the national government. However, it is these idiosyncrasies that enable federal involvement in land use decisions where world heritage areas are concerned. Thus, the layering of decision-making is explained by discussing policies and plans of each sphere of government (federal, state and local).

UNESCO's criticisms of the existing land use planning decision process is outlined along with the responses from both the Australian and Queensland Governments. Surprisingly, it is suggested that the current governments have been more responsive than defensive and there are demonstrable efforts in attending to the shortfall of strategic environmental assessments.

The paper concludes by suggesting that this may be a shift in the way world heritage is viewed by Australia. However, this is quickly qualified by the balance of facts, and observations from non-government actors. These show that development is intended to continue and expand and decisions regarding these will be driven by expediency rather than conservation outcomes, even if it is assessed within the updated strategic environmental assessment process lauded to be a better "line of sight" mechanism between an international convention and land use planning decisions.

## WORLD HERITAGE

The Convention Concerning the Protection of the World Cultural and Natural Heritage (Convention) was created in order to conserve important places, both cultural and natural, for present and future generations (UNESCO, 1972). The Convention is administered by the World Heritage Centre, under the auspices of UNESCO (UNESCO, 2009). As of July 2014 there were 161 nations, referred to as "States Parties", that are signatories to the Convention (UNESCO, 2014a). Signatories are responsible for protecting world heritage properties in their jurisdiction and are obliged to establish ongoing conservation measures. The Convention at Article 4 outlines this as "Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage ... and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources ..." (Phillips, 2014). A property can be declared a world heritage area for either cultural or natural values or a mix of both. There is a nomination and declaration process. As of July 2014 there were 1007 properties including 779 cultural, 197 natural and 31 mixed (UNESCO, 2014b).

It has been noted that world heritage is considered by conservationists as being the pinnacle in terms of conservation status (Pendlebury, Short, & While, 2009) and is arguably a list of the world's most iconic and beautiful places such as Iguazu National Park in Argentina and the GBR in Australia. There is little doubt that the world heritage list, albeit imperfect as noted by UNESCO the governing body, highlights places that are considered to be internationally significant and therefore identified for protection (Fowler, 2007). As this paper will be discussing the GBR listed for its

natural values, the following tends to focus on the literature surrounding natural world heritage areas.

## **WORLD HERITAGE: A TOOL FOR CONSERVATION**

World heritage listing is not designed to provide a uniform, singular approach to conserve the outstanding universal values of each world heritage site. Rather, it is the view of UNESCO that listing acts as a method of facilitation to spread best practice in sustainable management from one world heritage site to another (Bandarin, 2005, p. v) while the Convention and Operational Guidelines for the Implementation of the World Heritage Convention (Operational Guidelines), the key instruments, operate to guide each of the States Parties to conserve the world heritage sites in each state (UNESCO, 2007). Clause 96 of the Guidelines state that there must be legislative and regulatory measures put in place at both national and local levels<sup>1</sup> to protect world heritage areas from the impact of development (UNESCO Intergovernmental Committee, 2008). UNESCO has recently published a resources manual to assist in the management of natural world heritage areas which focusses on the management of the site with reference to planning frameworks (UNESCO, 2012b)

The operation of the Convention is perceived by critics as a reflection of the ambiguity in which world heritage operates as it has no direct controls over States Parties and their management of lands (Evans, 2002). As such, the Convention's objectives can only be met by the operationalization of the responsibilities by the States Parties (countries/nations) which are signatories. As will be outlined later in this paper, UNESCO's power to influence

1 United Nations uses term "local" when referring to regional/city jurisdiction – not necessarily a third tier of government. This is important to note for those countries with more than national and regional tiers

the way sites and places are managed by the States Parties is often down to the process of delisting. (Hazen, 2008; Maswood, 2000).

Undertakings are made by governments and non-government bodies to achieve sustainability across the globe. However, many of the mechanisms implemented to obtain sustainability targets are not achieving the original aspirations (Biermann, 2012) and may be without any powers to engage punitive measure to ensure compliance (Maswood, 2000).

Nevertheless, international agreements are still considered to be the cornerstone of international cooperation in addressing environmental concerns (Roberts, Parks, & Vasquex, 2004). The adage of thinking global, acting local is common place in policy but it is not clear whether this translates into effective on-the-ground action particularly when addressing the problems associated with increasing urbanization and the competition for natural resources (Beatley, 1995).

**UNESCO** has in the past recognised the shortcoming of world heritage as a conservation tool (Fowler, 2007). For instance, the selection of land and water that have been protected has been criticized as not reflecting the different types of ecosystems that require protection (Francis, 2008; Lockwood, Worboys, & Kothari, 2006). Earlier critiques suggested that world heritage could not work effectively unless natural sites were integrated or recognized as part of a national protected area conservation system (Bridgewater, 1993). However, others are of the view that criticisms about the Convention, UNESCO and the implementation procedures put in place should be levelled at the States Parties. In some cases the operationalization of the world heritage responsibilities has led to the weakening of the intent of the Convention (Logan, 2013) by

interpreting the intent into local management governance structures (Fowler, 2007; Lennon, 2006; Pendlebury et al., 2009).

A review of world heritage management in Norway found that stakeholders held disparate views about the meaning of world heritage. This resulted in misunderstandings between people. The researchers concluded that this had implications for effective management of the Røros world heritage site in Femundsmarka–Røros region in Southern Norway (Kaltenborn & Williams, 2002). Similarly in far north-east Australia, researchers noted that different government agencies of the same jurisdiction used different discourses when referring to world heritage, roles and responsibilities. These differences were then articulated in policies which resulted in conflict between priorities and inconsistencies between Australian national obligations and regional policy implementation (Reser & Bentrupperbäumer, 2005).

A potential benefit of world heritage listing is the access to practical information through the interchange of ideas on protected area management from other managers of world heritage sites (Bandarin, 2005; Hazen, 2008) as well as opportunities for cooperation across political boundaries such as seen in the management of Wrangell-St Elias and Glacier Bay, world heritage areas between Canada and the USA (Williams, 2004). World heritage listing of natural areas may also ensure or assist in securing Indigenous or traditional rights over land. In Australia this has occurred for many of the natural sites where co-management arrangements or other mechanisms, such as statutory agreements, have been implemented (Hill, 2006; Lennon, 2006; Nurse-Bray & Rist, 2009).

A less tangible benefit is the intrinsic value that world heritage listing may confer on an area.

Hazen refers to a variety of philosophical values (Hazen, 2008, p. 257). In her study of the operation of world heritage in the USA, interviews with protected area managers and local stakeholders, including conservation groups and a survey of 406 visitors referred to their feelings about the world heritage listing and often in language that denotes pleasure or pride. World heritage may also value-add to protected area management and be a boon to many communities and countries through the economic advantages such as tourism (Bandarin, 2005; Rakic, 2007; Williams, 2005). Other studies suggest that world heritage listing may attract more tourists than the area can sustain, leading to adverse impacts on the world heritage values and the community. Such issues were prevalent in a review of a number of diverse studies of the cultural heritage site Lijiang City in China (Opschoor & Tang, 2011).

Hazen's article regarding world heritage and national parks in the USA shows that there is benign neglect (2008, p. 260) of the world heritage listing by protected area managers. This means that in the context of the USA, world heritage listing is rarely promoted to the park users; there is little signage, if any, and little information available on the matter. In addition, she suggests that there existed a wider belief that US sovereignty may be adversely influenced by the international convention (Hazen, 2008).

### **WORLD HERITAGE CONVENTION AS A THREAT TO DEMOCRACY**

The Convention has been considered a threat to national sovereignty by some States Parties (Affolder, 2007; Aplin, 2004; Hazen, 2008; Logan, 2013). The perception is that the "collective interest" espoused by the Convention undermines individual state rights (Affolder, 2007, p.343). Affolder, in her exploration of the operations of the Convention

in three democratic countries (Australia, Canada and the United States), points to Paragraph 15 of the Operational Guidelines at which it states "While fully respecting the sovereignty of the States on whose territory the cultural and natural heritage is situated, States Parties to the Convention recognize the collective interest of the international community to cooperation in the protection of this heritage" (UNESCO Intergovernmental Committee, 2008, p. 3).

An empirical study in Europe looked at the community's response to proposed world heritage listing of the Wadden Sea, an area under the jurisdictions of The Netherlands, Denmark and Germany. Here it was found that the community was not supportive of listing because it was perceived by them to be of disadvantage or no additional advantage to them as well as deleterious to the conservation efforts of protecting the area's natural values (van der Aa, Groote, & Hulgen, 2005). In addition, this study and one in the USA identified that the application of an international treaty was perceived to equate to the loss of autonomy of the country (Hazen, 2008; van der Aa et al., 2005). The American research found that the visitors to the world heritage areas were mostly of the view, that the United Nations should have nothing to do with the management of USA land. The study concluded that this is most likely due to a misunderstanding of the role of the Convention (Hazen, 2008).

Logan, an academic and former head of the Australian ICOMOS<sup>2</sup> chapter, has sought to illuminate Australia's position as a State Party to the Convention (Logan, 2013). While considering the on-again, off-again, proposals to nominate Cape York in Australia far north east, as a mixed world heritage area, Logan reflects upon the decision-making around uranium mining and

<sup>2</sup> International Council on Monuments and Sites (ICOMOS)

indigenous inclusion at Kakadu that occurred in the 1990s. It is his contention that the discussion from UNESCO to put Kakadu on the "in danger" list, a precursor to delisting a site, offended the Australian Government at the time. As a result, the Australian Government has actively worked through its membership of the World Heritage Committee in the 1990s to early 2000's to minimize the "interference" of the World Heritage Committee on the States Parties approach to managing their world heritage assets. The apparent angst is interpreted by Logan to mean that Australia's responded as it did because it believed that the interpretation of the Convention by the World Heritage Committee was a direct threat to Australia's sovereignty.

However, Hazen's review of Yellowstone also suggests that world heritage listing has been used as a proactive measure to conserve a listed protected area (2008). Yellowstone National Park, a world heritage site since 1978, was placed on the List of World Heritage in Danger in 1995 due to a proposed mine just beyond its boundaries (UNESCO, 2012a). The USA federal government responded by buying out the mining lease to ensure that this would not occur (Hazen, 2008). This in danger listing, due to intense lobbying by conservation groups, was not the only factor to prevent the inappropriate land use but may have contributed (Hazen, 2008). Thus, a similar conclusion could be made about the decision finally made around mining at Kakadu which was listed as being "in danger" (Maswood, 2000).

### **LAND USE PLANNING RESPONSES TO WORLD HERITAGE**

Natural world heritage areas are particularly vulnerable to activities beyond-their-boundaries. This is well supported by the protected area management literature and applies to land set

aside to conserve natural values (IUCN, 2005). The Guidelines and other supporting materials highlight that world heritage areas need to be part of a planning system, for buffers to be established where possible and to ensure the conservation of the outstanding universal values which led to the listing in the first place (UNESCO, 2012b; UNESCO Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage, 2008). While this is clearly stated, land use planning responses to world heritage areas have varied.

In some instances world heritage listing has been used as an effective conservation measure and in immediate response to adverse impacts from land uses in the interface. The Angkor site in Cambodia was included on the World Heritage List for its cultural values (UNESCO, 2012c; Wager, 1995). This listing, along with the introduction of local protection legislation and management plans, has been observed as a strategy to preserve the site from the land use conflicts that were existing immediately alongside this ancient and significant archaeological place (Wager, 1995). This reflects well the implementation aspects of the Convention where state parties are required to operationalize their commitment to the Convention by way of local legislation (Bandarin & UNESCO, 2007).

For Lord Howe Island, located off the eastern coast of Australia and a natural world heritage area, another study has shown that listing of this place has led to the integration of land use planning and protected area management (Lea, 1997). However, the study reveals that this approach appears more eco-centric and does not satisfy sustainable development principles as issues such as economic stability for the community are not equally addressed. According to the researcher, the sustainable development of permanent communities that live with world heritage areas

should be just as important to the park managers “as the world heritage site itself” (Lea, 1997, p. 289). In Kentucky, USA, the listing of Mammoth Caves was found to be the catalyst for regional planning. The researcher observed that stakeholders, including visitors and the local community, viewed the Caves as being far more important due to their international status and thus required management to occur at the landscape scale rather than the isolated local management scale (Algeo, 2004).

Research studies on the potential impacts of development on natural world heritage areas exist but studies of and subsequent urban management responses are few. For instance, the adverse impacts of mining (Pain, Sanchez, & Meharg, 1998; Saunders, Harrison, Butler, Hodgson, & McMinn, 2013; Wright, Wright, Graham, & Burgin, 2011), or acidic dust from mainland Asia (Nakano, Yokoo, Okumura, Jean, & Satake, 2012). A study into the viability of the agri-business of the Blue Mountains, west of Sydney, Australia, suggests that the world heritage area is under great pressure due to its proximity to the metropolitan area but does not explore this in any depth (Attwater & Merson, 2007). The GBR is adversely affected by run-off from the water catchments (Department of State Development, 2013; Douvère & Badman, 2012).

In contrast, research on the impact of urbanization on cultural world heritage areas is more common (Cui et al., 2011; Opschoor & Tang, 2011; Pendlebury et al., 2009). Although the values may be different between cultural and natural world heritage sites, these studies demonstrate that world heritage listing has minor or no influence upon conservation outcomes. The studies have examined world heritage listing in regards to protecting the sites from the impacts from urbanization whether this be increases in population, (Cui et al., 2011), increases in tourism

(Cui et al., 2011; Opschoor & Tang, 2011), planning for the local population and the tourists (Pendlebury et al., 2009), increased resource demand and waste output affecting the quality of the ambient environment (Cui et al., 2011), the increasing sprawl of the city and immediacy of development (Cui et al., 2011; Pendlebury et al., 2009) or the increased complexity of governance that is associated with urban areas (Pendlebury et al., 2009).

A recent review of land use planning responses to all Australian world heritage sites explained the operationalization of responsibilities including the management of these places (Padgett, 2010). As part of these responsibilities, the study set out the process for the assessment of proposed development that could affect world heritage sites. However, the study did not evaluate this process nor did it address it in light of urban management issues. This study concluded that more research was required to understand the effectiveness of the development assessment process to ensure conservation of world heritage values (Padgett, 2010).

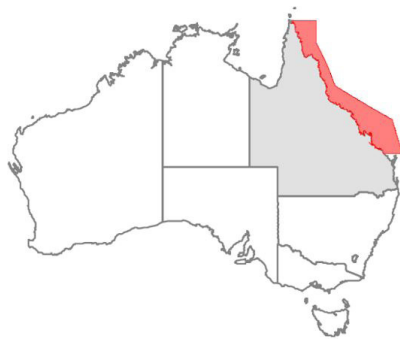
A recent study into land use planning responses to the Greater Blue Mountains World Heritage Area located in Sydney, Australia’s most populous city, found that the consideration of world heritage in applicable local and regional land use planning was ad hoc at best (Keane, 2013). Further, there was minor political interest by the regional and local policy makers to take into account the international importance of world heritage areas beyond recognising these places as being important for natural, cultural, recreational and tourist values. However, there was little in the way of translating this view into land use policies or controls (Keane, 2012).

In this context, this paper will examine land use planning responses to the Great Barrier Reef, Australia. The next section will describe

the case and then move onto outlining Australia's operationalization of world heritage responsibilities and focus upon land use planning and the GBR.

## THE GREAT BARRIER REEF

The GBR is the largest coral ecosystem in the world and was inscribed on the World Heritage List in 1981 for its outstanding universal natural values. The GBR is over 3000 kilometres in length and runs parallel to the Australia east coast from the tip of Cape York. It has governance boundaries that create the GBR Marine Park (Figure 1). The marine park is considered to be the best managed in the world (Wilkinson, 2008 cited in Grech et al., 2013). The Great Barrier Reef is under many different pressures primarily water quality deterioration from agricultural and urban run-off, tourism pressures, invasion of the crown of thorn starfish, primary resource industry activities and the port/shipping activities (Department of State Development, 2013; Grech et al., 2013). There are currently twelve shipping posts adjacent to the GBR (Grech et al., 2013). It also is the subject of



**Figure 1.** Location of the Great Barrier Reef Marine Park (shaded in red) in relation to Australia. The state of Queensland is shaded grey (source; extract from Department of Sustainability, environment Water, Population and Communities (2012) Great Barrier Reef, Map Geocentric Datum of Australia 1994, Australian Government)

damage from major cyclonic events which leads to the destruction and bleaching of coral shelves, as well as threats to fish species from exploitative fishing practices outside the marine park (Hunt, 2013).

**UNESCO** in its mission report into the state of the GBR in 2012 identified climate change, run-off from the land catchments and associated development, extraction industry, and ports and shipping to be directly linked to the threat of the outstanding values that makes the reef a world heritage area (Douvere & Badman, 2012). The GBR is within 50 kilometres of three cities – Cairns, Townsville and Mackay (Keane, 2013).

The mission report of 2012 stated that “the practice related to port development within and in areas adjacent to the property is not carried out consistently with the highest standards of practice commensurate with the status of an iconic World Heritage property.” (Douvere & Badman, 2012, p. 4). The report recommended that the Australian and Queensland Governments rethink their approach to development in the vicinity of the world heritage area, in particular adopting a strategic environmental assessment approach and halting the growth in port operations and putting the consideration of the reef's outstanding universal values into the management system and the legal framework which governs the GBR.

UNESCO has considered putting the GBR on the “in-danger” list, the preliminary step prior to the delisting of a world heritage area. The meeting in 2012 resolved to wait and see how Australia would address the request for establishing strategic environmental assessment for the GBR.

The matter of port development and the impacts on the GBR appear contested when the following review of the policy framework is presented. This contestation is highlighted by just released

data which shows that turbidity levels increased by offshore dredging have a direct, adverse impacts on coral reefs by increasing disease vectors delivered to the reef by the sediment plume (Pollock et al., 2014). The authors of this research state that this is the first definitive data that ties this type of development directly to reef deterioration.

## THE POLICY AND LEGAL FRAMEWORK IN AUSTRALIA AND QUEENSLAND

In land use planning terms, policy is delivered through many types of documents such as legislation, strategic plans and land use controls. In order to assess how Australia and Queensland respond to world heritage though its land use planning and associated strategy foci, a policy analysis of the primary documents was undertaken (n=13). Documents including policy, plans, development decisions and media announcements were selected from 2008 to July 2014. This timeframe was considered relevant as Queensland has been reforming its planning framework since 2008, port development has expanded significantly in this time, UNESCO sent its mission to investigate development in 2012, a controversial development was approved at the end of 2013 and UNESCO reconsidered putting the GBR on the “in-danger” list.

In Australia, land use planning and protected area management are primarily activities undertaken within the legislative, administrative and policy domains of the respective state or territory governments. This is the result of the historic development of the executive, legislative and judicial Australian jurisdictions and the resulting constitutions of the Commonwealth of Australia and the respective constitutions of the states (Gleeson, 2001). Simply put, the Commonwealth's constitution does not include specific powers that

include land use planning or park management. However, it does contain powers that facilitate the Commonwealth's involvement in these activities. The Commonwealth Government's powers are prescribed under section 51 of the Commonwealth of Australia Constitution Act 1900 ("Commonwealth of Australia Constitution Act ", 1900). Powers that specifically relate to the control of land exist but are limited to the acquisition of property under certain circumstances (Cl xxxi) and the control and acquisition of railways (Cls xxxii-xxxiv). Section 51 prescribes upon the Commonwealth the external affairs power at Clause xxix ("Commonwealth of Australia Constitution Act ", 1900). It is this power that allows the Commonwealth to enter into international treaties including the World Heritage Convention. This same power allows the Commonwealth to effect the treaty by the establishment of legislation.

The Commonwealth has been a signatory to the Convention since 1974 (Department of Sustainability, 2008b) and has established legislation to effect the treaty. The legislation is currently the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act). The EPBC Act is a legal framework which aims to protect and manage matters of national environmental significance (MNES) which includes world heritage sites. The GBR is additionally listed as a MNES as part of the GBR Marine Park – the only individual site that it nominated as a MNES (Department of Sustainability, 2010). Protection and management of MNES occurs in two main ways. The first is in regards to the regulation of development that would have impact upon the values of a world heritage area. The development may be within the protected area or outside the protected area. The key or trigger to the Commonwealth's

involvement in the regulation of development is Section 12 which puts the onus on the proponent to seek Commonwealth approval. This development is then assessed by the Commonwealth or, where a bilateral agreement exists, the development is assessed by a State Government under delegation. There is a bilateral agreement between the Australian and Queensland Governments (Australian Government Department of Environment, 2014). The determination of the development remains with the Commonwealth, specifically the Minister as identified as the determining authority by Part 9 of the EPBC Act, even where a bilateral agreement is in place. Secondly, the EPBC Act also looks to protect and conserve world heritage areas by the way that these areas are managed (Department of Sustainability, 2008a). The Commonwealth's general obligations under the World Heritage Convention area as follows:

- "to protect, conserve and present the World Heritage values of the property
- o integrate the protection of the area into a comprehensive planning program
- to give the property a function in the life of the Australian community
- to strengthen appreciation and respect of the property's World Heritage values, particularly through educational and information programs
- to keep the community broadly informed about the condition of the World Heritage values of the property
- to take appropriate scientific, technical, legal, administrative and financial measures necessary for achieving the foregoing objectives". (Department of Sustainability, 2008a)

The approach to meeting these objectives

diverges according to the land tenure of the property. For instance, a world heritage area may solely comprise of Commonwealth land whereas other areas may comprise of land that is under the tenure or the management jurisdiction of State or territories. The GBR is comprised of Commonwealth land and is managed by the Commonwealth's Great Barrier Reef Marine Park Authority (GBRMPA). GBRMPA has an independent board and staff. It reports to the Commonwealth Government's relevant environment department. GBRMPA manages the reef, reports on its status, liaises with stakeholders, and reviews impacts of proposed development. It publishes position statements and policies on issues which may affect the reef (Great Barrier Reef Marine Park Authority, 2014).

## RECOGNIZING WORLD HERITAGE IN QUEENSLAND

The GBR is also protected through a range of both international, national, regional and local policies and laws. Apart from the World Heritage Convention, the GBR is protected by six other conventions<sup>3</sup>. Nationally, the EPBC Act is complimented by regulations including threatened species, fishing and shipping.

Queensland's primary land use planning statute is the *Sustainable Planning Act 2009* (SPA) in which provisions for the conservation of the GBR are contained. There are other acts and policies, such as those addressing water quality and environmental protection, which are in place

<sup>3</sup> 1971 Convention on Wetlands of International Importance Especially as Waterfowl Habitat; 1973 International Convention for the Prevention of Pollution from Ships; 1973 Convention of International Trade in Endangered Species of Wild Fauna and Flora; 1979 Convention on the Conservation of Migratory Species of Wild Animals; 1982 United Nations Convention on the Law of the Sea; 1992 Convention on Biological Diversity

to be considered when assessing development proposals. The SPA gives rise to *State Planning Policies* which mandate policy consideration for the whole of Queensland. These SPPs are to be followed by local government when devising their own local planning schemes and assessing development where that development falls under the interests of the SPP (Department of State Development, 2014c). Since December 2013, the SPP have been amalgamated into one, comprehensive SPP as a result of Queensland's planning reform that has been ongoing since 2009 (Department of State Development, 2014a).

The Queensland SPP makes specific provision for the GBR. It acknowledges the importance of the GBR for biodiversity, water quality, social, cultural and economic reasons (Department of State Development, 2014d). Provisions are made in this SPP for local councils to assess certain developments in light of the goals for conserving the GBR as well as "self-assessable" development. This latter type of development does not require the approval of an authority but is guided by a code which must be followed in order for the development to proceed.

The *Far North Queensland Strategic Plan 2009-2025* is another strategic land use plan guiding the region's development (Department of State Development, 2012). Again this plan contains objectives to conserve the GBR in what is termed "desired regional outcomes" (Department of State Development, 2012). There are three major urban settlements along the coast with the GBR – Cairns, Townsville and Mackay. They are all located within 50 kilometres of this internationally significant place and such proximity has been linked with impacts on the reef through poor run-off quality (Department of State Development, 2013; Douvère & Badman, 2012). It has been suggested that any protected area would be

adversely affected by such proximity (McDonald et al., 2009). As such, the land use policies that apply to these settlements would have a direct impact upon the health of the GBR.

Each of these cities have a dedicated land use plan<sup>4</sup> and each plan recognises the importance of the GBR, with provisions (including objectives to protect) embedded in the plan. Irrespective of these provisions the SPP mandates such inclusion and therefore local government is compelled to consider the conservation of the GBR in the assessment of any development or identification of development that does not need consent (Department of State Development, 2014c).

The regional and local planning schemes operate with the SPP to reinforce the importance of conserving the conservation of the world heritage area. Despite this at-face integration, the criticism from UNESCO about a lack of strategic assessment needs to be considered in order to demonstrate that, in fact, this integration is insufficient to ensure the conservation of GBR.

## PLANNING REFORM AND WORLD HERITAGE – UNESCO'S INFLUENCE?

The Australian and Queensland Governments entered into an agreement to undertake a strategic assessment of the GBR coastal zone. This agreement was made under the EPBC Act and the Queensland Government has expressed its desire to best protect the GBR values and have sustainable development at the same time (Department of State Development, 2013).

The strategic assessment aims to consider the values of the area early in the planning and

<sup>4</sup> Cairns Plan – Consolidate Planning Scheme ("CairnsPlan - Consolidated Planning Scheme," 2009); Mackay City Planning Scheme ("Mackay City Planning Scheme," 2006); Townsville City Plan 2005 ("Townsville City Plan 2005," 2005) and Townsville draft City Plan (Townsville City Council, 2014)

development process. In operation this will mean that individual projects will not be assessed when they are lodged for consideration. Rather, the region will be assessed to ascertain what level of development is considered sustainable in light of conserving the outstanding universal values of the GBR. Both levels of government consider this to be good practice as well as a relief in terms of the reduction in required administration around development assessment (Department of State Development, 2013). The Queensland Government has expressed the aim to create a "direct line of sight" between overarching responsibilities, such as those expressed in the World Heritage Convention, and all levels of decision-making surrounding development.

One aspect of the response to UNESCO and world heritage was the production of the Queensland Port Strategy. The Minister's forward clearly shows the link between the need for the Ports Strategy and UNESCO's 2012 mission report (Department of State Development, 2014b). The strategy seeks to address UNESCO's concerns and states that there will be no new ports considered by the Queensland Government until 2020. The strategy creates "Priority Port Development Areas" (PPDA) which are existing and strategically important facilities for Queensland. Any development of ports will be limited to these PPDA's. Further, the strategy includes Action 3 which will prohibit dredging within and adjoining the Great Barrier Reef World Heritage Area,... for the development of new, or the expansion of existing port facilities outside PPDA's, for the next ten years." (Department of State Development, 2014b, p. 25) The strategic environmental assessment process is receiving support from some areas. However, there is still some uncertainty that some elements, such as the Port Strategy, are effective enough on their own (Grech et al., 2013). References to port

development capacity of the region are restricted to PPDAs until 2020 and that development can occur in compliance with strict scientific guidelines. However, this outcome is perceived as a revised governance structure that aims for expediency of decision making over high quality biodiversity outcomes (Grech et al., 2013).

For instance, one of the PPDAs is at Abbot Point which is the site of the latest controversy and the catalyst for the UNESCO mission visit and reports over the last two years. At the end of 2013 the Commonwealth Government approved the expansion of the port including the dredging of 1.3 million cubic metres of sludge annually (Department of Environment, 2013). This sludge will be disposed off-shore and in the marine park. The scientific report, referred to in the approval, suggests that there will be no adverse impact from this disposal.

Some community members do not agree and a draft report prepared by GBRMPA in 2013 also suggests that the impacts would be deleterious (Hegarty, 2014; Petersen, 2014). However, it revised its report prior to the determination of the application for the extension of the port at Abbot Point. The Commonwealth approval appears contrary to the Queensland Port Strategy devised under the new strategic environmental assessment framework. However, it is noted that the application for this development was submitted before the adoption of the strategy and therefore was assessed on the Commonwealth provisions at the time of submission.

UNESCO's response has been cautious and resolved in July 2014 to delay the consideration of putting the GBR on the "in-danger" list. Its view is that the Australian and Queensland Governments are attended to the criticism from UNESCO and the World Heritage Committee. However, its oversight will not diminish and UNESCO will be monitoring Australia's progress in this regard.

In these circumstances, Australia has not taken a negative position and rejected UNESCO's request. There is evidence of a cooperative approach leading to a policy shift with the development of strategic environmental assessment. However, there is not enough evidence to suggest that the proposed approach has gone far enough to ensure the protection of the GBR.

World heritage relies on the goodwill and collaboration of both States Parties and the public. However, the operationalization of the world heritage responsibilities into local land use planning frameworks means that the interests of the States Parties is served over the intent within the Convention (Logan, 2013). Scientific data released in July 2014 shows any dredging will adversely affect reefs. With these new facts available to the decision-makers should the decision to allow dumping of spoil into the marine park be reversed (Pollock et al., 2014)? There is no provision within the established strategic environmental assessment to respond to new data over existing development. As such, it is reasonable to anticipate that the GBR will continue to be adversely affected by existing and approved port development and the new strategic environmental assessment process has merely slowed-down development for the next six years to 2020.

UNESCO's view is that putting a site on the "in danger" list is not a punitive action. "Addition of a property on the list of World Heritage in Danger should "not be considered as a sanction, but as a system established to respond to specific conservation need in an efficient manner. Indeed, the mere prospect of listing often proves to be effective, and can incite rapid conservation action," says the World Heritage Committee." (Phillips, 2014). However, there is evidence that the threat may have encouraged a new approach

to land use planning and world heritage areas in Australia. This approach could be best characterised as a political response.

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