

# 17<sup>th</sup> Assembly Meeting of INTOSAI WGEA



## Country Paper: Australia

Theme: Environmental Assessment

### **Performance Audit: *Regulation of Great Barrier Reef Marine Park Permits and Approvals***



24 to 27 October 2016

Jakarta  
Indonesia

# Introduction

1. The Great Barrier Reef extends along the east coast of Queensland from Cape York to Bundaberg (approximately 2300 kilometres—see Figure 1). In recognition of the environmental significance of the reef, the Australian Government enacted the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act) in 1975 that established the Great Barrier Reef Marine Park (Marine Park) in stages from 1980 to 2004. The Marine Park was established to provide for the long term protection and conservation of the environment, biodiversity and heritage values of approximately 344 000 square kilometres of the Great Barrier Reef region. Subsequently, in 1981, the Great Barrier Reef was declared a World Heritage Area (with the declaration covering the Marine Park, Queensland's Great Barrier Reef Coast Marine Park, all islands and 12 trading ports) on the basis of its outstanding universal value.

**Figure 1: Great Barrier Reef General Reference Map**



2. The reef comprises a broad range of biodiversity and heritage values, with the condition of these values determining the quality of the cultural, social and economic benefits that the community derives from the reef (such as aesthetics, income, appreciation and

enjoyment).<sup>1</sup> The 2014 Outlook Report prepared by the Great Barrier Reef Marine Park Authority<sup>2</sup> indicated that the Great Barrier Reef 'is an icon under pressure'. The report concluded 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'.<sup>3</sup> The relatively recent approvals granted by the Australian Government for commercial activity in and around the Marine Park and the United Nations Educational, Scientific and Cultural Organization's (UNESCO's) review of the reef's World Heritage status have also focused greater attention on the reef's long-term sustainability.

### **Marine Park regulatory framework**

3. The regulatory framework applying to the Marine Park is established primarily under the GBRMP Act, which identifies the Marine Park's boundaries, prohibited activities, activities allowable with permission, fee charging arrangements and enforcement powers. The administration of the regulatory framework applying to the Marine Park is primarily the responsibility of the Great Barrier Reef Marine Park Authority.

### **Great Barrier Reef Marine Park Authority**

4. The Great Barrier Reef Marine Park Authority (GBRMPA) was established in 1975 under the GBRMP Act to ensure the long-term protection, ecologically sustainable use, understanding and enjoyment of the Great Barrier Reef for all Australians and the international community through the care and development of the Marine Park. One means by which GBRMPA helps to manage the ecological sustainable use of the Marine Park is by granting permits for particular activities and monitoring/enforcing permit holders' compliance with permit conditions.

5. Incorporated bodies and individuals intending to undertake particular activities within the Marine Park are required to obtain permission from GBRMPA prior to their commencement, including for:

- most commercial activities, such as tourist programs;
- the installation and operation of structures, such as jetties, marinas, pontoons, and moorings;
- any significant works, such as dredging and spoil dumping; and
- educational and research programs.

## **Audit Objective, Criteria, Scope and Methodology**

### **Objective**

6. The objective of this audit was to assess the effectiveness of the Great Barrier Reef Marine Park Authority's regulation of permits and approvals within the Great Barrier Reef Marine Park.

### **Criteria**

7. To form a conclusion against this objective, the ANAO adopted the following high-level criteria:

- an effective process to assess permit applications and attach enforceable conditions has been established;
- a structured risk management framework to assess and manage compliance risks has been implemented;

---

<sup>1</sup> GBRMPA, *Great Barrier Reef Region Strategic Assessment: Strategic Assessment Report*, August 2014, p. 5-3.

<sup>2</sup> The Great Barrier Reef Marine Park Authority (GBRMPA) is a non-corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013*. The role of GBRMPA is discussed later in this section.

<sup>3</sup> GBRMPA, *Outlook Report 2014*, August 2014, pp. v-vi.

- an effective risk-based compliance program to communicate regulatory requirements and to monitor compliance with permit conditions and regulatory objectives has been implemented; and
- arrangements to manage non-compliance are effective.

### **Scope**

8. The ANAO examined GBRMPA's assessment of Marine Park permit applications, monitoring of permit holders' compliance and response to permit holders' non-compliance. The ANAO did not examine the Authority's other regulatory activities, such as investigation and enforcement activities associated with: activities not subject to a permit; the state marine park; or permits and licenses granted under state legislation.

### **Methodology**

9. In undertaking the audit, the ANAO reviewed the GBRMPA's files and records, including those related to sampled permit application assessments, monitoring activities and enforcement actions. The ANAO accompanied departmental staff on compliance monitoring activities and assessed the controls for the two IT systems that support the Authority's assessment, monitoring and enforcement activities. Staff were also interviewed. In addition, the views of relevant stakeholders were sought on GBRMPA's regulation of Marine Park's permits and approvals.

## **Overall conclusion and recommendations**

### **Conclusion summary**

10. GBRMPA assesses approximately 400 permit applications each year and, at any one time, the Authority and its partner agencies are responsible for monitoring the compliance of approximately 1300 permit holders with their permit conditions and taking appropriate enforcement action in response to identified non-compliance.

11. In relation to the regulation of permits, identified shortcomings in GBRMPA's regulatory processes and, more particularly, its regulatory practices had undermined the effectiveness of the permitting system as a means of managing risks in the Marine Park. These shortcomings were identified across a broad range of GBRMPA's regulatory activities, including its assessment of permit applications, monitoring of permit holder compliance and response to non-compliance.

12. While GBRMPA had well-established arrangements for processing and assessing permit applications, there were weaknesses in the quality and completeness of the assessments undertaken against regulatory requirements. In general, permit monitoring undertaken by GBRMPA and its partner agencies had been insufficient to determine permit holders' compliance with permit conditions. Until recently, many instances of permit holder non-compliance (mostly related to the provision of required documentation) were not identified by GBRMPA staff and not recorded centrally for assessment and possible enforcement action. The limited guidance for investigators when determining appropriate enforcement responses to non-compliance, when coupled with poorly documented reasons for enforcement actions, also made it difficult for the Authority to demonstrate the basis for its enforcement decision-making.

13. GBRMPA had acknowledged weaknesses in its permit assessment and compliance management processes and practices and had commenced work on a number of initiatives to strengthen existing arrangements.

14. Further information regarding the audit's findings and conclusions can be found at: <https://www.anao.gov.au/work/performance-audit/regulation-great-barrier-reef-marine-park-permits-and-approvals>.

## Recommendations

15. The ANAO made five recommendations to strengthen the: processing of permit applications; rigour of permit application assessment and decision-making processes; effectiveness of permit conditions; effectiveness of permit compliance monitoring and response to instances of non-compliance.

### Summary of agency response

16. The Great Barrier Reef Marine Park Authority (the Authority) agreed without qualification to all five recommendations contained within the report. The Authority indicated that it had already identified the need to strengthen its permissions system through commitments in the Great Barrier Reef Region Strategic Assessment Program Report and commenced 'strengthening permissions system' activities as part of its 2014–15 work program. The Authority also indicated that the recommendations from the ANAO report would be incorporated into this work.

## Impacts and results

17. When the audit report was tabled in the Australian Parliament and released publicly on the ANAO's website, it received both online and newspaper media coverage.

18. The audit was also selected for an inquiry by the Australian Parliament's Joint Committee of Public Accounts and Audit (JCPAA). The JCPAA focused on four matters regarding the ANAO report findings and evidence provided at a public hearing and in submissions to the inquiry:

- implementation of ANAO recommendations and stakeholder consultation;
- permit application processing, assessment and approval;
- managing compliance; and
- responding to non-compliance.

19. The JCPAA inquiry supported the ANAO's audit findings and conclusions and made three recommendations for GBRMPA to:

- accelerate the implementation of the ANAO's recommendations (to less than the four years planned for full implementation);
- report back to the JCPAA on the progress of implementing the ANAO's recommendations; and
- establish and implement more effective regulatory performance indicators and targets related to permit processing and assessment.

20. Further information regarding the JCPAA's findings and conclusions can be found at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Accounts\\_and\\_Audit/Reports\\_Nos\\_52\\_3\\_and\\_9/Report\\_456](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/Reports_Nos_52_3_and_9/Report_456) (see Chapter 3).

21. GBRMPA has since commenced a major review of its permissions system, which involves revising key policies and guidelines, and amending legislation. Recently, GBRMPA has sought public feedback on proposed changes to its system of granting permits for activities in the Marine Park, which the Authority has indicated are consistent with the audit report's recommendations.

## Challenges, barriers and lessons learned

22. The challenges, barriers and lessons learned from the audit include:

- **General sampling approach**—The ANAO summarised the respective populations of permit applications and current permits using key parameters (such as, date of application submission, permit type sought, application assessor name, decision delegate name and assessment result). The ANAO then selected a sample broadly in proportion with the key parameters of the populations. On this basis, the ANAO was

able to 'project' the audit findings from the sample examined to the respective populations.

- **Value of observations**—As part of the audit, the audit team accompanied Authority staff on aerial and vessel compliance patrols within the Marine Park. Participating in these patrols proved valuable to the audit as they demonstrated the extent to which, and the limitations of, patrols as a means of monitoring permit holders' compliance with their Marine Park permits. The ANAO was able to report authoritatively on the types of permits and permit conditions where compliance could not be monitored effectively through patrols (and thus where other techniques would be needed for GBRMPA to effectively monitor permit holder compliance).
- **Engagement with the auditee**—Throughout the audit, the audit team communicated regularly with the auditee regarding audit progress and preliminary findings and conclusions as these became evident. The ANAO's open approach to communicating with the auditee and its willingness to take on board new information was demonstrated in relation to the preliminary findings from the ANAO's examination of one contentious high-risk permit application. The ANAO arranged a meeting with senior auditee representatives to discuss this specific issue and was able to take into account additional information provided.
- **Non-homogenous population of permit applications**—GBRMPA assessed permit applications using one of four levels of assessment based on the risk the proposed activity poses to the Marine Park. 'Routine', low-risk permit applications (comprising approximately 99 per cent of all applications) followed straightforward standardised assessments, with the remaining high-risk applications requiring specialised and tailored assessments. One of the small number of high-risk permit applications selected in the ANAO's sample consumed a highly disproportionate amount of time and effort to examine relative to others in the sample due to the complex and protracted nature of the assessment process. A key lesson learned is to not underestimate the impact that a small proportion of a sampled population can have on audit resources.

