

Review of Governance of the Great Barrier Reef Marine Park Authority

July 2017

Wendy Craik AM



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The Hon Josh Frydenberg MP
Minister for the Environment and Energy
Parliament House
Canberra ACT 2600

Dear Minister

**Final Report of the Independent Review of Governance of the Great Barrier Reef
Marine Park Authority**

In accordance with the Terms of Reference, I am pleased to present the Final Report of the Independent Review of Governance of the Great Barrier Reef Marine Park Authority.

In conducting the Review, I have considered carefully the 16 substantive submissions to the Review made from a wide range of interested parties. I have also held a total of 55 consultation meetings with individuals from relevant government, industry, community and conservation organisations.

In making the 24 recommendations in the final report of this review, I have drawn upon available literature on good practice governance as well as on the significant expertise and experience of stakeholders provided through submissions and in consultation.

It is clear that the Great Barrier Reef Marine Park Authority has very strong support and good will from its stakeholders. However responding to the impact of severe biophysical stresses and institutional responses over the last decade has put the organisation under considerable stress. Given the likely requirements for new approaches to Marine Park management and the institutional and community arrangements required to deliver these, refreshed governance arrangements would enable the Authority to better fulfil its role as the expert manager of the Great Barrier Reef in to the future.

Finally I would like to express my thanks to the Secretariat from the Department of Environment and Energy ably led by Mr Greg Manning. They have contributed significantly to this report. Any errors remain my responsibility.

Yours sincerely,

Wendy Craik AM
July 2017

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GLOSSARY OF TERMS AND ACRONYMS

Term	Meaning
2006 review	<i>Review of the Great Barrier Reef Marine Park Act 1975 - Review Panel Report</i> (Borthwick 2006)
Accountable authority	The person or group of persons responsible for governance functions specified under the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth)
agency	Currently, the Chairperson and staff of the Authority as defined for the purposes of the <i>Public Service Act 1999</i> (Cth)
agency head	The individual that leads the agency for the purposes defined under the <i>Public Service Act 1999</i> (Cth)
AICD	Australian Institute of Company Directors
AIMS	Australian Institute of Marine Science
ANAO	Australian National Audit Office
APSC	Australian Public Service Commission
ASXCGC	Australian Securities Exchange Corporate Governance Council
Authority	Great Barrier Reef Marine Park Authority
BOM	Bureau of Meteorology
CEO	Chief Executive Officer
Chairperson	Chairperson of the Authority
Department	The Australian Government Department of the Environment and Energy
Department of the Environment	The Australian Government Department of state responsible for advising the Minister for the Environment at a given point in time
DPMC	The Australian Government Department of the Prime Minister and Cabinet
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
executive management model	An approach to governance, outlined in Uhrig (2003), under which governance of the executive or executive management group of a statutory authority 'is carried out directly by the Minister with departmental support and advice' (p. 80)
GBR Region	The area the boundary of which: <ul style="list-style-type: none"> (a) commences at the point that, at low water, is the northernmost extremity of Cape York Peninsula Queensland; (b) runs thence easterly along the geodesic to the intersection of parallel of Latitude 10° 41' South with meridian of Longitude 145° 00' East;

(c) runs thence southerly along that meridian to its intersection by the parallel of Latitude 13° 00' South;

(d) runs thence south-easterly along the geodesic to a point of Latitude 15° 00' South Longitude 146° 00' East;

(e) runs thence south-easterly along the geodesic to a point of Latitude 17° 30' South Longitude 147° 00' East;

(f) runs thence south-easterly along the geodesic to a point of Latitude 21° 00' South Longitude 152° 55' East;

(g) runs thence south-easterly along the geodesic to a point of Latitude 24° 30' South Longitude 154° 00' East;

(h) runs thence westerly along the parallel of Latitude 24° 30' South to its intersection by the coastline of Queensland at low water; and

(j) runs thence generally northerly along that coastline at low water to the point of commencement (Schedule 1 of the GBRMP Act).

And such area (if any) contiguous with the northern boundary of that area as is prescribed; other than any part of such an area that is referred to in section 14 of the Seas and Submerged Lands Act 1973 or is an island, or a part of an island, that forms part of Queensland and is not owned by the Commonwealth.

GBR World Heritage Area	Great Barrier Reef World Heritage Area as defined in Schedule 1 of the GBRMP Act
GBRMP Act	<i>Great Barrier Reef Marine Park Act 1975 (Cth)</i>
GBRMPA	Great Barrier Reef Marine Park Authority
General Manager	Senior Executive Service Band 1 at the Authority
GIA	Governance Institute of Australia
governing board model	An approach to governance, outlined in Uhrig (2003), under which governance of a statutory authority is primarily the responsibility of a board of directors accountable to the government
IUCN	International Union for Conservation of Nature
Marine Park members	Great Barrier Reef Marine Park, established under the GBRMP Act Individuals appointed to the board under section 10 of the GBRMP Act
Minister	The Australian Government Minister for the Environment
Minister for the Environment	The Australian Government Minister with responsibility under the GBRMP Act at a given point in time
Outlook Reports	A report that examines the Great Barrier Reef's health, pressures, and likely future, prepared by the Authority and given to the Minister every 5 years as per section 54 of the GBRMP Act
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013 (Cth)</i>

plan of management	A plan of management for the Marine Park that is prepared in accordance with Part VB of the GBRMP Act
Reef	Great Barrier Reef
SES	Senior Executive Service
UNESCO	United Nations Educational, Scientific and Cultural Organisation
zoning plan	The Great Barrier Reef Marine Park Zoning Plan 2003 (prepared in accordance with Division 2 of Part V of the GBRMP Act)

EXECUTIVE SUMMARY

The Great Barrier Reef Marine Park Authority has been central to the Australian Government's efforts to protect and conserve the values of the Great Barrier Reef for over 40 years. It has however been 11 years since governance of the Authority was reviewed as part of the *Review of the Great Barrier Reef Marine Park Act 1975*. That review recommended a continuation of the executive management arrangements (combined Chairperson/CEO and small board) in place at that time. It also indicated that governance of the Authority would be shaped over time by the changing needs of the Reef.

The Great Barrier Reef has seen enormous change over the last decade. Long term pressures from sources external to or transcending Marine Park boundaries have increasingly asserted themselves as the dominant threats to the Reef. Climate change, poor water quality from land-based-run-off and coastal development are now the major pressures on the Reef and their impacts have become increasingly clear.

Despite some positive results from management investments, in 2014 the Great Barrier Reef Outlook Report reported that the overall outlook for the Great Barrier Reef was poor, had worsened since 2009 and was expected to further deteriorate (GBRMPA 2014b). Coral bleaching in 2016, triggered by record breaking global sea surface temperatures, killed an estimated 29 percent of the Reef's shallow water corals. This was followed by further mass bleaching in 2017. Also in 2017, Tropical Cyclone Debbie, the tenth severe category cyclone since 2005, affected around one quarter of the Reef.

In addition to these threats, a number of high profile issues in the last decade have contributed to the rapidly changing Reef environment. Particularly significant events include:

- approvals granted by the Australian Government Minister for the Environment under the *Environment Protection and Biodiversity Conservation Act 1999* to construct three liquefied natural gas processing plants at Curtis Island near Gladstone in 2010 and 2011
- leaking of dredge spoil from a bund wall at the Port of Gladstone in 2011 and 2012, and
- further approvals for expansion of the Abbot Point Coal Terminal and dumping of capital dredge material in the Marine Park in 2013 and 2014.

The Curtis Island development and Port of Gladstone dredge spoil leaks led to increased scrutiny by the UNESCO World Heritage Committee and IUCN over management of the Marine Park, while the Abbot Point decision further increased scrutiny. The Abbot Point decision also raised concern about management of the Marine Park and the independence of the Authority's decision making.

Over the past decade there has also been a significant increase in activity by governments, domestic organisations and individuals to address pressures on the Reef. The Authority's role, to balance conflicting but legitimate interests and issues affecting the Reef, has increasingly

been shared among more organisations and groups. For example the Reef 2050 Long Term Sustainability Plan led by the Authority, Australian and Queensland Governments and the Reef Water Quality Protection Plan both have a substantial number of organisations involved in their delivery. As a consequence there is some confusion as to which organisation is responsible for what.

In light of these developments, conservation and management of the Reef has become an increasingly complex and challenging task. This situation is likely to continue as:

- Reef use and coastal development are likely to continue to increase with consequent pressures on the Reef
- the rapidly changing ecology of the Reef dictates the need to transition the focus of Marine Park management from conservation and sustainable use to actively fostering resilience and assisting the Reef to adapt and recover, and
- the Authority seeks to more clearly define, articulate and execute its particular responsibilities as part of a broader Reef governance framework grappling with issues that transcend the boundaries of the Marine Park.

Stakeholders expressed concern about the current board model including the legislated breadth of board capacity, the combined Chairperson/CEO role and confusion about organisational roles and responsibilities. However there is strong community support for the Authority and its achievements. Stakeholders emphasise the value of an independent body that is located in the Reef environment and which has a critical mass of the technical, regulatory and policy expertise necessary to undertake its legislated functions.

The Authority currently comprises the Chairperson and between two and four other members, often referred to informally as the board. The Chairperson is the 'agency head' for the purposes of the *Public Service Act 1999* and the 'accountable authority' for the purposes of the *Public Governance, Performance and Accountability Act 2013*. These legal requirements and the fact that the Chairperson is the only full time member of the board mean that the Chairperson is also, in practice, the Chief Executive Officer. Most decisions have been delegated by the Authority to the Chairperson or staff.

The Authority's ability to respond to future challenges and to meet stakeholder expectations for its conduct and performance is influenced by its current governance arrangements and practices. Specifically, and in no way reflecting on the performance of past or current incumbents:

- the legislated size of the board and specific background requirements of the majority of members limits the capacity to provide local, national and international perspectives and diversity of expertise commensurate with the Authority's responsibilities.
- the majority of responsibility for the Authority has been vested in the position of Chairperson/CEO when there is strong evidence to suggest the need for collective

decision making in a complex sphere of operations. The pressures on the Chairperson/CEO is the result of responsibility for operation of the board; delegations from the board; and responsibilities imposed by the 'accountable authority' requirements of the *Public Governance, Performance and Accountability Act 2013* and 'agency head' requirements of the *Public Service Act 1999*.

- The seniority of Senior Executive Service positions has been reduced over the last decade and the number of positions initially created in their place reduced from four to three. This has occurred while the scale and complexity of tasks undertaken by the Authority has significantly increased, and
- the absence of a peak stakeholder advisory group to the Authority has created a void in the Authority's ability to access peak Reef stakeholders as a group.

Collectively these arrangements do not allow for strategic leadership or management commensurate with the requirements of the Authority's functions and responsibilities.

The review considered a range of options within the broad parameters of the 'executive management' and 'governing board' models provided for governance of public sector entities by the *Public Governance, Performance and Accountability Act 2013* to address this situation.

Under the executive management model the options considered included: maintaining the current arrangements; disbanding the board; supplementing the board with additional members, skills and expertise; separating the Chairperson and CEO roles; and supplementing the agency's Senior Executive Service. Under the governing board model the review considered: the roles that would be played by the Chairperson, CEO and board members; the size composition and accountability of the board; and supplementing the agency's Senior Executive Service.

To assess the most appropriate governance model for the Authority, and in the absence of definitive guidance for the selection of an approach, the review considered the Authority's need for collective decision making, public confidence in its operation, the extent of government control over its operations and whether it has multiple accountabilities. Of the options considered retaining the executive management model but with separate Chairperson and CEO positions and an enlarged expertise based board can best provide the diversity of perspectives required by the Authority to meet the challenges of the future while simultaneously addressing stakeholder confidence in its decisions and actions.

In light of these considerations a board of seven including a part time Chairperson and full time Chief Executive Officer is recommended. To give effect to this arrangement it is also recommended that the CEO be the 'accountable authority' for the purposes of the *Public Governance, Performance and Accountability Act 2013*, the agency head for the purposes of the *Public Service Act 1999*, and that the board give serious consideration to establishing a peak stakeholder advisory group for engagement with the Authority. Collectively decided guidance from the Board should accompany delegations.

Other recommendations address the characteristics required of an independent Chairperson, strengthening of existing processes for the recruitment of board members; handling of conflicts of interest; board member induction; performance review, executive management support and clarification and coordination of Great Barrier Reef responsibilities amongst relevant Commonwealth entities. All recommendations are intended to improve the capacity and effectiveness of the Authority to continue its vitally important role in protecting and managing the Reef into the future.

RECOMMENDATIONS

Recommendation 1: The 'executive management' model should be continued for future governance of the Authority; the position of the Chairperson and CEO should be separated; and the board should be supplemented with additional positions, skills and expertise.

Recommendation 2: The Ministers responsible for the environment and science should issue joint Statements of Expectations for the Great Barrier Reef, for the Authority, Department of the Environment and Energy, Australian Institute of Marine Science, Bureau of Meteorology and CSIRO, including objectives, clarification of relative roles and responsibilities and coordination of activities.

Recommendation 3: The CEO should be the 'accountable authority' of the agency for the purposes of the PGPA Act.

Recommendation 4: The CEO should be the 'agency head' for the Public Service Act.

Recommendation 5: The CEO should be an *ex officio* member of the board.

Recommendation 6: The Chairperson, CEO or both must be able to present credibly on the ecology of the Reef and threats to management of the Marine Park in national and international fora.

Recommendation 7: The board should continue to reflect Indigenous, Reef tourism and Queensland Government expertise, and be composed of people of significant standing in their fields of expertise.

Recommendation 8: Board membership should continue to reflect Government policy on gender equity on boards and should, to the greatest extent possible, reflect Queensland, national and international perspectives.

Recommendation 9: A skills matrix should be developed and maintained by the Authority and utilised to inform recruitment of board members. The general skills required by the board should be legislated and could include:

- public sector governance
- science (including one or more fields related to climate change, marine science, coastal ecology, fisheries, social sciences and engineering)
- business / industry
- natural resource management and parks management
- regulation
- education and communications
- scenario planning and strategic management, and
- resource economics.

Recommendation 10: To ensure the board has access to skills and expertise commensurate with its functions, the board should comprise seven members, consisting of:

- an independent part time Chairperson of integrity, national credibility and standing who would not be perceived as representing a Reef interest group
- the CEO, and
- five members including continuation of the Indigenous, Reef tourism and Queensland expertise and two members reflecting other skills, backgrounds, and geographic perspectives.

Recommendation 11: Standard term limits of five years should be retained, while reappointments should be limited to a maximum of two terms.

Recommendation 12: The Department should develop and document a formal process to guide the recruitment of board members and the CEO, aligned with Government guidance (such as APSC 2012b; DPMC 2016a). The process should include, at a minimum:

- open and targeted approaches to the identification of candidates
- reference to a matrix documenting the skills, expertise and diversity required by the board and identifying gaps based on future needs
- information on roles and responsibilities (including management of conflicts, frequency of meetings) to be provided to applicants or nominees
- the role of the Chairperson and board in recommending and assessing nominees
- the make-up of the selection panel
- information on the role and Ministerial expectations that will be included in letters of appointment, and
- articulation of the role of the Queensland Government in the selection processes.

Recommendation 13: The potential for conflicts of interest amongst board members should be reduced by legislated provisions requiring appointees not be a member of the governing body of a relevant interest group.

Recommendation 14: The Authority and its staff should formalise induction processes for board members, including at a minimum:

- an appointment letter from the Minister outlining remuneration, terms and conditions, and expectations for the board and its members
- induction meetings with the Chairperson and senior executive
- an induction package reflecting the specific circumstances and policies of the Authority and including, at a minimum, the Board Charter briefing on decision-making processes, and relative organisational roles and functions (see 'Board charter and policy' and 'Delegations' below for further discussion), and
- board member support

Recommendation 15: The board should consider whether it needs to meet more frequently than the four meetings per year at present.

Recommendation 16: The board should determine and implement an appropriate and ongoing mechanism to review and manage its performance.

Recommendation 17: The Governor-General should have the power to terminate members, on the recommendation of the Minister, if they are consistently underperforming.

Recommendation 18: The Authority, led by the new Chair, should develop a comprehensive board charter including information on:

- board values
- considerations for decisions
- frequency of meetings (discussed above)
- the formation and operation of subcommittees
- procedures for making decisions out-of-session
- procedures for setting agendas, including attendance by non-members
- values of the board
- procedures for the declaration and management of conflicts of interest (discussed below)
- guidance on members' interactions with media and other stakeholders
- the role of the board in monitoring performance of the CEO (discussed above), and
- performance reviews for the board and its members (discussed above).

The charter should be a public document.

Recommendation 19: The Authority should establish clear policies governing:

- the risk appetite of the agency
- guidance for staff when exercising delegations (discussed below), and

- guidance for staff around reporting to the board.

Recommendation 20: The board could consider processes for members in relation to the management of conflicts of interests while gaining valuable relevant information.

Recommendation 21: Delegation instruments should be supported by guidance on how and when delegations should be exercised. This guidance should be written in light of the Authority's risk appetite, and reflecting the potential outcomes of different types of decisions.

Recommendation 22: The CEO with advice from the board should consider enhancing senior executive management capacity in support of the needs of the agency, including a clear second in command able to fulfil the duties of an acting CEO when the CEO is absent.

Recommendation 23: The board should regularly review and update the committee structures in place to support it with expertise and advice in relation to the major issues affecting the Marine Park.

Recommendation 24: The Authority should seriously consider establishing a broad-based, high-level stakeholder consultative committee for the provision of advice on stakeholder perspectives on matters affecting the management of the Marine Park.

CHAPTER 1. INTRODUCTION

Background to the review

It is now over 40 years since the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act) and the Great Barrier Reef Marine Park Authority were established to respond to the Royal Commissions' (into Exploratory and Production Drilling for Petroleum in the Area of the Great Barrier Reef) view that 'conflicting albeit legitimate interests and issues should go for review and decision to one statutory authority responsible to the appropriate Parliament or Parliaments' (AG and QG 1975, p. 962, paragraph 5.3.12).

The Authority, and the Marine Park that was also established by the GBRMP Act, have remained central to the Australian Government's efforts to protect and conserve the values of the Great Barrier Reef. Much has been achieved including:

- the development and application of a comprehensive zoning plan for the entire Great Barrier Reef Marine Park
- the development and application of detailed plans of management
- broad-based fisheries management and tourism controls

and in the last 10 years:

- development of the first two Great Barrier Reef Outlook Reports in 2009 and 2014
- development of the comprehensive Strategic Assessment of the World Heritage Area and adjacent coastal zone with the Queensland Government—the most complex and comprehensive analysis of environmental management arrangements ever undertaken in Australia
- implementation and updating of the Reef Water Quality Protection Plan, and
- development and initial implementation of the Reef 2050 Long Term Sustainability Plan, based on the Authority's strategic assessment.

It has however been 11 years since the governance framework of the Great Barrier Reef Marine Park Authority was last substantially reviewed as part of the review of the *Great Barrier Reef Marine Park Act 1975* (Borthwick 2006). That review recommended, based upon the circumstances then facing the Reef, a continuation of the executive management governance arrangements in place at that time (combined Chairperson/CEO with a small board). It also recommended that the legislation governing the financial management of the Authority be changed from the *Commonwealth Authorities and Companies Act 1997* to the *Financial Management and Accountability Act 1997*, and a number of other changes.

Importantly the review of the GBRMP Act also noted that the Authority's governance arrangements would be shaped over time by the changing needs of the Reef (Borthwick 2006).

That observation was prescient as over the last 11 years there has been enormous change in the Great Barrier Reef. This change is evident in the nature and scale of the growing pressures on the Reef (including the impacts of climate change, land based runoff impacting on water quality, coastal development and illegal fishing) and in the responses by governments, international and domestic organisations and individuals to address those pressures. On 7 March 2017, and in light of the changing circumstances facing the Reef and the challenges it faces as a consequence, the Minister for the Environment and Energy, the Hon Josh Frydenberg MP, announced an independent review of governance of the Great Barrier Reef Marine Park Authority.

The focus of the review was on the effectiveness of the role and composition of the Authority's board and its executive management arrangements in supporting the Authority's functions (see **Appendix A** for the full Terms of Reference), in the light of the pressures outlined above. The objective of the review is to ensure that the Authority's governance arrangements remain fit for purpose and continue to support the health and resilience of the Reef.

Terms of Reference

The Terms of Reference for the review, reproduced at **Appendix A**, call for consideration of how effectively the Authority's current governance arrangements support it to fulfil its functions as outlined in the GBRMP Act. Specifically, they seek to determine whether the corporate governance arrangements of the Authority (the roles and responsibilities of the Chairperson/CEO and other members of the board) remain appropriate given the dynamic nature of the Reef and the evolving landscape of institutions and programs.

For clarity, other aspects of the Authority's governance, including its legal nature, corporate structure and financial management framework, were not under review.

The review process

To determine stakeholders' views on the effectiveness of the Authority's current management arrangements a call was issued for public submissions. A background paper was released on 27 March 2017 to assist in the preparation of submissions¹. The submission period was open from 7 March to 7 April 2017. A list of entities from whom submissions were received is at **Appendix B**. Meetings were held with 55 Reef stakeholders and other statutory authorities. Meetings were held in Canberra, Brisbane, Townsville and Cairns between 14 March and 29 June 2017. These are listed in **Appendix C**. The review also included a review of governance literature and other matters affecting the Reef.

¹ This paper is available for reference at: <http://environment.gov.au/marine/gbr/authority-governance-review/consultation>.

CHAPTER 2. WHAT HAS CHANGED SINCE 2006?

This chapter explores scientific, environmental, social, institutional, economic and organisational factors relevant to the Authority and how they have fundamentally changed the Authority's operating environment over the last 11 years. It provides the background for consideration of the future governance arrangements most suited to address the challenges and needs of the Authority discussed in Chapter 4.

Threats to the Reef

The most recent Outlook Report indicated that the Great Barrier Reef 'is an icon under pressure' (GBRMPA 2014b, p. v), concluding that:

Even with the recent management initiatives to reduce threats and improve resilience, the overall outlook for the Great Barrier Reef is poor, has worsened since 2009 and is expected to further deteriorate in the future. Greater reductions of all threats at all levels, Reef-wide, regional and local, are required to prevent the projected declines in the Great Barrier Reef and to improve its capacity to recover. (GBRMPA 2014b, p. vi)

This decline is despite some positive results from management investments, including measurable reduction in pollutant loads entering the Reef and improved Traditional Owner control of dugong and turtle hunting. The Outlook Report also notes increasing populations of humpback whales, estuarine crocodiles, loggerhead turtles and the southern stock of green turtles following past significant declines (GBRMPA 2014b).

Similarly, the Strategic Assessment found that:

[T]he outstanding universal value of the World Heritage Area remains largely intact and the Reef remains one of the most resilient tropical marine ecosystems in the world. However, the accumulation of impacts through time and over an ever-increasing area is diminishing the Reef's health (GBRMPA 2014c, p. 2)

and that:

[T]he overall health of the Reef ecosystem, especially inshore in the southern two-thirds of the [GBR] Region, has declined significantly and critical habitats such as coral reefs and seagrass meadows are in poor condition. Habitats in the north, further offshore and in deeper water, have been subject to fewer impacts and are believed to remain in good condition [...]. (GBRMPA 2014c, p. 9)

The Outlook Report found the greatest risks to the Reef are cumulative, long term threats including climate change, pollution runoff from the catchment arising from large scale and historic land use changes (primarily agriculture), an increasing scale of development within the coastal zone, and some remaining impacts from fishing, illegal fishing and poaching (GBRMPA 2014b).

These threats originate primarily beyond the boundaries of the Marine Park and have cross-jurisdictional, national and international policy implications. This represents a significant change from 2006 when the dominant issues facing the Reef included the increasingly clear connection between commercial and recreational activities and ecosystem conservation (Borthwick 2006) and management remained primarily within the Authority's control.

Of the threats to the Marine Park, the 2014 Outlook Report noted that climate change was the most serious (GBRMPA 2014b). Sea temperatures are rising, a trend that is expected to continue and lead to an increased risk of mass coral bleaching, gradual ocean acidification and more intense weather events (GBRMPA 2014b).

Since the release of the Outlook Report and Strategic Assessment in 2014, the condition of the Reef has continued to decline. In 2016 and 2017 the Reef experienced its most severe mass coral bleaching to-date, triggered by record-breaking global sea surface temperatures (GBRMPA 2016c, 2017c). Coral bleaching in 2016 killed an estimated 29 per cent of the Reef's shallow water corals, mainly in the previously pristine northern region (GBRMPA 2017e).

Unprecedented back-to-back bleaching in 2017 was also extensive and while the full impacts are still being assessed, further substantial coral mortality is expected, particularly in the central region (GBRMPA 2017c). Tropical Cyclone Debbie in 2017 impacted around one quarter of the Reef, and coral mortality is expected to be high in the central region (GBRMPA 2017e). It was the tenth severe category cyclone to affect the Reef since 2005.

Key developments affecting the Authority

Developments with a significant effect on the Authority began soon after the completion of the 2006 review with a series of amendments to the GBRMP Act. These amendments sought to:

- establish the five-yearly Great Barrier Reef Outlook Reports
- increase transparency for development of zoning plans
- require public reporting of any directions from the Minister to the Authority, and
- replace the statutory Great Barrier Reef Consultative Committee which provided advice to the Minister and the Authority, with a non-statutory Ministerial Advisory Committee.

Amendments to the GBRMP Act and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) established the Marine Park as a trigger (called a 'matter of national environmental significance') under the EPBC Act. This means that, as well as the permit requirements of the GBRMP Act and Regulations, activities inside the Marine Park that are likely to have a significant impact on the environment, and those outside the Marine Park that are likely to have a significant impact on the environment of the Marine Park or other

nationally protected matters must be assessed and approved with the same processes used under the EPBC Act (Department of the Environment, Water, Heritage and the Arts 2009).

The amendments streamlined application and assessment processes in cases where a decision is required under both Acts (Department of the Environment, Water, Heritage and the Arts 2009). These changes included the requirement for a decision to be made by the Australian Minister for the Environment under the EPBC Act prior to a decision by the Authority under the GBRMP Act (subsection 37AB(2) of the GBRMP Act).

Of the amendments to the GBRMP Act arising from the 2006 review, the requirement for the Authority to publish the Great Barrier Reef Outlook Report every five years was particularly significant. The Outlook Reports draw together research and information from a wide range of organisations and individuals and provide the results of improved monitoring, assessment and analysis of the Marine Park's management. The first Outlook Report was published in 2009 and significantly increased understanding and awareness of the condition, threats and effectiveness of management practices for the Great Barrier Reef. The Outlook Reports are prepared independently by the Authority and must be tabled by the Minister within 15 sitting days.

Significant events outside but adjacent to the Marine Park between 2010 and 2012 included:

- approvals granted by the Minister for the Environment (in 2010 and 2011) to construct three liquefied natural gas processing plants at Curtis Island near Gladstone, and
- leaking of dredge spoil from a bund wall at the Port of Gladstone dredging project (2011-2012).

The Curtis Island development and Port of Gladstone dredge spoil leaks led to increased concern from the United Nations Educational, Scientific and Cultural Organisation (UNESCO) World Heritage Committee regarding management of the Great Barrier Reef World Heritage Area.

As a result, in 2012, UNESCO and the International Union for Conservation of Nature (IUCN) significantly increased their scrutiny on management of the Marine Park by undertaking a joint monitoring mission to the Reef. The mission led to requests by UNESCO and IUCN in 2012 for the Australian Government to undertake a range of measures to retain the Outstanding Universal Value of the World Heritage Area and keep it off the List of World Heritage in Danger.

Between 2012 and 2014, and in response to the enhanced scrutiny from UNESCO and IUCN, the Authority and the Queensland Government undertook a strategic assessment of the World Heritage Area and adjacent coastal zone. It was the most complex and comprehensive analysis of environmental management arrangements undertaken in Australia (GBRMPA 2014c) and significantly improved knowledge and awareness of the values of the Reef, threats to those values and the actions required to protect them.

In 2014 the Authority also published the second Outlook Report which noted that the overall outlook for the Reef was poor, had worsened since 2009 and was expected to deteriorate further.

In December 2013 further development approvals were granted by the Minister for the Environment under the EPBC Act for expansion of the Abbot Point Coal Terminal and dumping of capital dredge material in the Marine Park. Approval for the dumping of capital dredge material in the Marine Park was also granted by the Authority under the GBRMP Act in January 2014, noting that after the 2009 amendments, the Federal Minister must make the first decision, and the Authority's decision must then have regard for the Minister's decision.

The Authority's approval of the dumping of dredge material from port expansion at Abbot Point, made after the Minister's EPBC Act approval, drew significant attention to the independence of its decision making and its role as manager of the Reef. This was the first major decision of the Authority taken after amendments to the GBRMP Act and EPBC Act (discussed above).

Concerns regarding the Authority's decision on Abbot Point were widely reported in the media at the time and were subsequently examined as part of a broader Senate Inquiry in 2014 into the adequacy of the Australian and Queensland Governments' efforts to stop the rapid decline of the Great Barrier Reef (Senate Standing Committee on Environment and Communications 2014).

In May 2014 under the GBRMP Act, and under delegated authority under the *Environment Protection (Sea Dumping) Act 1981*, the Authority granted permission to NQ Bulk Ports Corporation for the dumping of a lesser amount of maintenance dredge material from the Port of Hay Point in the Marine Park. This decision was subsequently challenged through the Administrative Appeals Tribunal by the North Queensland Conservation Council and Australian Marine Conservation Society. This challenge was discontinued after discussion with the Authority. Despite the challenge, the decision on the Port of Hay Point attracted significantly less public and stakeholder scrutiny than the decision regarding Abbot Point.

As a result of increasing numbers of major development proposals by Queensland ports the Authority initiated a ban on the dumping of capital dredge material in the Marine Park in 2015.

In 2015, the Australian National Audit Office (ANAO) undertook an audit of the Authority's granting of permits and approvals as part of its annual audit program. It identified shortcomings in the Authority's regulatory processes and practices. The audit found that:

In relation to the regulation of permits, identified shortcomings² in GBRMPA's regulatory processes and, more particularly, its regulatory practices have undermined

² The audit identified shortcomings in the Authority's assessment of permit applications, monitoring of permit holder compliance and response to non-compliance.

the effectiveness of the permitting system as a means of managing risks to the Marine Park. (p. 15)

The Authority has since reported to the Joint Committee of Public Accounts and Audit on how it has addressed ANAO's concerns (Joint Committee of Public Accounts and Audit 2017).

Also in 2015, the Australian Government released its inaugural White Paper on Developing Northern Australia including key policies and initiatives to increase growth such as improved use of land and water resources, reduced regulatory burden and investment in infrastructure.

Planning for development of the Carmichael coal mine by Adani Mining in the Galilee Basin in Central Queensland (from 2010 to present), has continued to focus attention on the condition and management of the Reef. The proposed mine includes the development of a rail line to the coast and expansion of the port facilities at Abbot Point (Adani Mining n.d.).

As a result of the declining condition of the Reef, the Carmichael mine has become a proxy for debate on broader national and international issues, including energy policy, developing Northern Australia, and climate change. This has been particularly apparent following recent mass bleaching and extreme weather events (Hannam 2017).

With heightened domestic and international scrutiny on the condition and management of the Reef, both the Australian and Queensland Governments have made substantial efforts to establish new institutional frameworks for cohesive shared action in managing the future of the Reef and to significantly grow and deliver the resources required to achieve outcomes (Dale 2016). These efforts have built upon earlier initiatives such as the Reef Water Quality Protection Plan, established in 2003 and updated in 2009, 2013 and is currently under review.

The Reef 2050 Long Term Sustainability Plan, released in March 2015, now forms the overarching framework for protecting and managing the Great Barrier Reef and responds to recommendations of the UNESCO World Heritage Committee. It draws together a number of Australian and Queensland Government initiatives for protection of the Reef, addresses findings of the Authority's Outlook Report 2014 and draws significantly from the Authority's Strategic Assessment of the World Heritage Area and Queensland's assessment of the adjacent coastal zone.

Development and implementation of the Reef 2050 Plan is being led by three government agencies – the Great Barrier Reef Marine Park Authority, the Australian Government Department of the Environment and Energy (the Department) and the Queensland Government Department of Environment and Heritage Protection – and includes significant input from more than ten other partner organisations from other Australian and Queensland agencies, science and research organisations, natural resource management organisations, local government, industry bodies and non-government organisations.

In support of the Reef 2050 Plan and other management actions there has also been a significant increase in Australian and Queensland Government investment in Reef conservation. This has included funding for identified priority areas such as improved water quality and coastal habitats, control of crown-of-thorns starfish outbreaks and protection of threatened and migratory species. Investment has also recently increased for implementation of recommendations from the Queensland Government's Great Barrier Reef Water Science Taskforce and implementation of other actions within the Reef 2050 Plan.

The Reef 2050 Plan Investment Framework released in 2016 shows that more than \$1.28 billion has already been committed across governments, industry and the community, for the next five years (AG and QG 2016).

In addition to development of the Reef 2050 Plan, the Australian and Queensland Governments, including the Authority and the Australian Maritime Safety Authority, have also implemented other key policy responses to management of the Reef. These include releasing the North East Shipping Management Plan, banning disposal of dredge material from capital dredging in the Marine Park and extending this ban to cover the rest of the World Heritage Area, and restricting new port development in and adjoining the World Heritage Area (AG and QG 2015c; Department of State Development 2016).

As programs, funding and other policy responses targeted at the protection of the Reef have increased, arrangements governing the relationship between the Australian and Queensland Governments have necessarily evolved.

The *Great Barrier Reef Intergovernmental Agreement* (AG and QG 2015a) replaced the original Emerald Agreement of 1979. It recognises that key pressures on the Reef cannot be effectively addressed by either Government on its own and provides a contemporary framework for the Australian and Queensland Governments to work together. The agreement was updated in 2009 following the 2006 review and again in 2015 to recognise challenges such as climate change and catchment water quality that were not foreseen at the time of the first intergovernmental agreement (AG and QG 2015a).

Implementation of the Intergovernmental Agreement is overseen by the Great Barrier Reef Ministerial Forum. The Forum is made up of two ministers from each Government and supported by a Standing Committee of Officials. The Ministerial Forum is now supported by two key independent advisory bodies and a steering group. One of those advisory groups is the Reef Advisory Committee (RAC) of stakeholders, established to provide advice on the Reef 2050 Long Term Sustainability Plan, adding to the complexity of the Reef governance framework.

Changes in scope of functions and resources

The core legislated functions and objectives of the Authority have not changed since the review of the GBRMP Act in 2006. However, despite stability in its core functions, the scale and complexity of the tasks undertaken by the Authority has increased significantly while

overall staffing levels have remained constant and in recent years the number and level of officers in senior management support has diminished.

Since 2006, research, monitoring and reporting has become a key and increased focus of the Authority, particularly as a result of the five yearly Outlook Reports, recommended by the 2006 review. The Authority is now undertaking a significant leading role in the Reef 2050 Integrated Monitoring and Reporting Program, which draws together and builds on multiple existing monitoring and reporting systems to measure and assess performance against actions in the Plan (GBRMPA 2016a). The Program, combined with requests by the UNESCO World Heritage Committee for inclusion of heritage assessments, has resulted in an increasing body of work to assess and measure indicators relating to social, economic, and heritage factors.

Recommendations from Outlook Reports, the Strategic Assessment, the ANAO audit (2015) and commitments within the Reef 2050 Plan, have also seen the Authority commit to a number of new work streams, including strengthening permitting and compliance systems and implementing a Reef Recovery Program. The Authority’s commitments also include developing a suite of policy documents, in collaboration with other Australian and Queensland Government agencies, for assessing and managing cumulative impacts, delivering net environmental benefits and implementing offsets.

Total Number of actions in the Reef 2050 Plan	139
Reef 2050 Plan actions being implemented by the Authority as the lead Agency	37
Reef 2050 Plan actions being implemented by the Authority as a partner agency	57
Number of other organisations involved in implementing the Reef 2050 Plan	13+

Table 1. Reef 2050 Plan actions involving the Authority (AG and QG 2015b).

In addition to these new activities are increases in ongoing operational matters and Marine Park management activity through increased visitation, recreational fishing, shipping movements, reported offences, complexity and number of permit applications, increase in Traditional Use of Marine Resources Agreements with Indigenous Owners, and expansion in the Reef Guardians education and communications program (GBRMPA 2006, 2014a, 2016a, 2017b, 2017f).

In 2016, the Authority led a significant coordinated response to mass bleaching of the Reef, including to conduct the agency’s largest ever series of in-water surveys, multiple briefings, public forums and media interviews (GBRMPA 2016a). A similar response was not undertaken for the mass bleaching in 2017 due to lack of resources.

In the future, factors including demographic changes on the Queensland coast, increased resource and agricultural development and more frequent coral bleaching and storm events suggest further increases in business as usual activity associated with the Authority’s ongoing responsibility for management of the Marine Park. The population of Queensland’s coast along the Reef, for example, is projected to increase from 1.1 million in 2016 to 1.5 million by

2036 (The State of Queensland 2016b). As a result, increasing coastal development impacts and reef visitation are likely to add to pressure on the Reef.

This growth in activity is reflected in the Authority's budget which has risen 34% in the ten years to 2015-16 (from \$38.5 million to \$51.7 million³). This increase was to deliver a range of specific programs and activities through grant funding which were largely outsourced. Staff levels by comparison have remained relatively stable with 192 full time equivalent employees in 2006, a peak of 222 employees in 2013 and a decrease to 208 at the end of 2015-16. While annual funding increased, funds available for staff did not, and led to a decline from 222 to the current 208, as departmental funds available for core staffing decreased in real terms. A retiring SES band 1 was also not replaced due to budget constraints (GBRMPA 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013a, 2014a, 2015a, 2016a).

Recent Portfolio Budget Statements show an increase in estimated total resourcing for the Authority to \$107.5 million in 2016-17 and \$117.8 million in 2017-18 (Department of the Environment and Energy 2016, 2017). This increase in estimated resourcing is due to the Authority receiving a legal settlement for remediation activities relating to the 2010 grounding of the *Shen Neng 1*, as well as additional funding announced in the Mid-Year Economic and Fiscal Outlook 2016-17.

Key changes in the Authority's operating environment since 2006, including major decisions and events impacting on the Authority staffing numbers, operating revenue and estimated budget as discussed above are depicted in Figures 1 and 2 below.

³ The increase was to deliver a range of programs and activities through grants from Reef Trust, the National Landcare Programme and Department of the Prime Minister and Cabinet and deliver key programs including activities to support 'Ensuring the Resilience of the Reef', Marine Monitoring Program, Land and Sea Country Partnerships Program, Specialised Indigenous Rangers Program and the Integrated Monitoring & Reporting Program.

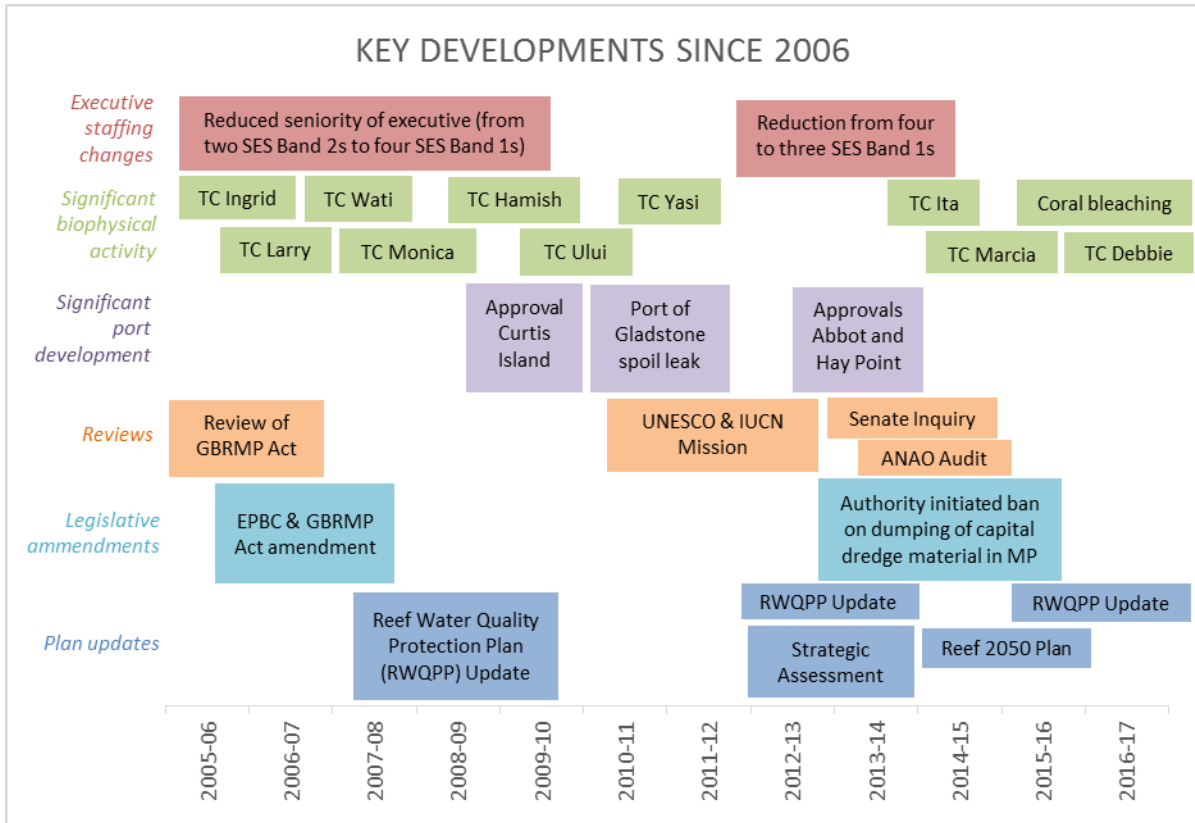


Figure 1. Key developments since 2006

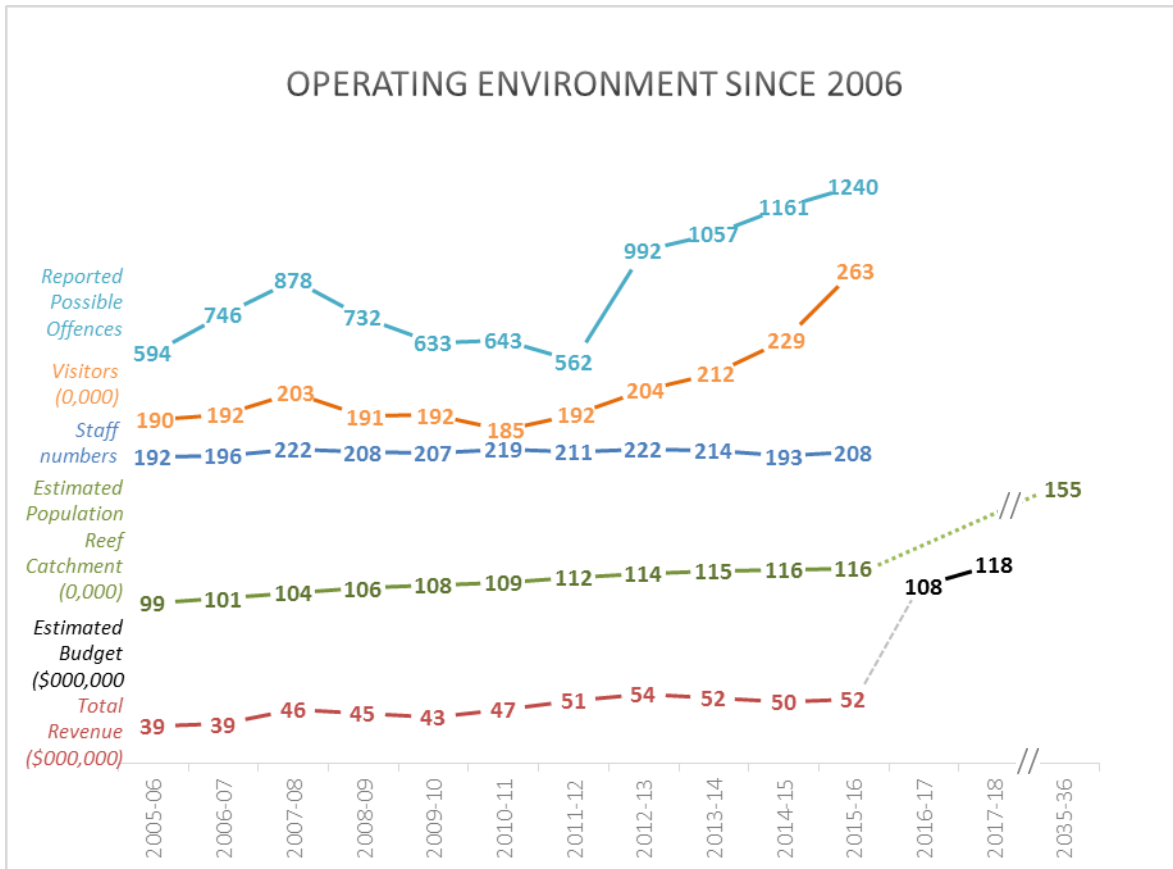


Figure 2. Operating environment since 2006 (Department of the Environment and Energy 2016, 2017; GBRMPA 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013a, 2014a, 2015a, 2016a, 2017f, The State of Queensland 2016a, 2016b).

CHAPTER 3. CURRENT GOVERNANCE ARRANGEMENTS

Governance of the Authority

The Great Barrier Reef Marine Park Authority is established by the *Great Barrier Reef Marine Park Act 1975* to advise and act on behalf of the Australian Government in relation to the establishment, control, care and development of a marine park in the Great Barrier Reef Region. The GBRMP Act establishes the boundaries of the Great Barrier Reef Region and empowers the Governor-General to proclaim areas within to be part of the Marine Park.

The functions and powers of the Authority are set out in the GBRMP Act and include:

- advising and making recommendations to the Minister for the Environment in relation to the care and development of the Marine Park, including proposing areas for inclusion in the Marine Park and regulations that should be made under the GBRMP Act
- developing zoning plans and plans of management
- managing the Marine Park cooperatively with the Queensland Government. This includes permitting and approval functions and enforcing the GBRMP Act and supporting legislation
- carrying out and arranging research relevant to the Marine Park, and
- providing or arranging for the provision of education, advisory and informational services relating to the Marine Park.

There is also a web of other legislation, both state and federal, that governs activities relating to the Reef (see **Appendix D**).

Functions, powers and delegations

The *Great Barrier Reef Marine Park Act 1975* provides the Minister and the Authority with a range of powers and functions. The Minister's powers and functions include providing general directions, recommending the addition of areas to the Marine Park following consideration of a report prepared by the Authority, approving principles relating to and accepting zoning plans, establishing and seeking enforcement of undertakings and directions, and matters relating to intergovernmental agreements. The Minister also has responsibility for receiving board members' declarations of conflicts of interest and approving the Chairperson's leave.

In general, the Minister is able to delegate all of these responsibilities, except those relating to the addition of areas to the Marine Park, the removal of areas of the Marine Park and acceptance of zoning plans (the latter subject to Parliamentary disallowance) and some matters relating to the making of emergency and enforceable directions. In practice, the Minister has delegated most of the powers and functions that may be delegated with

exceptions in relation to acting appointments to the Authority and certain powers relating to compulsory pilotage.

The role and composition of the board

The Authority comprises the Chairperson and between two and four other members, often referred to informally as 'the board'. Members are appointed by the Governor-General. The Chairperson is also the 'agency head' for the purposes of the *Public Service Act 1999*, and the 'accountable authority' for the purposes of the *Public Governance, Performance and Accountability Act 2013* (Cth), meaning he or she is accountable for the operations and performance of the staff of the Authority under both Acts, and is not subject to direction of the board in relation to these functions. These legal requirements and the fact that the Chairperson is the only full time member of the board means that the Chairperson is also the Chief Executive Officer, although this position is not specified in the Act.

The role of the Authority, in practice, is to ensure the efficient and effective performance of its functions, as set out in the *Great Barrier Reef Marine Park Act 1975*. In fulfilling this role the Authority must act consistently with the Government's expectations in regard to performance, objectives, values and broader Government policies. These expectations may be communicated by the Minister either through formal Statements of Expectations or through general directions issued in accordance with the GBRMP Act. The powers of the Authority are performed collectively, meaning that decisions require the support of a majority of members with the Chairperson having a casting vote where necessary, in addition to a deliberative vote.

The Authority is also able to delegate or sub-delegate any of its functions or powers, including those delegated by the Minister, to the Chairperson or certain other employees of the Commonwealth and Queensland Governments (section 47 of the GBRMP Act). In practice, functions relating to day-to-day regulatory activities, such as assessing applications for permissions and issuing infringement notices, have been delegated to officers and middle managers. **Appendix E** outlines the delegations of functions and powers currently in place.

Members are required to have 'qualifications or extensive experience in a field related to the functions of the Authority' set out in subsection 10(6) of the GBRMP Act. Additionally, one member must be an Indigenous person with knowledge of or experience concerning indigenous issues relating to the Marine Park, another member must have knowledge of or experience in the tourism industry associated with the Marine Park, and the Queensland Government is invited to nominate a member.

Operations of the board

Arrangements governing the operation of the board are established under legislation and by the Authority. For example, the Chairperson (as the accountable authority) has established an audit committee with an independent Chair, as required under the PGPA Act.

The GBRMP Act provides direction in relation to meetings of the Authority (section 17) and decisions without meetings (section 18). The Authority has put a range of further measures in place to support and guide the operations of the board including an induction pack; disclosure of Material Personal Interests processes; arrangements for Authority meetings; organisational structure and reporting arrangements; advisory committees; and delegations. The board meets on average four times per year. Summaries of board meetings are placed on the Authority's web site.

There are currently no performance evaluation processes in place to support ongoing monitoring of the effectiveness of the board.

The Department of the Environment and Energy is responsible for recruitment processes for members although no formalised process currently exists. General guidance provided by the Australian Public Service Commission (APSC 2012b) and in the Cabinet Handbook (DPMC 2016a) has been utilised to support recruitment activity.

Arrangements to support the Authority

The Authority is supported in its role by staff employed under the *Public Service Act 1999* (Cth). For the purposes of the Public Service Act the staff of the Authority, together with the Chairperson, constitute a 'statutory agency' of which the Chairperson is the head. The Authority is a non-corporate listed entity under the PGPA Act, for which the Chairperson is the accountable authority. As previously outlined, the Chairperson is not subject to direction by the other members of the Authority for responsibilities relating to the management of the agency under the PGPA and Public Service Acts.

In 2015-16, the Authority and Chairperson were supported by 208 staff including three Senior Executive Service Band 1 officers, or General Managers, working directly to the Chairperson (GBRMPA 2016a). Each General Manager oversees a branch of the agency focussing on *Biodiversity Conservation and Sustainable Use, Great Barrier Reef Operations, or Policy and Stewardship* (GBRMPA 2016a). In addition to the General Managers, an Executive Level 2 officer performs the role of *Chief Operating Officer and Chief Finance Officer*. This position reports directly to the Chairperson. Figure 3 (below) depicts the current organisational structure and reporting arrangements.

In 2008, the Authority underwent a major organisational restructure which saw the replacement of the two Executive Directors (Senior Executive Service (SES) Band 2) by four General Managers (SES Band 1). No SES Band 1 positions existed prior to the restructure (GBRMPA 2009). This senior management structure remained until 2013-14 when one of the General Manager retired and was not replaced. Corporate Services are distributed across all the executives, with Finance and Human Resources being managed by one Executive Level 2 employee (GBRMPA 2014a, 2016a).

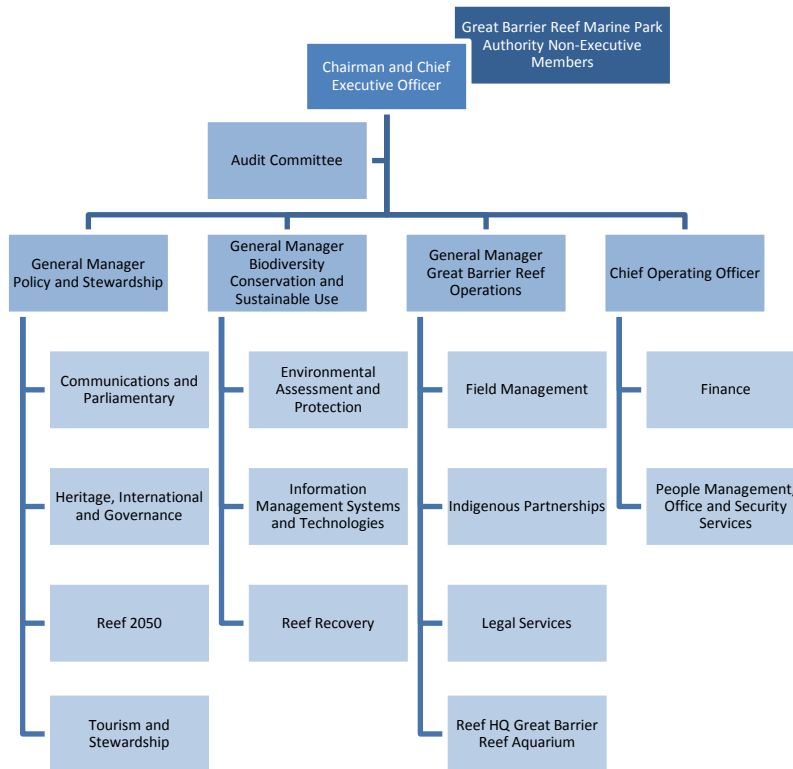


Figure 3. Organisational structure of the Authority and its staff (GBRMPA 2016a, p. 16)

Stakeholder arrangements

In addition to the staff of the agency, the work of the board is supported by two Reef Advisory Committees and twelve Local Marine Advisory Committees. These serve as mechanisms for involving local communities and stakeholders in the management of the Marine Park.

The purpose of the Local Marine Advisory Committees is to:

- improve the involvement and support of local communities in the management of the World Heritage Area
- advise the Authority and other agencies on issues and policies
- facilitate communication between user groups in the local community and
- promote the exchange of information and raise awareness of issues impacting on the Reef ecosystem. (GBRMPA 2017a)

Local Marine Advisory Committees enable local communities to have input into managing the Marine Park in their regions. These groups are intended to provide a forum for local action, with Authority staff attending meetings and reporting any relevant information to senior management.

The purpose of the Reef Advisory Committees is to advise the board on actions that can be taken to address the risks to the Great Barrier Reef Marine Park that are identified in the

Great Barrier Reef Region Strategic Assessment Report and Program Report and the 2014 Outlook Report (GBRMPA 2017d).

The Reef Advisory Committees are competency based, comprising a cross section of stakeholder interests with expertise and experience in relevant areas. There are currently Reef Advisory Committees for Indigenous and tourism related matters. The board is provided a summary of the outcomes of each Reef Advisory Committee meeting, and the Committee Chairs each attend at least one board meeting per year.

Accountability

The Authority is accountable to the Government and public through the same mechanisms that apply to other government bodies, including those set out within the PGPA Act. These include the establishment and operation of an independent audit committee, record-keeping, annual reporting and involvement in Senate Estimates hearings. For example, section 46 of the PGPA Act requires the annual reports of a non-corporate Commonwealth entity to include reports on its overall and financial performance, management and accountability, and a review by the accountable authority. The Authority is also subject to audit by the Australian National Audit Office.

In addition, the Authority is required to provide information, recommendations and advice to the Minister on the management of the Marine Park, as necessary, meaning that the Minister can seek briefing on the operations of the Authority at any time.

Further accountability is included within the *Great Barrier Reef Marine Park Act 1975* and associated regulations in the form of formal decision review processes, with certain decisions ultimately being eligible for review by the Administrative Appeals Tribunal or the Federal Court.

CHAPTER 4. CHALLENGES FOR THE FUTURE AND LIMITATIONS OF CURRENT GOVERNANCE PRACTICES

Adapting to a changing ecology

Of the threats to the Marine Park, the 2014 Outlook Report stated that climate change was the most serious (GBRMPA 2014b). Sea temperatures are rising, a trend that is expected to continue and lead to an increased risk of mass coral bleaching, gradual ocean acidification and more intense weather events (GBRMPA 2014b).

There is extensive scientific literature on the outlook for coral reefs in a changing climate with modelling showing that preserving more than 10 per cent of coral reefs worldwide would require global warming to be limited to below 1.5 degrees Celsius relative to pre-industrial levels (Frieler 2013). Recent assessments predict that globally reefs could experience temperature induced bleaching events twice per decade by 2020 and annual bleaching events could occur by mid-century, subject to local variability (van Hooidonk 2013).

A recently released report by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) states that '[w]arming is projected to exceed the ability of reefs to survive within 1-3 decades for the majority of World Heritage sites containing coral reefs, and the impact is aggravated by the additional pressures such as ocean acidification and local stressors' (Heron 2017, p. 9).

The Great Barrier Reef is unlikely to be immune from the influence of these changes even with its status as the best managed marine park in the world and the enhanced efforts by governments to improve its resilience. The unprecedented bleaching of the past two years is already occurring from a 0.7 degree rise in the last century (Dr Russell Reichelt 22 May 2017).

Global ocean warming, oceanic heatwaves and mass coral bleaching are causing rapid change and a large-scale shift in the Reef's ecosystem and this is already beginning to challenge the Authority's philosophy for the management of the Reef. Following formation of the Marine Park, management focussed primarily on conservation and sustainable use. In recent years management has also come to include a focus on protection and boosting the resilience of the Reef to allow it to better withstand external threats and recover naturally. In the future there is likely to be an increasing need to adopt management practices to actively assist the Reef to adapt and recover (Dr Russell Reichelt 22 May 2017).

For example, for the first time, the Authority has recently temporarily lifted bans to allow tourism operators to 'tip corals', or physically turn the coral to an upright position, to reduce coral loss following major disturbance from Tropical Cyclone Debbie (Dr Russell Reichelt 22 May 2017). This and other actions beginning to be considered by the Authority to boost the rehabilitation, resilience and abundance of corals (such as encouraging heightened settlements of coral spawn and more rapid regrowth of corals) represent a fundamental change in management of the Marine Park.

Leading and implementing this transition in Marine Park management is a significant undertaking that will challenge the Authority's capacity to adapt, to facilitate community debates and understanding and to co-ordinate management actions with other Reef related organisations.

It may also require the Authority to embrace new ecosystem statistics and modelling methods, which enhance ecological forecasts and quantitative risk management to guide its interventions. Here there may be scope to learn from the experience of other offshore sectors for analyses and forecast models to quantify complex engineering and environmental risk management objectives, standards, acceptance or performance criteria. Application of these techniques to quantitative risk management practices will enhance planning, decision making and cost allocation (R Steedman 2017, personal communication, 7 June).

The changing ecology of the Reef is also likely to have far reaching consequences for the businesses and industries dependent upon it. Surveys of tourists undertaken following coral bleaching in 2016 show that '[...] if severe coral bleaching continues, Great Barrier Reef tourism areas are at risk of losing over 1 million visitors per year and 10,000 tourism jobs.' (The Australia Institute 2016, p. 1). If more of the Reef is damaged, there is likely to be increased pressure from tourists and operators as well as other users for access to a more limited resource. Over time there is a significant risk that Reef dependent businesses and industries will be affected.

Such substantial impacts within the Reef community will place significant pressure on the Authority to reconcile the interests of legitimate but competing uses with conservation objectives and the desire for greater prioritisation of access to high-value Reef resources. This has the potential to include a requirement to revisit the current Marine Park zoning arrangements. It may also necessitate a greater role for the Authority in educating and assisting the community, Reef users and Reef-dependent businesses to adapt and adjust to the impacts of climate change and a changing reef.

Decline in the condition of the Reef, and impacts on reef dependent communities is also expected to result in ongoing, if not increasing domestic and international scrutiny including from UNESCO. This will require a continuation of the increased role the Authority has played in recent years to advise and assist in responding and representing the Reef on both the domestic and international stage. The adaptation of management responses to the changing circumstances of the Reef will also continue to require the Authority to inform and contribute to the implementation of policy and programs at the local, state and national level.

Addressing impacts beyond the Marine Park

As outlined in Chapter 2, since 2006 pressures on the Marine Park external to or transcending park boundaries and with cross-jurisdictional, national and international policy implications have increasingly asserted themselves as the dominant threats to the Marine Park. Climate

change, poor water quality from land based run off, and the increasing scale of coastal development, along with the in-Park threat of illegal fishing, are now the dominant threats to the future of the Reef (GBRMPA 2014b).

This transition in the origins of the major threats to the Reef is largely responsible for the development of the broader and more active Reef governance framework encapsulated in the Great Barrier Reef Intergovernmental Agreement (AG and QG 2015a) and given effect in large part through the Reef 2050 Long Term Sustainability Plan (see Chapter 2). The Authority's purpose, to balance conflicting but legitimate interests and issues affecting the Reef, is increasingly shared among more organisations and groups. Relative roles and responsibilities between agencies have become less clear and stakeholders no longer view the Authority as the sole 'go to' agency on issues affecting the Marine Park. In the Commonwealth sphere alone, there are at least six entities with roles related to management of the Reef – the Authority, the Department, Australian Institute of Marine Science (AIMS), CSIRO, Bureau of Meteorology (BOM) and Australian Maritime Safety Authority (AMSA).

This confusion among stakeholders as to which agency is responsible for what has been exacerbated by other changes since 2006 including the overlap in processes leading to decisions under the EPBC Act and GBRMP Act and reporting obligations under the World Heritage Convention (see Chapter 2). Overall the Authority now operates in a much more complex environment.

The history of governance arrangements for the Reef, including the network of government and non-government organisations involved in its management has been analysed by Morrison (2017). This indicative analysis shows the Authority initially as the key decision maker, holding delegated responsibility for Reef governance and policy, but that over time, this network has evolved to become more complex and less centralised around the Authority (Morrison 2017).

A lack of clarity in relation to responsibilities and roles can have detrimental effects on an organisation including inefficiency through duplication of effort or critical tasks not being undertaken (Uhrig 2003, p. 25).

Limitations of current governance practices

The Authority's ability to respond to future challenges and meet stakeholder expectations for its conduct and performance is influenced by its governance arrangements and practices. The Authority's board and the position of Chairperson/CEO are key roles in the delivery of sound governance. The following observations are intended to help inform the development of the Authority's governance for the future and in no way reflect on past office bearers or current incumbents—indeed stakeholder feedback provides strong endorsement of the Authority.

As discussed in Chapter 3, three board positions have background requirements specified by the GBRMP Act (an Indigenous person with knowledge or experience relating to Marine Park

indigenous issues, a person with knowledge or experience relating to the Marine Park tourism industry, and a Queensland Government nominee). Although intended as a skills based board, the requirement for members with specific backgrounds could increase the risk that particular perspectives dominate board deliberations, particularly with a small board.

The size and therefore breadth of skills of the board also serves to limit the expertise and experience it can bring to bear in support of the agency and its staff given the wide range and nature of significant issues affecting the Reef. The legislated size of the board, despite the growth in scale and complexity of the issues and challenges facing the Reef, limits the scope of the board to provide national and international perspectives including potential new approaches in support of the agency. The frequency of board meetings (four meetings annually, see Chapter 3) may also constrain the board's ability to provide timely direction and advice.

The ability of the board to contribute to the overall operation of the agency may also be impacted by the delegations currently in place. Under the current arrangements the board has delegated most of the powers vested in it under the GBRMP Act to the Chairperson/CEO and staff of the agency (GBRMPA 2016b) (see **Appendix E**). The board's delegations of responsibilities are not currently accompanied by guidance on when matters should be escalated for consideration at higher levels. In practice this would appear to have diminished the extent to which the board is involved in the Authority's significant decisions. Board meeting summaries and agendas viewed suggest that the majority of items are for information or advice.

The current arrangements which vest the duties of the accountable authority in the Chairperson/CEO (rather than in the board as a whole) gives the board reduced authority to assert itself more actively in guiding the operations of the agency, while increasing the duties of the Chairperson/CEO.

In combination, the governance practices and restrictions outlined above appear to have created a sub-optimal relationship between the board and its staff. In particular they have contributed to the development of an environment in which the board does not appear to be as strongly valued as it might be or utilised to best effect.

In such circumstances it is inevitable that the Chairperson/CEO, and to a lesser extent the senior executive, is required to play an increased role in strategic leadership and management. It is difficult to see how concentration of responsibility in a small number of positions can provide the benefits of collective decision making and broad expertise that the Authority requires, in view of the challenges it faces.

Changes since 2006, particularly the increased international scrutiny and role of other Commonwealth agencies, have meant that the Chairperson/CEO has been required to spend proportionally greater amounts of time representing the Authority at the expense of internal

management. Management duties have been absorbed to a large degree by the senior executive, but appear to have been hampered by the absence of an unambiguous deputy and reductions in the number and seniority of the senior executive positions.

CHAPTER 5. STAKEHOLDER VIEWS

Overwhelmingly, stakeholders recognised and strongly supported the ongoing need for the Authority to serve as an independent, expert agency responsible for safeguarding the Great Barrier Reef, placing some distance between the political process and decision-making (Graeme Kelleher, Burnett Local Marine Advisory Council, Environment Institute of Australia and New Zealand, Australian Academy of Science). This reflected a broad recognition of the special values of the Reef, and the importance of an independent body able to build close relationships with the Reef community. This was frequently followed by admiration for the job that the Authority and specifically the Chairperson has managed to do in light of the changes to the operating environment, as discussed in Chapter 2.

However, certain issues recurred frequently in stakeholder representations to this review relating to the fit of the current governance model to the current prevailing needs of the Reef (see **Appendices B** and **C** for a full list of stakeholders consulted). In particular, these concerned the size and breadth of the board; leadership in relation to major issues affecting the Reef; role clarity relative to other government and non- government organisations; and independence of the Authority. The Australian Coral Reef Society noted that:

Since [the 2006 review], the uses of, and threats to, the Great Barrier Reef (GBR) have changed considerably. These changes highlight the need for the accompanying changes in governance of the GBRMPA [...] The governance of the GBRMPA must adapt to the changing threats and needs of the GBR and not be governed largely by previous threats that are now of low risk. (p. 1)

Overall, stakeholders considered there is significant scope for improvement in the capacity and effectiveness of the current board and that changes are necessary to enhance the Authority's standing as a trusted manager and regulator. In particular stakeholders expressed concern that the composition of the current board, while having valuable local skills, does not reflect the breadth of expertise required to manage the major issues affecting the Reef, that it is too small relative to its scope of functions, that it makes insufficient use of committee structures for access to advice, and that there is too much responsibility vested in the Chairperson/CEO. Stakeholders also expressed the view that the board appears to act primarily in an advisory capacity and not to be actively involved in major issues concerning the Authority.

An increase in the size of the board and a need to ensure the appointment of members with significant standing and profile and national/international perspectives was suggested by nearly all stakeholders consulted, along with a range of recommended skills and expertise. At the same time there was strong support for the retention of board members with backgrounds in Marine Park tourism, an Indigenous person with knowledge or experience in indigenous issues, and a representative of Queensland (for example, Global Change Institute, WWF Australia, Australian Marine Conservation Society, Australian Academy of Science).

The Queensland Ports Association ‘support any proposal to increase the capacity of the authority’s board. In particular, [they] believe that it is critical that the board contains a broad spectrum of qualifications and experience’ (p. 1), while the Australian Coral Reef Society recommends ‘expanding the membership of the Authority with provisions to include experts from a broader range of interest groups’ (p. 3).

Stakeholders suggested a wide range of additional skills that would be of relevance to the board, including science (Australian Marine Conservation Society, Burnett Local Marine Advisory Committee, WWF Australia, Global Change Institute, Australian Academy of Science), heritage (Australian Marine Conservation Society, Australian Academy of Science), natural resource management (Environment Institute of Australia and New Zealand Inc.), and industry (Queensland Ports Association). In addition, Diane Tarte suggested that:

the leadership of GBRMPA, including its Board and executive management team, need strategic capacity and significant outreach to influence a range of policy areas in addition to delivering a comprehensive range of programs to protect and effectively manage direct use of the GBR Marine Park. (p. 1)

Although stakeholders were extremely complimentary of the efforts of the current Chairperson, almost all of them supported separation of the combined Chairperson and CEO role into two positions. The scale and workload of the combined role, and the complexity of balancing the range of political, policy, executive and stakeholder pressures, were the main reasons provided for this view. A single position responsible for policy and operations in a remotely based agency with heavy travel demands was seen as no longer tenable.

It was noted that heavy demands on this position to build and maintain relationships with the Australian and Queensland Governments, for negotiations on complex issues, stakeholder engagement, and representational duties as well as legislated responsibilities have limited the capacity of the Chairperson to focus on management of the agency. It was also noted that over the last decade the challenges and demands associated with these functions have become significantly more complex and difficult. The role is too large for a single person. The added value of oversight and informal review by an independent Chairperson with less involvement in operational matters was noted by many. The three most recent incumbents of the Chairperson/CEO role support separating the roles.

The Australian Marine Science Association was concerned that ‘[a]s the demands on the GBR have increased, the position of Chair/CEO has become overstretched and is unable to perform both roles’ (p. 1). The Queensland Tourism Industry Council suggested that ‘[s]eparate individuals for these roles would ensure more formal exchange of information between the CEO and the Board and in decision making processes and provide greater clarity of respective roles and responsibilities’ (p. 1).

The operation of the current board, together with the pressures on the Chairperson/CEO, were considered by stakeholders to be important contributing factors in a range of perceived failures and frustrations with the effectiveness of the Authority's overall performance. Specifically, stakeholders conveyed a high level of frustration with lengthy delays to routine, low risk permit applications, and that decisions were inconsistent with the level of risk they posed to the Reef. There was also concern regarding instances in which board decisions, changes in strategic direction and oversight of administrative processes were reportedly met with some resistance from staff during implementation.

The Association of Marine Park Tourism Operators 'feels that the Board should be more actively involved in decision making, particularly when the decision will be controversial or if the decision is likely to be challenged in the courts or if the decision will impact significant investment' (p. 2), and particularly that '[d]ecisions like the permit to dump dredge spoil within the GBR at Abbott [*sic*] Point should be taken by the [Authority], not at a delegate of the CEO level' (p. 2).

The depth and breadth of skills and perception of the board as more advisory than decision making was also considered a key reason for a perceived 'loss of voice' by the Authority in relation to major issues affecting the Reef. During consultations, stakeholders expressed a strong desire for leadership from the Authority, particularly through its engagement with other organisations and government bodies on the key threats to the Reef and in the debate about future management strategies. Professor Richard Kenchington noted that:

Despite the 2050 Long-Term Sustainability Plan there appears to be confusion and some scepticism as to the focus of responsibility for the GBR. Subsequent legislation addressing environmental responsibilities for Commonwealth waters, Protected Areas and obligations under the World Heritage and Biological Diversity Conventions have reduced the focussing clarity of the concept of the GBRMPA as the statutory authority responsible for "review and decision advice on conflicting albeit legitimate interests and issues relating to the GBR." (p. 4)

While there was strong support for the Authority's role in communicating the impacts and consequences to the Reef following major events, such as coral bleaching and cyclones, there was concern among stakeholders that the Authority was too slow in responding to recent events, which allowed others to lead and shape public discussion.

The Authority's apparent loss of voice was also cited in stakeholder concerns about its perceived lack of independence. Many stakeholders considered that, through the increased role of the Minister and the Department in management of the Reef, the Authority was being too strongly controlled and directed.

In addition to these concerns, stakeholders consider changes to streamline the GBRMP Act and EPBC Act in 2009 have had a significant impact on the Authority's independence.

Submissions and interviews held in support of the review suggest stakeholders consider the requirement for the Minister to make a decision under the EPBC Act before the Authority makes a decision under the GBRMP Act makes it difficult for the Authority to adopt a contrary position.

This concern was exacerbated by a strong view that the Authority is uniquely qualified to lead and implement policies and programs for the Reef. For example, Dr Leanne Fernandes was concerned that 'At the moment, political imperatives are perverting the course of management decisions, actions and reporting of same away from [the GBRMP Act's] object' (p. 1).

Stakeholders have also observed that the Reef environment has become highly competitive with an array of organisations jockeying for roles and position. The number and competitiveness of organisations was offered by stakeholders as a rationale for the Authority's perceived 'loss of voice' on issues affecting the Reef and the change in the clarity of its status as the 'go to' agency on Reef and related issues. These observations suggest that role clarity is critical and that understanding whether there is any duplication of functions which might be performed only or better by others would be beneficial.

Stakeholders also raised a range of views that were out of scope of this review. These are summarised in **Appendix F**.

CHAPTER 6. FUTURE GOVERNANCE OF THE AUTHORITY

Conservation and management of the Great Barrier Reef has become an increasingly complex and challenging task over the last decade. This is likely to continue. The biophysical challenges and the institutional arrangements that have been established to respond to them require:

- an increasing need for intensive and specialised park management including a strong focus on building resilience and very likely developing new approaches
- cooperation and collaboration with the Australian and Queensland Governments in effective and integrated management of the Reef and its environment
- cooperation and collaboration with non-government individuals and organisations involved in Reef activities, and
- community confidence in the management and regulation of the Reef.

These requirements have not diminished the ongoing need for a dedicated statutory authority responsible for the care and management of the Marine Park. Statutory authorities have a specific and clearly defined range of functions and promote independence and objectivity through clear definition of relative roles and responsibilities, on behalf of government while reporting to government.

However, the strategic leadership and management capacity of the Authority have been under considerable stress as a result of the challenges that have arisen over the past decade. This chapter describes the governance models considered by the review to address this disjunct, then discusses the best fit model for the Authority and recommendations to give it effect.

Options considered by the review

Consistent with the governance models for public sector entities provided by the *Public Governance, Performance and Accountability Act 2013*, the review considered two broad options for the future governance of the Authority. These can be generally categorised as either ‘executive management’ or ‘governing board’. The key difference between the two approaches concerns executive level accountability (ANAO 2014).

Executive management arrangements

In entities with ‘executive management’ arrangements, the emphasis, even with a board, is on the responsibility for accountability and performance residing with the Head of the agency or chief executive (ANAO 2014). It is characterised by limited demarcation between those establishing strategy and those implementing it (Borthwick 2006). The Authority currently operates under an ‘executive management’ arrangement. The Authority is responsible for a range of functions under the Act. However, the Chairperson is the accountable authority for

the purposes of the PGPA Act and the agency head for the purposes of the Public Service Act and as the only full time member is also the CEO.

Within the executive management model, the review considered the extent to which the future needs and challenges of the Authority could be addressed by one or more of the following:

- maintaining the current arrangements (as outlined in Chapter 3)
- disbanding the board and establishing a Chief Executive Officer reporting directly to the Minister
- supplementing the Authority's board with additional skills and expertise
- separating the Chairperson/CEO role, and
- supplementing the agency's Senior Executive Service (SES) management capacity, with and without a Chief Operating Officer to support the Chairperson/CEO.

Governing board

In entities established under a 'governing board' model, a board of directors (or similar) governs the entity. Boards have wide ranging powers, which can extend to the appointment and removal of the chief executive, setting strategic direction, supervising management, defining the values and culture of the entity, managing and overseeing finance, human resource and risk issues, monitoring the performance of the entity and holding management accountable for its performance (GIA 2015b). Under the governing board model, the review considered:

- the roles that would be played by the Chairperson, CEO and board members, including the identity of the accountable authority for the purposes of the PGPA Act
- the size, composition and accountability of the board, and
- supplementing the agency's SES management capacity as above.

Consideration was also given to a range of other factors relevant to the effective operation of the board and agency regardless of the overarching model adopted. A more comprehensive description of all options considered by the review is at **Appendix G**.

Governance considerations

There is no definitive guidance to support the selection of an appropriate governance model for public sector entities and across the Australian Government different models are commonly employed.

Regulatory agencies such as the Australian Competition and Consumer Commission and the Clean Energy Regulator have executive management arrangements to ensure there is a single point of accountability. A number of policy advisory agencies (for example, the Productivity

Commission, Climate Change Authority) also have executive management arrangements. The Australian Institute of Marine Science and the CSIRO (scientific research organisations) have governing boards, where the board is the accountable authority⁴. The Murray-Darling Basin Authority, working on an interjurisdictional agenda, has a board which includes a part time chair and a full time CEO who is both the accountable authority and the agency head. Food Standards Australia New Zealand has a governing board which is the accountable authority. The CEO is a member of the board and is the agency head.

Despite the lack of definitive guidance, there is a significant body of literature which can help determine the most appropriate governance model for an organisation in light of its particular characteristics and circumstance (see summary of governance considerations for public sector entities at **Appendix H**). To inform consideration of the best fit governance model for the Authority, the review looked at the Authority's need for:

- collective decision making (AICD 2013d; ASXCGC 2014; Department of Finance 2017)
- public confidence in its operations (AICD 2013b; ANAO 2014; ASXCGC 2014; GIA 2016a, 2016b; Sinclair Knight Merz 2014; Uhrig 2003)
- the extent of government control over its operations (Department of Finance 2017; GIA 2015b; Uhrig 2003), and the range of its accountabilities.

The requirement for collective decision making

Guidance from the Department of Finance (2017) indicates that:

[...] a governing board is usually established for a body when collective decision making and diverse expertise, beyond what can be expected from one individual, are required to govern the body. (no page)

In the case of the Great Barrier Reef Marine Park Authority there is strong evidence to suggest that strategic management requires collective decision making and diverse expertise. Relevant considerations include:

- the Authority's functions are broad (see Chapter 3 and below), encompassing regulatory, scientific research, policy development and advice, program design and implementation, park management and inter-jurisdictional activities
- the demands on the Authority for its range of park management activities are increasing with population growth and new developments while the most significant impacts on the Reef are being driven by biophysical impacts and international,

⁴ It is noted that the CSIRO and Australian Institute of Marine Science differ from the Authority in that their staff are employed under their own enabling legislation rather than the *Public Service Act 1999*.

national and state level issues over which the Authority has minimal control. New ways of responding to these issues are likely to be required

- developments over the last decade have made the application of the Authority's functions more challenging and complex while their successful implementation is more imperative than at any other time in its history
- the Authority is one among many organisations (government and non-government) with a role in the management and future of the Reef. It has formal collaborative arrangements with the Australian and Queensland Governments and many other informal and formal arrangements with interest groups
- in light of the increasing impact of pressures on the Marine Park external to or transcending park boundaries, substantial effort is required by the Authority, in consultation with other Reef related organisations, to more clearly define, articulate and execute its specific contributions to: the provision of advice to governments and the international community; research, monitoring and reporting; communications and public awareness of matters affecting the Reef; and policy development and program implementation; and
- the health of the Reef has become a proxy for high profile issues such as climate change and there is a high degree of national and international scrutiny on its management and outlook.

Within this environment, leadership of the Authority currently entails a broad range of duties including:

- overseeing zoning and management of the Marine Park, especially in light of its rapidly changing ecology and the need to minimise external impacts including by developing new approaches
- providing expert advice to the Australian and Queensland Governments on management of the Marine Park and the impact of influences from outside its boundaries
- working with Queensland on the joint management of the Marine Park
- leading the Authority's engagement with the broader Australian Government in relation to major initiatives such as the Reef 2050 Long Term Sustainability Plan and other Reef programs
- managing the critical partnership with Queensland for water quality
- representing the Reef and its management to relevant international organisations
- maintaining effective cooperative and productive working relationships with senior Reef stakeholders and user groups from diverse industry and not-for-profit backgrounds in an increasingly crowded environment

- outreach and engagement with the broader Reef community, including on an increasingly important transition from conservation to intervention and risk focussed management
- coordination and oversight of Reef monitoring and research programs
- regulation of activities in the Marine Park, and
- leading and managing the agency.

Successfully fulfilling these roles requires international/national and state experience in addition to local perspectives. It also requires access to a diversity of skills and expertise. Areas of expertise that would be appropriate include public sector governance, strategic scenario planning; business and industry reflecting the broad economic uses of the Reef and Queensland coast; management of government organisations; relevant scientific fields including climate change, marine ecosystems and coastal ecology and social sciences; resource economics; and communications, education and community engagement.

The leadership requirements of the Authority have grown beyond the capacity of a single individual or that provided by the current governance arrangements (see Chapter 4). No combination of maintaining the Authority's current governance arrangements, disbanding the Authority's board and/or supplementing the SES (including a Chief Operating Officer) sufficiently address this situation.

Supplementing the Authority's existing board with some additional expertise would assist in the provision of diverse skills and supplementing board expertise and senior management with additional positions would considerably assist in responding to the challenges facing the Authority. However these options cannot guarantee collective decision making unless governance arrangements clearly establish new roles for the board with respect to the extent of accountability and authority currently vested in the position of Chairperson/CEO. Options which address this issue include the establishment of a governing board and, within the executive management model, the separation of the Chairperson and CEO positions.

If a governing board were established then it would assume responsibility for the full range of activities required for the operation of the Authority including its legislated functions and financial and human resource management. Relative to the current arrangements the roles of the board members would be significantly increased through additional responsibilities for management of agency, potentially distracting its focus from the major issues affecting the Marine Park. If the executive management model were retained, but the position of the Chairperson and CEO were separated, the Chairperson and board would be able to focus on the Authority's legislated functions with leadership and management of the agency provided by the CEO.

Enhancing confidence in the entity, its decisions and actions

Another consideration is that good public sector governance is achieved through arrangements which assist an entity to achieve its outcomes in such a way as to enhance confidence in the entity, its decisions and its actions (GIA 2016b).

Stakeholder consultations (see Chapter 5) have revealed concerns regarding the capacity of a combined Chairperson/CEO role, appointed by and accountable to the Minister, to maintain independence from the political discourse surrounding major developments and other issues affecting the Reef and to bring to bear the expertise required in support of high profile and controversial decisions on issues with competing interests. Although the review found no evidence to support this concern it is clear Reef stakeholders have reservations about the ability of the current governance arrangements to serve the best interests of the Reef or the Authority in the fulfilment of its legislated functions.

Key bases for stakeholder confidence in an organisation include transparency and proper process, and decision-making at an appropriate level of authority, drawing on a defensible evidence base and breadth of expertise.

Maintaining the current governance arrangements would not enhance or restore stakeholder confidence in the Authority, its decisions or actions while disbanding the board would likely increase stakeholder concerns. Supplementing the Authority's board with additional expertise would provide some additional assurance that the Authority was drawing on a broader range of relevant skills and advice. It would not however address stakeholder perspectives concerning the dominant responsibility of the combined Chairperson/CEO or the limitations on the independence of this position from the political discourse.

Regardless of the model, separating the roles of the Chairperson and CEO would serve to enhance public confidence through the diversification of leadership supported by a broader skills based board.

Extent of government control and range of accountabilities

Guidance from the Department of Finance (2017) indicates that '[a] governing board may be less appropriate for a body in which the government exercises a greater level of operational or policy control.'

Non-corporate statutory authorities, including the Authority, are intended to provide outcomes that the market would not ordinarily deliver. This inevitably affects the allocation of resources between competing interests and is a uniquely government role. Governments are elected on the basis of the policies, objectives and priorities that guide the performance of their role in the allocation of resources in a non-commercial environment and they are held accountable through electoral processes for the outcomes achieved (Borthwick 2006).

Government should therefore play a role in the governance of non-corporate statutory agencies. While the Government does not exercise a high degree of operational control over the Authority, executive management governance arrangements are well suited to this circumstance because they provide government with a role in the overarching objectives and priorities of the agency, while also preserving an appropriate level of independence. Executive management is then overseen by and accountable to government for performing the functions of the authority consistent with the identified objectives and priorities (Borthwick 2006; Uhrig 2003).

As the Review of the Great Barrier Reef Marine Park Act noted (Borthwick 2006):

In the case of the Great Barrier Reef Marine Park Authority, the Authority's functions are to provide advisory, regulatory, management and service delivery functions on behalf of the government. These activities are not commercial and carry implications for the community, the allocation of resources and the expenditure of public money.

In addition to its primary accountability to the Australian Government, the Authority also has responsibilities to the Queensland Government, its stakeholder and community groups and UNESCO regarding the World Heritage status of the Reef.

Uhrig (2003) suggests that a governing board is more appropriate for bodies with multiple accountabilities, however the nature of the Authority's functions, as seen in the broader context of government and accountability suggests that the executive management governance model remains appropriate for the future.

The best fit model for the Authority

In the future, governance of the Authority will require collective decision making commensurate with the challenges facing the Reef. It will also require arrangements which enhance community confidence in its decisions and actions. These objectives could be achieved by the establishment of a governing board or, under executive management arrangements, through separation of the Chairperson and CEO positions and supplementing the Authority's board.

A governing board however is not considered appropriate given the important role of government in the accountability of non-commercial government agencies such as the Authority and the significant additional formal accountability responsibilities on board members under the *Public Governance and Accountability Act* potentially distracting focus from the challenges affecting the Reef. The requirement for financial, human resource and other skills associated with running a public sector agency under a governing board model would require a larger board than the executive management model.

In light of these considerations the review recommends continued use of the executive management model, separation of the position of the Chairperson and CEO and supplementing the Authority's board for future governance of the Authority.

Recommendation 1: The 'executive management' model should be continued for future governance of the Authority; the position of the Chairperson and CEO should be separated; and the board should be supplemented with additional positions, skills and expertise.

Establishment and operation of a board

Effective governance arrangements help shape the successful performance of an organisation (AICD 2013d). Drawing on literature, an analysis of the current practices and consideration of future needs, the rest of this chapter recommends governance practices to best support the Authority in future, within the executive management model proposed above. The measures outlined below are good practice and are applicable regardless of the overall model employed.

The role and powers of the Minister

The role of the Minister in relation to the Authority is to establish the overarching expectations of Government and to oversee its performance. In performing this role the Minister should continue to preserve a level of independence for the Authority commensurate with the desire to promote objective, scientific and expertise based management of the Reef. The review considers it appropriate, as with current arrangements that the Authority act independently, subject to any general directions of the Minister that are consistent with the GBRMP Act.

One issue that has been consistently raised during consultation is confusion regarding responsibility, both within and between agencies, for management and leadership on issues affecting the Great Barrier Reef (see Chapter 5). This has become even more complicated by the enhanced role of the Department of the Environment and Energy in Reef management, particularly since 2011, and the subsequent development and implementation of the Reef 2050 Long Term Sustainability Plan and other measures. Without addressing this confusion, there is risk of duplication, poor coordination, and potentially gaps in the necessary functions to support and manage the Reef to best effect.

Ministers have previously issued Statements of Expectation to agencies within the portfolio to provide greater clarity on Government expectations regarding roles, objectives and outcomes. Clear guidance to the Authority on its roles relative to the Department and other Commonwealth agencies is vital to efficient and effective governance of the agency. Given that the Environment and Industry, Innovation and Science portfolios contain five Commonwealth entities with important and potentially overlapping roles related to management of the Reef (the Authority, the Department, AIMS, BOM, and CSIRO), a joint Statement of Expectations, including objectives for the Great Barrier Reef, issued by the

Ministers responsible for environment and science would assist these organisations to clarify relative roles and responsibilities and better coordinate their activities.

Recommendation 2: The Ministers responsible for the environment and science should issue joint Statements of Expectations for the Great Barrier Reef, for the Authority, Department, AIMS, BOM and CSIRO including objectives, clarification of relative roles and responsibilities and coordination of activities.

The role of the board

The board should be collectively responsible for ensuring the efficient and effective performance of the legislative functions of the Authority, consistent with the Government's expectations in regard to performance, values and broader Government policies. In this context the role of the board is to oversee development of strategies, initiatives and priorities and to monitor performance of the agency.

The board should have the power to do all things necessary or convenient in connection with the performance of the functions of the Authority including guidance and support for management of the agency. In fulfilling this function the board should set policies and processes governing the exercise of delegated powers and reporting requirements, to ensure it can be confident in the performance of management. Any exercise of power would require the support of a majority of members, with the Chairperson having a casting vote where necessary.

The role of the Chairperson

The role of the independent Chairperson should be to provide strategic direction, guidance and oversight of the organisation and to guide engagement with government, industry and other stakeholders on major issues affecting the Reef and its management. The Chairperson will also lead meetings of the board, assessments of the performance of the board and of management, and act to rectify any deficiencies. The Chairperson is also in the best position to act as a mentor and counsellor to the CEO. It is envisaged that a part time role would be appropriate for the Chairperson.

To effectively perform these roles, it is critical that the Chairperson be a highly regarded individual of recognised integrity, and national credibility who is astute, understands strategic leadership and with the gravitas to lead the organisation through its challenging future. The Chairperson should not be seen to represent a particular Great Barrier Reef interest group. The Chairperson will also need to be able to develop trust and respect within the Reef community and command respect internationally. Given the nature of the major threats to the Reef credibility with the scientific community will be important to establish.

The role of the CEO

The full time CEO will be responsible for leading and managing the agency, including its human and financial resources, and for implementing the board's strategy and directions. The CEO should therefore be the 'accountable authority' for the purposes of the *Public Governance and Performance Act 2013* and 'agency head' for the purposes of the *Public Service Act 1999*. The CEO will likely serve as the public face for most engagement with the Government and stakeholders. Given the major changes and challenges facing the agency, it will be important to ensure that the CEO has strong strategic capabilities, so that the board's agenda is supported with effective decision making on a day-to-day basis.

To allow the CEO to be fully engaged in the setting of broad strategy and to support the recruitment of a competent manager with strong strategic capabilities the CEO should be a member of the board. This should be spelt out in legislation. The CEOs of the Murray-Darling Basin Authority and Food Standards Australia New Zealand are members of their respective boards.

The requirements of the role of the CEO dictate the need for a senior (potentially government) manager who is able to contribute to strategic discussions, and build a strong and effective relationship with the board, governments, stakeholders and agency staff. While this position will be an appointment, the remuneration should reflect comparable SES employees (as per APSC 2012a).

Additionally, and given the likely ongoing scrutiny from UNESCO and other international organisations concerning management of the Reef, it is critical that a senior figure from GBRMPA (either the Chairperson or CEO) has the credibility and background to represent Australia and the Authority internationally. A strong scientific background is likely to be a great asset to successful fulfilment of this role.

Recommendation 3: The CEO should be the 'accountable authority' of the agency for the purposes of the PGPA Act.

Recommendation 4: The CEO should be the 'agency head' for the Public Service Act.

Recommendation 5: The CEO should be an *ex officio* member of the board.

Recommendation 6: The Chairperson, CEO or both must be able to present credibly on the ecology of the Reef and threats to management of the Marine Park in national and international fora.

Board composition, expertise and skills

As challenges facing organisations change, the necessary skills and expertise represented on the board also vary (GIA 2015a; Stuchberry 2013). While some skill sets are likely to be

applicable to most boards, such as strategic thinking and leadership, others, such as specific industry knowledge, will vary depending on the operating environment of an organisation (GIA 2015a; Stuchberry 2013) and what delivers the best value (AICD 2013b; GIA 2014a).

Regardless of other factors, diverse boards (including with regard to gender, geography, expertise and other considerations) tend to deliver better corporate performance and responsiveness to differing conditions (AICD 2013b; DPMC 2016a). As a general principle, government entities should seek to reflect the diversity of the regulated and served community (GIA 2016b).

At present, the defined skill requirement for board members is that they have 'qualifications or extensive experience in a field related to the functions of the Authority' (subsection 10(6) of the GBRMP Act). This includes a requirement for an Indigenous member with expertise in indigenous issues related to the Marine Park, a member with expertise in the tourism industry associated with the Marine Park, and one member nominated by the Queensland Government (see Chapter 3). Stakeholders supported the continuation of these requirements (see Chapter 5). This currently leaves two positions for additional skills – the Chairperson plus one other.

In the future, it will be important to maintain gender diversity (as required by Government policy (DPMC 2016b)) and to increase geographic diversity on the board. While a strong link between the board and the Far North Queensland community should continue, the increasing link to broader national and international debates suggests the need for members with strategic national and/or international perspectives. The increasing relevance of issues beyond the Marine Park and increasing national and international profile of the Authority also reinforces the importance of having members of significant standing.

The contemporary challenges facing the Authority suggest that additional perspectives which will assist in providing advice to meet those challenges (see 'The requirement for collective decision making' above) would add considerable value to the Authority's considerations. Clearly, not all the expertise required needs to reside in board members. Appropriate use of committees (see below) and contractors are important arrangements in ensuring access to relevant knowledge and information. However having a board with appropriately diverse and strategic skills provides constant guiding leadership and direction to an organisation dealing with unprecedented situations.

To help determine and consider current expertise and future requirements, many boards develop a skills matrix, which can support recruitment of new members, and identify gaps where external experts may be useful (ASXCGC 2014; GIA 2015a; Stuchberry 2013). Consistent with other Commonwealth legislation establishing statutory authorities, such as the *Water Act 2007* and the *Clean Energy Regulator Act 2011*, a broad range of relevant and important skills should be enshrined within the legislation, to ensure the recruitment of new members is appropriately targeted.

Recommendation 7: The board should continue to reflect Indigenous, Reef tourism and Queensland Government expertise, and be composed of people of significant standing in their fields of expertise.

Recommendation 8: Board membership should continue to reflect Government policy on gender equity on boards and should, to the greatest extent possible, reflect Queensland, national and international perspectives.

Recommendation 9: A skills matrix should be developed and maintained by the Authority and utilised to inform recruitment of board members. The general skills required by the board should be legislated and could include:

- public sector governance
- science (including one or more fields related to climate change, marine science, coastal ecology, fisheries, social sciences and engineering)
- business / industry
- natural resource management and parks management
- regulation
- education and communications
- scenario planning and strategic management, and
- resource economics.

Board size

The appropriate size of a board depends on its specific circumstances (for example, necessary skills, size of organisation) and the amount of work involved (both frequency of meetings and volume of work addressed at and between meetings) (AICD 2013b; Uhrig 2003).

Combined with the compositional requirements and the need for the Chairperson to also have the abilities and capacity necessary to act as CEO, the current board size of five limits the diversity of perspectives able to be brought to bear. The ability to form sub-committee structures to address specific issues is also limited by the size of the current board.

A board of seven is reasonable for an organisation of the Authority's size, functions and challenges. With the CEO as a member of the board and maintenance of the existing requirements regarding tourism, indigenous and Queensland involvement, the expertise of a Chairperson plus two independent positions would further enhance the board's deliberations. The Murray-Darling Basin Authority has a board of six (including the chair and CEO) and the Australian Maritime Safety Authority has a board of eight (including the chair, deputy chair and CEO) but neither organisation has defined positions on the board like the Authority. Changes to the board size will also require reconsideration of the number of members that constitutes a quorum; this should generally be half or more of the board.

Recommendation 10: To ensure the board has access to skills and expertise commensurate with its functions, the board should comprise seven members, consisting of:

- an independent part time Chairperson of integrity, national credibility and standing who would not be perceived as representing a Reef interest group
- the CEO, and
- five members including continuation of the Indigenous, Reef tourism and Queensland expertise and two members reflecting other skills, backgrounds, and geographic perspectives.

Board terms

Members should have limited terms, with restrictions on reappointments to allow for rotation of members with different skill sets and knowledge (Stuart 2014; Uhrig 2003). This helps to refresh the perspectives included on the board, avoid entrenchment of certain views, and avoid regulatory capture by affected stakeholders. The Australian Public Service Commission (2012b) recommends a five-year term for Government board members, unless there is a strong argument otherwise. By staggering appointments and preventing them from aligning with the political cycle, it helps to reduce the politicisation of appointments and avoid simultaneous loss of skills and knowledge.

Authority members are typically appointed for a five-year term, with no limitation on reappointments (section 11 of the GBRMP Act). Five-year terms remain appropriate, but a limit on reappointments would allow the board to get greater benefit from a range of perspectives, while maintaining broad stability.

Recommendation 11: Standard term limits of five years should be retained, while reappointments should be limited to a maximum of two terms.

Recruitment and appointment processes

An effective selection process helps to ensure that new appointees provide the best possible skills mix to complement existing members, that the process is transparent, and minimises the risks of politicisation of appointments. The process should therefore be formally documented, and include information for applicants on the responsibilities of appointees (AICD 2013a; AICD 2013b; ASXCGC 2014; GIA 2014a, 2016b, 2017).

At present, there is no formal and consistent recruitment process for board members. The Department, as the Minister's principal advisor, draws on general Government guidance, an informal consideration of skills needs, and diversity considerations to provide the Minister with a list of possible appointees.

In practice, there has been significant variation in the processes used to appoint members, with different approaches to identifying candidates, different levels of engagement with the Chairperson in the process, and different skills considerations emphasised. In the past the

absence of a consistent and thorough process has led to questions from stakeholders about the appropriateness of appointees based on their fields of expertise or perceived conflicts of interest. This has contributed to reduced stakeholder confidence in the board.

In addition to the requirements that will apply to all appointments, the recruitment for the CEO will include additional complexities. In private sector boards, and some statutory authorities, the board is empowered to appoint the CEO, as part of broader management arrangements. However, given the ultimate accountability of the Government, it will be important to balance the role of the board with the role of the Minister in appointing the CEO.

One option is for the board to oversee the process and make recommendations to the Minister. A preferred process is for the Secretary of the Department of the Environment to establish and chair a selection committee, including the chair of the board, and make recommendations to the Minister.

An effective recruitment process, drawing on a comprehensive skills matrix, plays an important role in ensuring that an appropriate mix of people, with the necessary range of skills, are appointed to the board and CEO positions. A consistent and effective process to identify the best nominees will become even more relevant as the board size and role increases.

Recommendation 12: The Department should develop and document a formal process to guide the recruitment of board members and the CEO, aligned with Government guidance (such as APSC 2012b; DPMC 2016a). The process should include, at a minimum:

- open and targeted approaches to the identification of candidates
- reference to a matrix documenting the skills, expertise and diversity required by the board and identifying gaps based on future needs
- information on roles and responsibilities (including management of conflicts, frequency of meetings) to be provided to applicants or nominees
- the role of the Chairperson and board in recommending and assessing nominees
- the make-up of the selection panel
- information on the role and Ministerial expectations that will be included in letters of appointment, and
- articulation of the role of the Queensland Government in the selection processes.

In order to avoid the potential for conflicts of interest in members recruited to the board provision should be made in legislation to prohibit appointees from being involved in the management of a relevant interest group. This approach is already adopted by the Australian Fisheries Management Authority and the Murray-Darling Basin Authority. The *Water Act 2007* for example, through which the Murray-Darling Basin Authority is established, requires that appointees, 'not be a member of the governing body of a relevant interest group' (section 178(2)(b)).

In general, board members should not be senior in organisations that are a relevant interest group advocating views in relation to the management of the Marine Park, or utilising it for commercial purposes. Relationships with interest groups are a particular issue for the Chairperson who must be and be seen to be impartial.

Recommendation 13: The potential for conflicts of interest amongst board members should be reduced by legislated provisions requiring appointees not be a member of the governing body of a relevant interest group.

Board member induction and training

A clear and comprehensive induction process is a major part of ensuring that new members understand their roles and functions, and perform them effectively (AICD 2013b; GIA 2014b; Uhrig 2003). Without this guidance, it may be difficult for members to interpret their roles and responsibilities relative to other organisations or groups, and to ensure members do not act representationally (AICD 2013b; GIA 2014b; Uhrig 2003). It also serves as a means for new members to understand their liability and accountability through introduction to delegations, internal processes and policies, and the sorts of risks that may be encountered.

At present, the Authority's staff provide newly appointed members with briefing material containing a broad range of information, primarily relying on legislation and general guidance notes, with limited agency-specific interpretation or policy (GBRMPA 2016b). It provides the necessary information for an appointee to have a basic understanding of their legal liability, but does not discuss the implementation of requirements within the agency, or respective roles of the board and other groups. It does not include information on the exercise of delegations, responsibilities performed by the board compared to the Chairperson, and internal processes to manage and escalate risks.

At the present time there is also no systematic or regular process to support board members through ongoing training regarding their responsibilities or those of the agency. Ongoing training for board members can substantially improve performance by helping to ensure members remain aware and focussed on their responsibilities and are contributing to the board and organisation effectively.

Recommendation 14: The Authority and its staff should formalise induction processes for board members, including at a minimum:

- an appointment letter from the Minister outlining remuneration, terms and conditions, and expectations for the board and its members
- induction meetings with the Chairperson and senior executive
- an induction package reflecting the specific circumstances and policies of the Authority and including, at a minimum, the Board Charter briefing on decision-making processes, and relative organisational roles and functions (see 'Board charter and policy' and 'Delegations' below for further discussion), and

- board member support

Board operations

The ability of a governing board to perform effectively as a unit determines its ability to meet the needs of the organisation effectively. A good Chairperson will generally lead discussions and set expectations about how the board will operate, depending on the organisational context and individuals on the board.

Meeting frequency

How often a board meets will depend on its workload, availability of members, and how the Chairperson likes to run meetings (AICD 2013b). Currently, the board meets four times a year, often with one additional meeting or out-of-session decision. As discussed in Chapter 4 the length of time between meetings may have been a factor in limiting the board's role in providing advice and timeliness of the board's direction.

Recommendation 15: The board should consider whether it needs to meet more frequently than the four meetings per year at present.

Performance reviews

A board should establish clear processes for regular reviews of the performance of the board as a whole, and of individual members and the CEO. This helps to identify any issues that may hinder the effective governance of the organisation, and allow members to self-correct (AICD 2013b; 2013d; 2014; ASXCGC 2014; Uhrig 2003). The board should determine the format and focus of reviews, with reviews occurring at least annually (GIA 2015c).

Currently, no processes exist for the board and its members to review their performance. The Minister is also unable to manage significant failures of performance, as members can only be terminated for 'misbehaviour or physical or mental incapacity', the Chairperson engaging in unapproved paid employment, unapproved absences, bankruptcy, and failure to declare conflicts (section 16 of the GBRMP Act). Many Acts (such as the *Water Act 2007* (Cth)) provide for members to be terminated if they are not performing their role satisfactorily.

Recommendation 16: The board should determine and implement an appropriate and ongoing mechanism to review and manage its performance.

Recommendation 17: The Governor-General should have the power to terminate members, on the recommendation of the Minister, if they are consistently underperforming.

Board charter and policy

Boards use charters of operations to ensure clarity of purpose, consistent rules of operation, and transparency for members, staff, and other stakeholders about relative powers and functions (AICD 2013a, 2013b, 2013c, 2013d; ASXCGC 2014; GIA 2016b; Uhrig 2003).

At present, guidance around the operation of the Authority is very limited, consisting primarily of legislative requirements and logistical information (GBRMPA 2016b). The increased strategic focus, decision-making role and membership of the Authority recommended by this review, along with increasing scrutiny, have further increased the importance of having consistent operating processes.

Some processes may be more detailed than can appropriately be included in the Charter. Any such processes should be recorded in detailed policies, developed in conjunction with the Charter, to further support the board's operations.

Recommendation 18: The Authority, led by the new Chair, should develop a comprehensive board charter including information on:

- board values
- considerations for decisions
- frequency of meetings (discussed above)
- the formation and operation of subcommittees
- procedures for making decisions out-of-session
- procedures for setting agendas, including attendance by non-members
- values of the board
- procedures for the declaration and management of conflicts of interest (discussed below)
- guidance on members' interactions with media and other stakeholders
- the role of the board in monitoring performance of the CEO (discussed above), and
- performance reviews for the board and its members (discussed above).

The charter should be a public document.

Recommendation 19: The Authority should establish clear policies governing:

- the risk appetite of the agency
- guidance for staff when exercising delegations (discussed below), and
- guidance for staff around reporting to the board.

Other governance considerations

Managing potential conflicts

It is important for any board to manage potential conflicts of interest of its members. This helps to ensure decisions are made in the best interests of the organisation, and build

stakeholder trust in its processes and decisions. While board members are required under the Act to declare their interests to the Minister, and there is a standing board agenda item on declaration of interests, there is some scepticism amongst stakeholders regarding the strength of the Authority's existing conflict of interest management provisions.

While this review found no evidence to support this scepticism, there is scope to further manage conflicts while gathering the benefit of relevant knowledge and perspectives. Food Standards Australia New Zealand, for example, requires members to excuse themselves from voting on any matter for which they are conflicted but allows them to contribute their expertise to relevant deliberations (P Smith 2017, personal communication, 3 May).

Recommendation 20: The board could consider processes for members in relation to the management of conflicts of interests while gaining valuable relevant information.

Delegations

The delegation of responsibilities is central to boards maintaining a strategic, rather than operational, focus (AICD 2013c; ASXCGC 2014). As governing boards are expected to play a role in addressing key risks to the organisation (GIA 2016b), it is important to specify the risk appetite for the agency, and consequently the levels of complexity or risk at which delegated functions are to be elevated or reported on (AICD 2013c). This also helps to ensure that the board is comfortable with the decisions made by staff, and the decisions are able to be confidently defended.

At present, the Authority has extensive delegations in place (see **Appendix E**). There is, however, no guidance to support staff in the exercise of those delegations including situations in which issues should be escalated. In practice, there appears to have been a tendency not to escalate delegated decisions to the board for consideration or advice, even when they present higher risk issues. In the future, continued high levels of scrutiny on the operation of the Authority, and stakeholder concern regarding its independence, make it increasingly important that the board has strong oversight of decisions and the decision making framework. A collectively and clearly defined and consistent approach to risk management should be central to the processes put in place.

Recommendation 21: Delegation instruments should be supported by guidance on how and when delegations should be exercised. This guidance should be written in light of the Authority's risk appetite, and reflecting the potential outcomes of different types of decisions.

Executive management support

Boards should be supported by sufficient executive capacity to manage operational matters, allowing the board to focus on strategic and governance issues (AICD 2013d; ASXCGC 2014). The appropriate level of support will depend upon the nature and size of the organisation.

While the core legislated functions and objectives of the Authority have not changed, the scale and complexity of the tasks undertaken has increased significantly since 2006. In this time overall senior management support has been reduced. Pressures and demands on the Authority's diminished senior management are likely to have been a contributing factor in stakeholder views regarding its overall effectiveness and performance.

The APSC (2012a) identifies four broad streams of work for Senior Executive Service officers including delivery, public policy, regulatory, and professional/specialist. In general, staff at the SES Band 1 and Band 2 levels are expected to focus primarily on one of these streams. General Managers at the Authority by comparison may be expected to operate in all four streams on a regular basis.

The absence of a clear and unambiguous deputy to the CEO has also reduced the ability of the senior executive for ongoing management of the agency as representational duties in response to increased domestic and international scrutiny have increased pressure on the Chairperson/CEO.

The Murray Darling Basin Authority (an agency of generally comparable size, budget and responsibilities to the Authority) currently operates with a senior executive management including a SES Band 3 equivalent CEO, three SES Band 2 officers and nine SES Band 1 officers. Similarly the Clean Energy Regulator, with a staff of 324, operates with a full time CEO, three SES Band 2 officers and eight SES Band 1 officers. Food Standards Australia New Zealand, a relatively smaller agency, operates with a staff of approximately 110, a full time CEO and four SES Band 1 officers. The Senior Executive Service staffing levels of these agencies stand in significant contrast to the Authority with its staff of approximately 208, a combined Chairperson/CEO and three Band 1 SES officers.

<p>Recommendation 22: The CEO with advice from the board should consider enhancing senior executive management capacity in support of the needs of the agency, including a clear second in command able to fulfil the duties of an acting CEO when the CEO is absent.</p>
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Use of advisory committees

It is critical for boards to understand the concerns and needs of their stakeholders, and other factors influencing the organisation's operating environment (GIA 2015b, 2016a, 2016b). This is particularly relevant for government regulatory bodies where interactions with the body are not always voluntary. For these organisations, community support and a social licence are central to positive, non-confrontational interactions.

Stakeholders interviewed for the review commonly noted there was no mechanism in place through which the Authority could consult or seek advice from peak stakeholder groups in relation to issues affecting the Reef. They also noted the partial alignment between the current committee structure and the major issues facing the Reef (see Table 2).

Key issues affecting the Reef	Current stakeholder groups advising the Authority
<ul style="list-style-type: none"> - climate change (including coral bleaching and storm events) - water quality (from broad scale land use) and crown-of-thorn starfish - coastal development - illegal fishing 	<ul style="list-style-type: none"> - Tourism Reef Advisory Committee - Indigenous Reef Advisory Committee - 11 Local Marine Advisory Committees

Table 2. Key issues affecting the Reef and Authority committees

The Authority needs to ensure it has access to advice and expertise in relation to the key threats and pressures on the Reef and in relation to the management challenges they present. Given the changing ecology of the Reef and the challenges this presents it is surprising that the Authority does not have a formal forum for access to and relationships with peak stakeholder groups as, for example, the Murray-Darling Basin Authority and the Australian Maritime Safety Authority do.

It would seem prudent for the Authority to consider and periodically review the committees which will be most useful in supplying it with relevant advice. While it is understood that there is already a plethora of committees operating in relation to the Great Barrier Reef, the potential establishment of a broad-based, high level stakeholder consultative committee should be included in that consideration.

The purpose of such a committee would be the provision of advice to the Authority on stakeholder perspectives on matters affecting the management of the Marine Park. The committee could consist of something approximating the current membership of the Reef Advisory Committee. If such a committee were established, Queensland should be consulted on its makeup.

An advisory committee could provide advice on particular matters as requested by the Authority and would be distinct from the Reef Advisory or Local Marine Advisory Committees, which would be responsible for providing advice to the Authority in relation to more detailed local and subject specific areas. All committees established to support the Authority should be non-statutory as their structure and composition should change over time to reflect the major issues affecting the Reef.

Recommendation 23: The board should regularly review and update the committee structures in place to support it with expertise and advice in relation to the major issues affecting the Marine Park.

Recommendation 24: The Authority should seriously consider establishing a broad-based, high-level stakeholder consultative committee for the provision of advice on stakeholder perspectives on matters affecting the management of the Marine Park.

It is noted that the charter for the existing Reef 2050 Advisory Committee operating in support of the Ministerial Forum allows for the provision of advice to the Authority if requested, as noted by the Authority shortly after the Committee's establishment (GBRMPA 2015b, Decision MPA 2015-238-14).

In order to avoid duplication, and the burden on stakeholders already participating on committees as part of broader Reef governance arrangements, consideration should be given to the extent to which the existing membership and operations of the Reef 2050 Advisory Committee can fulfil the role proposed for an advisory committee. However, the availability of members of the Committee, and workloads expected to arise from a review of the Reef 2050 Long Term Sustainability Plan, are likely to reduce scope for this in the short-term. This remains an issue that the Authority should keep under close review as it is difficult to think of feasible alternatives.

Reef communications

As noted in chapter 4, during consultations, stakeholders expressed a strong desire for leadership from the Authority, particularly in the debate about the key threats to the Reef and about future management strategies. While there was strong support for the Authority's role in communicating the impacts and consequences to the Reef following major events, such as coral bleaching and cyclones, there was concern that the Authority was too slow in responding to recent events, which allowed others to lead and shape public discussion.

Other stakeholders noted that communications in relation to the future of the Reef were at a critical stage. Predominantly negative communications were considered 'demotivating' and at odds with the overall state of the Reef despite the escalation in threats and significant impacts of recent events.

In the future it is critical that the Authority develop and lead a clear and effective communications and engagement strategy in relation to the Reef in partnership with other key organisations. Communications need to describe the scale and significance of the issues facing the Reef while also conveying the positive management strategies that can be employed to secure its future. Roles and responsibilities of board members and staff should also be articulated.

Implementation of recommendations

The model proposed for future governance of the Authority, which involves separation of the position of the Chairperson and CEO and supplementing the Authority's board, could be implemented with relatively minor amendments to the *Great Barrier Reef Marine Park Act 1975*. Most of the amendments would need to be made to Part II (Establishment, functions and powers of the Great Barrier Reef Marine Park Authority) and Part III (Constitution and meetings of the Authority). However, the substance and scope of these amendments will depend on the policy model that is ultimately adopted.

Given the importance of good governance to the effective and efficient operation of any organisation, arrangements should continue to evolve over time in line with the changing needs of the Reef. Any policies and procedures adopted in response to this review should be monitored and reviewed and should evolve as needed in support of the organisation and its objectives.

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Water Act 2007 (Cth), Compilation No. 23, Office of Parliamentary Counsel, Canberra.

APPENDIX A. REVIEW TERMS OF REFERENCE

Review of Governance of the Great Barrier Reef Marine Park Authority

Terms of Reference

Background

The Australian Government is committed to protecting the Great Barrier Reef, a World Heritage site, now and for future generations. The Great Barrier Reef Marine Park Authority is central to this commitment. The Authority is currently comprised of a Chairperson and four other members. The Chairperson also acts as CEO for the broader organisation.

The Authority was established through the *Great Barrier Reef Marine Park Act 1975* to set up and manage the marine park, provide advice to the Minister, conduct research and provide educational, advisory and information services.

The 2006 review of the *Great Barrier Reef Marine Park Act 1975* noted that the governance framework of the Authority will be shaped by the changing needs of the Reef. The Great Barrier Reef is a dynamic environment that has seen substantial change in its management arrangements over the last decade. The Australian Government is committed to ensuring that the institutions in place to support the health and resilience of the Reef are strong and continue to evolve in light of this change. It is timely to review the Authority's governance arrangements to ensure it continues to provide for improvement in the outstanding universal value of the Reef.

The review will be led by Dr Wendy Craik AM reporting to the Minister for the Environment and Energy, the Hon Josh Frydenberg MP. Public submissions will be invited and targeted stakeholder consultations undertaken.

Scope of review

The review will focus on the effectiveness of:

- the role and composition of the Authority's board and
- the Authority's executive management arrangements

in supporting the functions and powers of the Authority as set out in the *Great Barrier Reef Marine Park Act 1975*.

The review will provide recommendations and advice on:

- any changes to improve the corporate governance arrangements of the Authority
- any legislative or administrative amendments required to make such changes.

APPENDIX B. SUBMISSIONS RECEIVED

- 1** Association of Marine Park Tourism Operators
- 2** Australian Marine Conservation Society
- 3** Ms Diane Tarte (individual)
- 4** Burnett LMAC
- 5** Environment Institute of Australia and New Zealand Inc
- 6** Queensland Ports Association
- 7** WWF Australia
- 8** Australian Coral Reef Society
- 9** Prof Richard Kenchington (individual)
- 10** Australian Marine Science Association
- 11** Mr Graeme Kelleher AO (individual)
- 12** Global Change Institute
- 13** Dr Leanne Fernandes (individual)
- 14** Queensland Tourism Industry Council
- 15** Australian Academy of Science
- 16** Queensland Resources Council

APPENDIX C. STAKEHOLDERS WITH WHOM THE REVIEWER AND STAFF MET

Individual	Organisation	Role
All staff	Great Barrier Reef Marine Park Authority	
The Hon Neil Andrew AO	Murray Darling Basin Authority	Chair
Mr Simon Banks	Great Barrier Reef Marine Park Authority	General Manager, Great Barrier Reef Operations
Ms Sally Barnes	Australian Department of the Environment and Energy	Director of National Parks
Mr Chris Boland	Queensland Ports Association Ports North	Chair Chief Executive Officer
Mr David Borthwick AO*	<i>Australian Department of the Environment</i>	<i>Secretary – 2004 to 2009; led the 2006 review of the GBRMP Act</i>
The Hon Tony Burke MP	Parliament of Australia	Shadow Minister for Environment and Water Member for Watson (Federal)
Prof Damien Burrows*	James Cook University National Environmental Science Programme	Director, TropWATER Tropical Water Quality Hub Leader
Mr George Christensen MP	Parliament of Australia	Member for Dawson (Federal)
Prof Allan Dale*	James Cook University	Professor of Tropical Regional Development
Dr Gordon de Brouwer	Australian Department of the Environment and Energy	Secretary
Dr Jennifer Donelson	Australian Coral Reef Society James Cook University	Treasurer Postdoctoral Research Fellow, ARC Centre of Excellence for Coral Reef Studies
Ms Kayelle Drinkwater	Australian Department of Finance	Assistant Secretary, Governance and Annual Reports
Mr Bruce Elliot	Great Barrier Reef Marine Park Authority	General Manager, Biodiversity Conservation and Sustainable Use
The Hon Warren Entsch MP	Parliament of Australia	Member for Leichardt (Federal)
Dr James Findlay	Australian Fisheries Management Authority	Chief Executive Officer

The Hon Josh Frydenberg MP	Parliament of Australia	Minister for the Environment and Energy Member for Kooyong (Federal)
Ms Melissa George	Great Barrier Reef Marine Park Authority	Member
	Northern Australia Indigenous Land and Sea Management Authority	Chief Executive Officer
Mr Phillip Glyde	Murray-Darling Basin Authority	Chief Executive Officer
Mr Daniel Gschwind	Queensland Tourism Industry Council	Chief Executive Officer
	<i>Great Barrier Reef Marine Park Authority</i>	<i>Member – 2009 to 2013</i>
Mr John Gunn	Australian Institute of Marine Science	Chief Executive Officer
Mr Nick Heath	Australian Marine Conservation Society	President
	WWF Australia	Strategic Advisor to the CEO
Dr Andrew Hoey	Australian Coral Reef Society	Executive President
	James Cook University	Senior Research Fellow, ARC Centre of Excellence for Coral Reef Studies
Mr Russell James	Murray-Darling Basin Authority	Executive Director, Policy and Planning
Mr Adrian Jeffreys	Queensland Department of Premier and Cabinet	Executive Director, Environment Policy
Ms Margaret Johnson	Great Barrier Reef Marine Park Authority	General Manager, Policy and Stewardship
Prof Emma Johnston	Great Barrier Reef Marine Park Authority	Member
	University of New South Wales	Dean of Science, Pro Vice-Chancellor (Research)
Ms Kylie Jonasson	Australian Department of the Environment and Energy	First Assistant Secretary, Biodiversity Conservation Division
Ms Chelsea Kavanagh	Queensland Resources Council	Policy Manager, Environment
Mr Graeme Kelleher AO*	<i>Great Barrier Reef Marine Park Authority</i>	<i>Chairperson – 1979 to 1994</i>
Prof Richard Kenchington*	Australian National Centre for Ocean Resources and Security, University of Wollongong	Professor
Mr Dean Knudson	Australian Department of the Environment and Energy	Deputy Secretary, Environment Protection Group

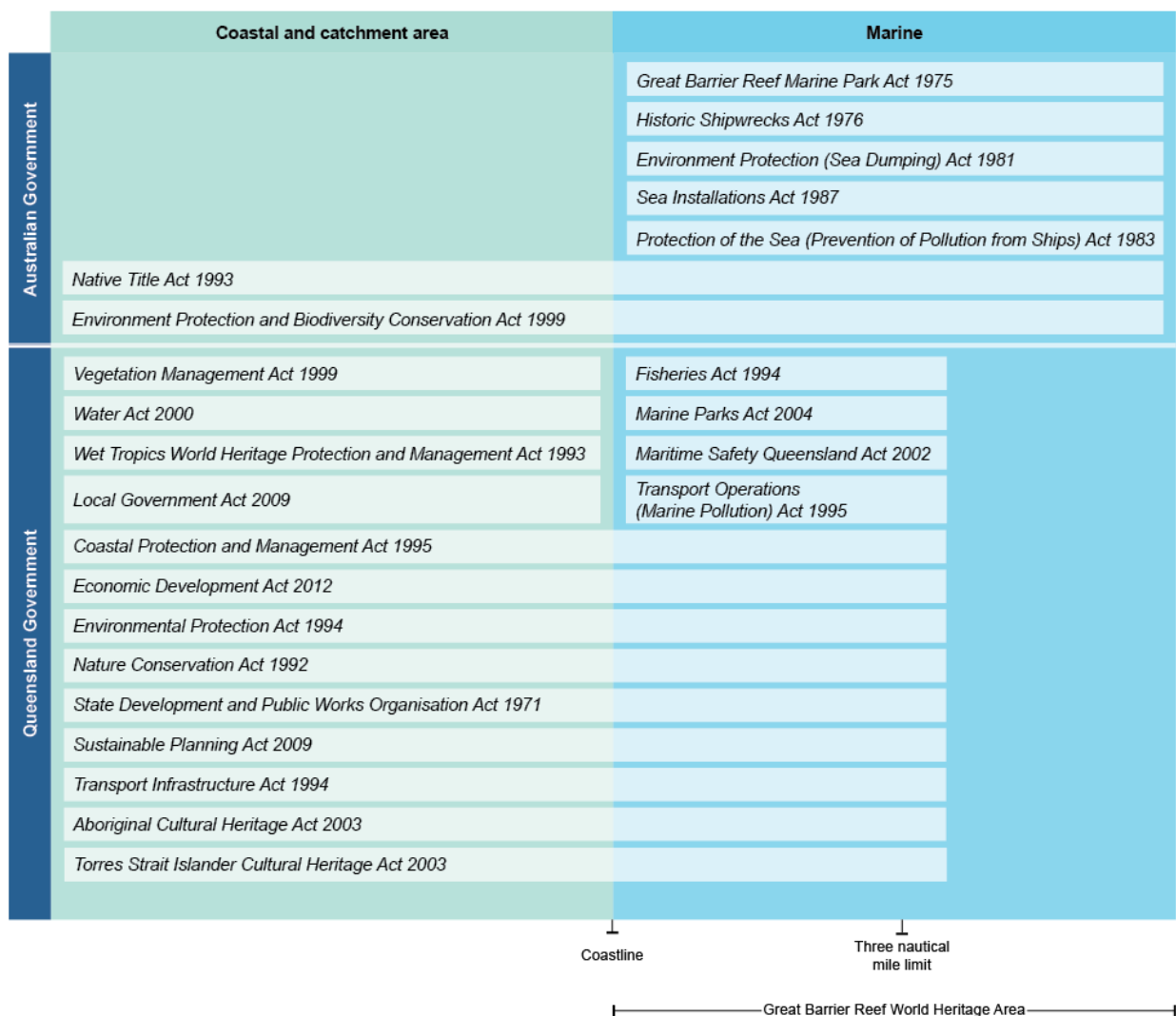
Ms Robyn Kruk AM	Food Standards Australia New Zealand	Chair
Mr Richard Leck	WWF Australia	Head of Oceans and Sustainable Development
Senator the Hon Ian MacDonald	Parliament of Australia	Senator for Queensland
Mr Angus Mackenzie	Australian Department of Foreign Affairs and Trade	Australian Ambassador to UNESCO
Ms Anna Marsden	Great Barrier Reef Foundation	Managing Director
Mr James Martin	Office of Senator the Hon Matthew Canavan, Minister for Resources and Northern Australia	Chief of Staff
Mr Steven McCutcheon*	<i>Food Standards Australia New Zealand</i>	<i>Chief Executive Officer – 2007 to 2017</i>
Mr Col McKenzie	Association of Marine Park Tourism Operators	Executive Officer
Mrs Margie McKenzie	Great Barrier Reef Marine Park Authority	Member
	Gempearl Pty Ltd	Managing Director
	Dive Queensland	General Manager
Dr Ian McPhail AM*	University of Southern Queensland	Adjunct Professor
	<i>Great Barrier Reef Marine Park Authority</i>	<i>Chairperson – 1994 to 1999</i>
The Hon Dr Steven Miles	Queensland Parliament	Minister for Environment and Heritage Protection
		Minister for National Parks and the Great Barrier Reef
		Member for Mount Coot-tha (Queensland)
Ms Sheriden Morris	Reef and Rainforest Research Centre	Managing Director
Ms Chloe Munro*	<i>Clean Energy Regulator</i>	<i>Chair and Chief Executive Officer – 2012 to 2017</i>
Ms Elisa Nichols	Queensland Office of the Great Barrier Reef	Executive Director, Reform and Innovation
Ms Tamara O'Shea	Queensland Department of National Parks, Sport and Racing	Director-General
Ms Rachel Parry	Australian Department of the Environment and Energy	Assistant Secretary, Reef Branch
Mr Jim Reeves	Queensland Department of Environment and Heritage Protection; Office of the Great Barrier Reef	Director-General

Dr Russell Reichelt FTSE FAICD	Great Barrier Reef Marine Park Authority	Chairperson / Chief Executive Officer
Mr Andrew Ridley	Citizens of the Reef	Chief Executive Officer
Ms Sue Sargent*	Burnett Local Marine Advisory Committee	Chair
	Australian World Heritage Advisory Committee	Chair
Ms Glenys Schuntner*	Regional Development Australia Townsville and North West Queensland	Chief Executive Officer
	GBRMPA Tourism Reef Advisory Committee	Chair
Ms Philippa Smith AM*	<i>Food Standards Australia New Zealand</i>	<i>Chair – 2008 to 2016</i>
Mr Ray Steedman*	<i>Western Australian Global Ocean Observing System</i>	<i>Chair</i>
	<i>Australian Institute of Marine Science</i>	<i>Chairperson</i>
Mr Dave Stewart	Great Barrier Reef Marine Park Authority	Member
	Queensland Department of Premier and Cabinet	Director-General
Dr Peter Stone	CSIRO	Research director, Land and Water
Mr Lembit Suur	Australian Department of Finance	First Assistant Secretary, Public Governance, Performance and Accountability
Ms Diane Tarte*	Marine Ecosystem Policy Advisors	Director
	Healthy Rivers to Reef Partnership Mackay-Whitsunday	Independent Chair
	<i>Great Barrier Reef Independent Review Group</i>	<i>Convenor – Completed 2017</i>
Ms Anthea Tinney*	<i>Sydney Harbour Federation Trust</i>	<i>Chair – 2011 to 2015</i>
The Hon Penelope Wensley AC	Australian Institute of Marine Science	Chairperson
	Reef 2050 Advisory Committee	Chairperson

Italics denote a former role.

* The reviewer met with these stakeholders in their individual capacity.

APPENDIX D. LEGISLATION FOR THE PROTECTION AND MANAGEMENT OF THE REEF



Primary Australian and Queensland Government legislation used to protect and manage the Reef (Figure taken from Australian Government and Queensland Government 2015, *Reef 2050 Long-Term Sustainability Plan*, Department of the Environment and Energy, Canberra, p. 19). The *Great Barrier Reef Marine Park (Environmental Management Charge-Excise) Act 1993* and the *Great Barrier Reef Marine Park (Environmental Management Charge-General) Act 1999*, along with regulations made under various Acts listed above, also govern the actions of the Authority.

APPENDIX E. DELEGATION OF POWERS AND FUNCTIONS

The Minister, Authority and Chairperson are all able to delegate functions and powers under the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act) by written instrument (sections 46, 47 and 48, respectively). 21 instruments of delegation are currently in force, applying to powers and functions under nine different legislative and policy frameworks.

Most powers and functions that can be delegated, have been. However, certain powers cannot, or have not, been delegated, particularly:

- the Minister for the Environment and Energy's powers in relation to the appointment and management of the Authority members (e.g. approving any leave of absence for the Chairperson), the addition of new areas to the Marine Park, the approval of zoning plans, and certain powers in relation to compulsory pilotage requirements. This ensures the Minister keeps control of the most major potential new regulatory impacts, and the Authority remains accountable through the ability for members to be reappointed or replaced at the end of their terms, depending on performance.
- the Authority's powers and functions relating to maintaining registers of permissions for activities within the Marine Park, developing zoning plans and plans of management, and development of the five-yearly Outlook Reports. This means that all business-as-usual tasks that are more appropriately controlled by the executive are delegated to the Chairperson (as CEO) or agency staff.
- the Chairperson's powers and functions in relation to meetings and management of the Authority board, and preparation of certificates for use as evidence in court. By maintaining the Chair functions, the Chairperson can ensure the board maintain a strategic focus, rather than becoming unduly involved in operational matters.

Key powers and responsibilities of various office-holders, as legislated and including delegations, are set out below. This list reflects all powers and functions that an entity is able to exercise, not necessarily who exercises them in practice. It is noted whether powers are legislated or delegated to the entity; if roles are under the GBRMP Act, this is not relisted.

- Minister for the Environment and Energy
 - Manage Authority members, including receiving notice of conflicts of interest (legislated)
 - Give general directions to Authority on performance of its functions (legislated)
 - Recommend the Governor-General add areas to the Marine Park (legislated)
 - Guide and approve zoning plans (legislated)
 - Enter agreements with Queensland Minister (legislated)
 - Manage compulsory pilotage requirements (legislated)
 - Conduct a range of enforcement activities, particularly as they relate to interactions with Courts (legislated).
- Authority
 - Manage the Marine Park (legislated)

- Permit operators and activities within the Marine Park, and manage records relating to permits (legislated)
- Prepare zoning plans and plans of management (legislated)
- Enter agreements with other bodies, including with Queensland Government agencies (legislated, delegated from Minister)
- Conduct necessary enforcement activities (legislated, delegated from Minister)
- Prepare five-yearly Outlook Reports (legislated).
- Chairperson
 - Manage other Authority members and meetings (legislated)
 - Permit operators and activities within the Marine Park (delegated from Authority)
 - Enter agreements with other bodies, including with Queensland Government agencies (delegated from Minister and Authority)
 - Conduct necessary enforcement activities (legislated, delegated from the Minister and Authority)
 - Prepare certificates for use as evidence in court (legislated)
 - Manage reporting and accountability of agency (legislated under *Public Governance, Performance and Accountability Act 2013* (PGPA Act), *Freedom of Information Act 1982* (FOI Act))
 - Manage staff, finances and property of agency (legislated under *Public Service Act 1999* and PGPA Act, delegated by Finance Minister under PGPA Act, delegated by Special Minister of State under the *Land Acquisition Act 1989*, prescribed under Protective Security Policy Framework)
 - Decisions and enforcement in relation to *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), *Sea Dumping Act 1981* and *Sea Installations Act 1987* activities (delegated by the Minister under the EPBC Act, Sea Dumping Act and Sea Installations Act, and by the Environment Secretary under the EPBC Act).
- General Managers (all functions delegated)
 - Permit operators and activities within the Marine Park (delegated from Authority)
 - Conduct necessary enforcement activities (delegated from Authority and Minister)
 - Manage reporting and accountability of agency (delegated from Authority and Chairperson, delegated from Chairperson under FOI Act and PGPA Act)
 - Manage staff, finances and property of agency (delegated from Chairperson under Public Service Act, PGPA Act, Land Acquisition Act and Protective Security Policy Framework)
 - Most other functions of Chairperson in their absence (delegated from Authority and Chairperson).

APPENDIX F. OUT-OF-SCOPE ISSUES RAISED DURING THE REVIEW

The following is a summary of a range of issues raised by stakeholders that were considered to be outside of the scope of the review:

The Authority as central coordinator for the Reef. Some stressed the need for an integrated, all-encompassing approach to Reef management (Australian Marine Conservation Society (AMCS), Australian Academy of Science (AAS), Global Change Institute (GCI)), with several calling specifically for making the Authority the key decision maker, advisory body and lead coordinator of the Reef 2050 Plan (e.g. Burnett LMAC, WWF Australia). Environment Institute of Australia and New Zealand (EIANZ) and the Burnett LMAC both proposed that the Authority be given jurisdiction over a greater area, including potentially Reef catchments (Burnett LMAC) and neighbouring marine protected areas (EIANZ).

Increase resourcing. Many submissions called for increased resources to enable the Authority to respond to increasing threats, including through commitments in the Reef 2050 Plan (GCI, Dr Fernandes, WWF Australia, Australian Marine Science Association (AMSA), AAS). GCI's submission pointed to the need to re-examine human and financial resources within the Authority to respond to climate change, while also maintaining its compliance functions. The responsibilities of the Authority are generally comparable to those of other statutory authorities, such as the Murray-Darling Basin Authority with significantly greater Senior Executive Service management support. The appointment of a new Chairperson and consequent senior staff adjustments at the Authority would provide an opportunity for robust review of functions, numbers and levels of staff in relation to responsibilities.

Increase political visibility of the Reef. Several submissions expressed concern that the removal of the Ministerial Council from Council of Australian Government processes meant that there was less focus and action on the Reef, and wanted the Ministerial Forum to be made a more significant decision-making body, with the chairs of the Reef 2050 Advisory Committee and the Independent Expert Panel as *ex officio* members on the Forum (AMCS, AAS). WWF Australia suggested that the Commonwealth Industry and Tourism Minister should be replaced on the forum by the Indigenous Affairs Minister.

Administrative systems and practices. During discussions several stakeholders made observations in relation to the currency of the Authority's administrative systems and processes, including in areas such as policy development and advice, risk management, task prioritisation and information technology systems. Stakeholders generally suggested some scope for improvement in relation to these areas to bring the Authority's approach more in line with contemporary practice.

Decision-making processes. Several submissions thought that the emphasis of decision-making processes should be on the hierarchy of objectives set out in the *Great Barrier Reef Marine Park Authority Act 1975*—that is, environmental conditions and outstanding universal values above all else (AMSA, AAS, WWF Australia), while Queensland Ports Association called

for closer alignment of Authority and Environment Protection and Biodiversity Conservation processes.

Focus on climate change. GCI considered that the operations of the Authority need to directly address climate change, as the biggest threat facing the Reef, while AAS thought this should be a focus of a strengthened Ministerial Forum (see above).

Increase in reporting and monitoring. WWF Australia sought more frequent and detailed condition reporting, including an independent body put in charge of developing Outlook Reports. Ms Tarte sought greater scope and independence in development of the Outlook Reports, including through reporting on the catchment.

Confusion around Reef 2050 implementation. A number of stakeholders raised concerns about the range of overlapping advisory boards established to progress programs captured by the Reef 2050 plan. There was also concern about lack of clarity for stakeholders on which agencies were responsible for implementing certain actions.

APPENDIX G. GOVERNANCE OPTIONS CONSIDERED BY THE REVIEW

The review considered a range of governance models, briefly described below. Consistent with the models for public sector entities provided by the *Public Governance, Performance and Accountability Act 2013*, the options considered are based around 'executive management', with decision-making and accountability centred in the executive group, and 'governing board', where the onus for decision-making and accountability resides with the board.

Executive Management Options

The executive management options discussed all retain the combined Chairperson/CEO as the central point of responsibility and accountability for the Authority, as the accountable authority and agency head. Different ways the Chairperson/CEO could be supported in this model are discussed below, noting these are not necessarily mutually exclusive.

Maintenance of the current arrangements

The Authority would continue without structural or legislative changes. Small changes within the current framework (e.g. updates to internal policy, targeting different skills in the executive) could address minor inefficiencies or small changes in focus, but would not be suited to addressing major organisational failures or significant changes and expansions in the agency's role and function.

This option would suit a situation in which the needs of the Reef and the challenges and pressures on the Authority remain of a similar scope and nature as those when the arrangements were last recommended in 2006. It would provide no additional capacity or leadership.

No board

The board would be removed entirely, with the Chairperson/CEO becoming the formal focus for all legislative and operational responsibilities. This would remove confusion about conflicting roles and allow the Chairperson to make strategic decisions more quickly. It would also reduce the strategic leadership available to the agency as a whole.

This option might be appropriate if the board were adding additional complexity to organisational processes, without providing corresponding benefits through access to broader expertise and capacity.

Supplement the Authority's board

The Authority would be expanded to include additional members, providing additional capacity to the board to guide strategic direction and support the Chairperson through additional expertise in relevant areas.

This option would be appropriate where the Chairperson/CEO needed more support and advice than allowed by the current capacity of the board. Including additional members on the board could increase their capacity to act as a decision-making body, through modifications to current delegations and internal instructions. However, maintaining the Chairperson/CEO as the focus of accountability is unlikely to support the reengagement of the board on agency issues. While expanding the board would provide additional strategic leadership, it would not necessarily provide additional capacity for day-to-day management and implementation of strategic direction.

Senior Executive Chief Operating Officer to support the Authority's board and Chairperson/CEO

The Chairperson would delegate many operational duties to a Senior Executive Chief Operating Officer (COO). This would increase management support and allow the Chairperson/CEO greater capacity to focus on strategy and direction.

This option would be appropriate where the major constraint is the capacity of the Chairperson/CEO to provide management support to implement the strategies and functions of the Authority. If the COO was positioned above the three General Managers, the COO could act for the Chairperson/CEO when absent, providing constant and consistent oversight and implementation of the board's strategy. However, some elements of agency leadership would necessarily remain with the Chairperson/CEO, making the COO an imperfect support mechanism for the Chairperson/CEO. The Chairperson/CEO would have to continue to operate in the two prescribed roles, needing to manage both political and operational realities and duties on a day-to-day basis. This model could perpetuate the lack of engagement of the board.

Supplement Senior Executive Service management support

Senior Executive Service management capacity within the agency would be supplemented in line with the identified needs of the agency.

This option would be appropriate where a constraint is identified in the capacity of management to efficiently and effectively oversee the implementation of strategies and functions, such as when the Chairperson is required to travel. However, it would only provide limited additional strategic leadership, based on the reduction of operational span of each executive.

Governing Board Option

A governing board model would empower the board to make decisions and lead the strategic direction of the agency. This would significantly increase strategic capacity and board accountability compared with the current model. It reduces the role of the individual Chairperson/CEO and increases the agency staff's accountability to the board on both strategic and operational matters.

Establish aboard with an independent Chairperson

The existing board would be further empowered as a governing board. It would continue to be responsible for the functions set out in the *Great Barrier Reef Marine Park Act 1975* in line with any general direction provided by the Minister, but would also take on responsibility for leading strategic decisions and 'managing management'. An independent Chairperson would be appointed to lead the board, with a separate Chief Executive Officer appointed as the agency head. The CEO would report to the board and assume responsibility for day-to-day management of the agency.

This option would be appropriate where there has been a significant change in the Authority's operating environment, requiring significantly enhanced expertise and leadership in order to ensure the efficient and effective implementation of strategies and functions. The board would provide significant expertise and additional strategic capacity, while the split Chairperson and CEO would better be able to focus on respective responsibilities.

APPENDIX H. GOVERNANCE IN THE PUBLIC SECTOR

What is governance?

Governance is generally understood to mean the method by which an organisation is run, over and above its basic legal obligations. It encompasses not only the system by which organisations are controlled, but the mechanisms by which organisations and those who comprise them are held to account (GIA 2016b).

In practice governance means different things to different organisations. This is reflected in the highly variable arrangements in place at both public and private sector organisations. Governance arrangements vary because the circumstance and environment in which different organisations operate vary (APSC 2007; ASXCGC 2014).

Public sector governance encompasses leadership, direction, control and accountability. Good public sector governance is achieved through arrangements which assist an entity to achieve its outcomes in such a way as to enhance confidence in the entity, its decisions and its actions (GIA 2016b). Good public sector governance is about getting the right things done in the best possible way, and delivering this standard of performance on a sustainable basis (ANAO 2014).

Why is governance important?

Effective governance is essential to the performance of public sector entities. Robust governance in the public sector provides assurance, not only to government, but also to the parliament and the public, that those in the community affected by the activities of an authority are protected from the inappropriate exercise of power (Uhrig 2003).

When working well, governance arrangements also produce better outcomes simply because they exist (Uhrig 2003). Governance arrangements enable and support entities to achieve the best results for the government and Australian community, in line with legislative and policy requirements. At the same time they focus entities on performance to ensure they deliver on their responsibilities in an efficient, effective and sustainable manner (ANAO 2014).

What determines governance in the public sector?

An organisation's governance arrangements will be determined by a range of factors including, significantly, ownership and objectives. Public and private organisations generally have fundamentally different roles and are subject to different pathways for accountability.

Public sector organisations fulfil a broad range of functions including commercial operations, regulation and the provision of services. Their delegated authority is largely established through their enabling legislation. This, together with the role of government, the characteristics of control and the extent of power to act, all inform the identification of appropriate governance arrangements (GIA 2015b; Uhrig 2003).

Because these characteristics differ significantly from one public sector organisation to the next there is no single model of good governance. Instead, governance practices are determined based on the context of particular entities (GIA 2016b). They should be fit for purpose and tailored to suit the type, maturity, size and business of the organisation (APSC 2007). They should also evolve over time as circumstances change (ANAO 2014).

Governance models for the public sector

The governance of Australian Government entities is shaped by various legislative and policy arrangements which regulate their management, resource use and accountability and specify their functions.

In addition to entity-specific legislation, the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) encapsulates the core elements of contemporary governance for Commonwealth public sector organisations. The focus of the PGPA Act is on performance, accountability, engaging with risk and collaborating effectively in pursuit of outcomes. It provides for two broad governance structures for public sector entities, with executive-level accountability as a key difference (ANAO 2014).

- In one group of entities, the emphasis is on accountability residing with the Head of the agency or chief executive. This approach is sometimes referred to as 'executive management'. It is characterised by limited demarcation between those establishing strategy and those implementing it (Borthwick 2006). The Great Barrier Reef Marine Park Authority is currently established in this way (*Great Barrier Reef Marine Park Act 1975*).
- In the other group of entities, a board of directors (or similar) generally governs the entity. Boards have wide ranging powers, which can extend to the appointment and removal of the chief executive, setting strategic direction, supervising management, defining the values and culture of the entity, managing and overseeing risk issues, monitoring the performance of the entity and holding management accountable for its performance (GIA 2015b).

Strengths and weaknesses of the models

Views on which model constitutes best practice differ around the world (AICD 2013b). In the private sector in America, the roles of Chief Executive Officer (CEO) and Chairperson of the board are commonly filled by the same person, allowing for faster and easier decision making, less conflict over authority and less potential for confusion when issues are not clearly operational or strategic. In the Australian private sector, it is common to separate the roles, which is considered to reduce the potential for conflicts of interest and the likelihood that the board agenda will be dominated by operational matters. Furthermore, the board, chaired independently, is considered better able to exercise its role of overseeing management (AICD 2013b).

While the private sector can provide useful lessons, there are specific considerations that shape governance in the public sector. For example, while a separate board and CEO may reduce the potential for conflicts of interest in a private company, it has the potential to increase conflict of interest in a statutory authority due to unclear accountabilities of the CEO to the board or to the minister. This conflict has the potential to be exacerbated depending upon whether the minister or the board is responsible for appointing and terminating the CEO.

In the Commonwealth Government a governing board is usually established for a body 'when collective decision making and diverse expertise (beyond what can be expected from one individual) are required to govern the body' (Department of Finance 2017). A governing board may be less appropriate for a body in which the Government exercises a greater level of operational or policy control (Department of Finance 2017).