

7 October 2005

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*FOR THE FUTURE OF OUR MARINE ENVIRONMENT*

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Dear Dr Wright

**Review of Corporate Governance Structure for the Great Barrier Reef Marine Park Authority**

This letter provides the Ocean Watch Australia Ltd (Ocean Watch) submission on the corporate governance structure for the Great Barrier Reef Marine Park Authority (the Authority). Ocean Watch is an environmental, non-government organisation sponsored by the commercial seafood industry to represent the environmental interests of industry with respect to protecting and restoring fish habitats, improving water quality and promoting sustainable fisheries.

Ocean Watch welcomes the review of the corporate governance structure, the role of office bearers and the accountability framework within the Authority and acknowledges that the review is part of a wider program across all statutory authorities within Federal government portfolios to implement the findings of the Uhrig Report. We also welcome improvements to consistency between the Great Barrier Reef Marine Park Authority Act 1975 (GBRMPA Act) with the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

Ocean Watch believes that the Authority should be restructured as a matter of urgency and that the review of the GBRMPA Act, its Office Bearers, and its accountability frameworks should set out to rebuild community confidence that fishing has a long term future in the Great Barrier Reef Marine Park.

In the view of many commercial fishermen, the Authority has engaged in a campaign that has damaged the image of the commercial fishing industry in the Great Barrier Reef Marine Park (GBRMP). The Authority, in our opinion, appears to be becoming more and more like a single-minded "extreme green" environmental organisation as opposed to the managers of a multi-use marine park that supports sustainable use. Conversely, the tourism juggernaut that sustains the Authority through the Environmental Management Charge is offered security of investment via the granting of 15 year permits. The Authority stated that Green zones were for our grandchildren and that these areas were to be afforded maximum protection, yet structures may be built that shade coral and dive sites can be nourished with transplanted coral to improve the visitor experience. The commercial fishing sector, on the other hand, is seemingly viewed as a pariah to

whom a presumption of guilt is automatic. Constraint and suspicion applies to fishing whilst expansion and favour applies to tourism. This is not consistent with the charter of the Authority.

As a result, there is a lot of anger in the seafood community at present due to the treatment that has been handed out by an Authority that should not be opposed to one of the conforming uses of the marine park: sustainable commercial fishing. That they so openly and knowingly advertised misinformation and propaganda about the seafood industry immediately begs the question to the current management arrangements within the whole organisation.

One of the objectives of this submission is to outline that, due to a lack of accountability for the exercise of power within the Authority, there is insufficient governance and accountability, and, as a result steps need to be taken to rectify this problem.

It is also the view of Ocean Watch that the Authority demonstrably misled Parliament during the RAP process. This was able to occur, again, because of the lack of effective control over the Authority.

### **The Role of Office Bearers**

Ocean Watch echoes Uhrig's assertion that "all parties within the governance framework must have a clear understanding of their roles and responsibilities, including their personal accountability." The role of each of the office bearers should be clearly articulated and posted on the Authority's website. Each office bearer, particularly within each of the Critical Issues Groups, should report periodically to the Great Barrier Reef Consultative Committee outlining how he or she has acted within the bounds of their mandate.

It is the view of the Ocean Watch that a simple review of the board would not solve the problems that are so deeply ingrained in the ethos of the Authority. The actions, roles and accountability of the positions charged with responsibility need to be examined for this review to be a success. This should be performed to the extent that individual positions are reported on with the relevant outcomes and recommendations clearly transparent.

Without a full review of senior positions it is debatable whether appropriate structures and behaviours can be established within the Authority that would enhance the capacity of the Authority to achieve greater clarity with expectations and performance as well the relationship it has with major stakeholders. Many senior and middle-level management staff have at one point or another certainly earned the ire of the seafood industry through what it considers as misrepresentations.

Further to that, we also question the relevance of the Authority board and the power or influence it really has. The Uhrig report makes it quite clear that one of the defining factors which limits a boards power, and ultimately its effectiveness, is the ability to appoint and terminate the CEO. What this also suggests is that it is not appropriate for the CEO to also hold a board position, otherwise there may be serious conflicts of interest or perceptions of conflicts of interest. Currently the Chair of the Authority is also the CEO.

Without board positions being clearly defined and separate from the position of CEO, the question that also needs to be asked is whether there can ever be effective governance, and as a result, if it is possible for the separation and independence that is necessary to help ensure the success of the activities being performed by the Authority.

### **The functions of the Authority**

Industry is of the opinion that the primary function of the Authority is to manage the multi-use marine park, fairly treating all those users who have a legitimate right to operate in the marine park.

### ***Fisheries Group***

Ocean Watch supports the stated function of the Authority as “the principal advisor to the Australian government on the control, care, and development of the Great Barrier Reef Marine Park.” However, the Fisheries Critical Issues Group should be subject to scrutiny to clearly define its role relative to fisheries management from the Queensland Department of Primary Industries & Fisheries and the assessment of management measures by the Sustainable Fisheries Section of the Department of Environment & Heritage. Fisheries management is not the function of the Authority and needs to formally separate.

The Fisheries Critical Issues Group conducts a role that is duplicative through overlaying their own fisheries management measures despite ecosystem based fisheries management employed by the Queensland Department of Primary Industries & Fisheries. The Strategic Outcome for the Group in the Authority’s Corporate Plan 2004-09 states that the Fisheries Critical Issues Group will “...ensure that all fisheries in the marine park are ecologically sustainable”. This is the role of the Sustainable Fisheries Section of the Department of Environment & Heritage. The Fisheries Critical Issues Group seemingly fails to recognize the outcomes of both fisheries management plans and the strategic assessments. The existence of a dedicated fisheries unit within the Authority is highly questionable, considering management processes that are already in place.

The involvement of the Authority in fisheries management within the GBRMP is causing industry severe uncertainty in the future of fishing in the marine park area.

There are currently three groups which directly intervene in fisheries management in Queensland: the Queensland Department of Primary Industries and Fisheries (DPIF), the Authority Fisheries Unit and the Commonwealth Department of Environment and Heritage (DEH) (through the Environmental Protection and Biodiversity Conservation Act (EPBC) strategic assessments). This ultimately has led fisheries management in Queensland far from the intended clear and simple system of fisheries management responsibilities to a management system that has become intolerably opaque.

Whilst Ocean Watch understands the Commonwealth's position of taking an "environmental oversight" role on fisheries, this role is undertaken by the DEH through the EPBC fisheries strategic assessment process. All fisheries within the Great Barrier Reef Marine Park (GBRMP) must be accredited by the DEH as being "ecologically sustainable". As this is most certainly the case, what is the need for the Fisheries Group within the Authority? What purpose do they serve?

The DEH assess fisheries against an accountable, nationally agreed assessment framework. On the other hand, the Authority have no transparent or accountable policy framework for their involvement in fisheries, constantly move the goal posts and are seen by rank and file industry to deliberately create an environment of uncertainty within the seafood and related industries to discourage investment in fisheries, based on significant philosophical opposition (within the Authority) to any fishing in the Marine Park.

The Authority must be restructured out of its present interventionist role in fisheries management.

The necessary legislative framework is already in place through the State system to manage fisheries. Authority staff already sit on DPIF Management Advisory Committees (MACs), and would continue to sit on those MACs, so can put the Authority's view on fisheries management through these forums. (Industry is also of the belief that the Authority Fisheries RAC system is completely unnecessary: this duplicates the DPIF MACs and in fact many of the same people attend both forums.) The Authority are also represented on the Fishing Industry Development Council - the peak Queensland fisheries policy advisory committee - and so are able to have input into higher level policy debates.

Ocean Watch is very strongly of the view that the present role of the Authority in effective fisheries management is undermining the certainty required for seafood industry operators to reach informed decisions about their future participation in the industry. The restructuring of the seafood industry dependent on resources harvested within the GBR Marine Park – being undertaken at enormous cost both to Government and to the seafood industry – will be compromised and at risk whilessoever the Authority retain their present involvement in fisheries management.

### **Accountability frameworks**

Uhrig recommended that Boards should only be adopted if they are to be granted full power to act. Ocean Watch, although charged to represent the environmental interests of the fishing industry, cannot support the Board structure for the corporate governance of the Authority on the basis of the seafood industry experience with Authority conducting its dealings in the manner of a runaway train.

Ocean Watch urges the Minister to consider bringing the Authority closer to his portfolio. The Great Barrier Reef Consultative Committee, with a range of expertise from various fields, should be the body that oversees policy. The Committee should be formally linked to the Environment & Heritage portfolio with the Portfolio Secretary acting as Adjudicator and reporting directly to and from the Minister. The Minister should then be in a position to ultimately adjudicate on policy guidance and direction. The Chief Executive Officer should be separate from this body and be responsible for implementation of policy, reporting to the Consultative Committee and through that body to the department and the Minister.

The Ministerial Council currently comprises the Environment Ministers and Tourism Ministers from both the Queensland and Commonwealth governments. Whilst recognizing that tourism is the biggest industry and revenue generator in the marine park, it is by no means the only industry. Ocean Watch proposes that the Queensland Minister for Primary Industries & Fisheries be appointed to the Ministerial Council in place of the Queensland Minister for Tourism & Wine Industry Development.

### **Consultation Mechanisms**

The FutureEye report exposed dissatisfaction with the consultation process leading up to implementation of the Representative Areas Program, particularly from the fishing sectors. Ocean Watch proposes that consultation method and practice by the Authority be subject to oversight by an independent arbiter reporting to the Minister. Results of consultation, including origins of opinion, must be made readily available to the public so that interpretation can be subject to debate or appeal.

During the development of RAP, the Authority took action that could be clearly predicted to damage public perception of the seafood industry. For example, the Authority invited Dr Sylvia Earle as keynote speaker to a reef forum in Townsville. Dr Earle is a US based international environmental lobbyist with a well-known antagonism towards commercial fishing, and in particular towards trawling. Dr Earle had made that position clear in a book she authored and other writings, and in interviews (available on the internet). In an earlier visit to Australia, Dr Earle had likened trawling to clear felling a forest for the purpose of catching songbirds.

Inviting Dr Earle as keynote speaker at a high profile conference could be guaranteed to produce criticism of commercial fishing. In fact the morning after her arrival in Townsville, the city's major daily newspaper carried as its main front page story the report of an interview in which Dr Earle described commercial fishing as "doomed" and made a number of ill-informed criticisms of the industry. The interview was conducted at the Authority's reef aquarium and was apparently facilitated by Authority staff.

It would be naive in the extreme to believe that this exercise could have been expected to produce anything other than caustic criticism of the fishing industry, and of course had the effect of focussing the attention of the conference, and public interest in the conference, on commercial fishing and the (exaggerated) nature and level of its impacts on the marine park (Federal Fisheries Minister Senator Ian Macdonald was forced to defend Australia's fisheries management record at the conference but his defence of course received nothing like the same degree of media coverage and hence public awareness as Dr Earle's comments).

This event further cemented our view that the Authority was promoting anti-fishing propaganda to strengthen its position in making severe cuts to the levels of commercial fishing allowed in the marine park. (Subsequently, the Authority's recommendations have seen more than 30 per cent of the park closed to all fishing, both commercial and recreational, and 70 per cent closed to one or more forms of commercial fishing).

## **Corporate Governance Templates**

Ocean Watch endorses the adoption of the 'Executive Management' template for the Authority on the basis of Uhrig's description and recommendations.

## **Resource Management Arrangements**

Ocean Watch endorses the adoption of the Financial Management and Accountability Act 1997 for the Authority on the basis of Uhrig's description and recommendations.

## **Consistency of the GBRMPA Act 1975 and the EPBC Act 1999**

As a multiple use marine park that recognizes wise use of resources, the GBRMPA Act must recognize the concept of Ecologically Sustainable Development and the obligations associated with satisfaction of the triple bottom line in equal proportion. This recognition should be consistent with that articulated in the EPBC Act.

Ocean Watch suggests amendment to the GBRMPA Act so that contentious or erroneous decisions pertaining to the Representative Areas Program can be amended without reopening the whole process. The Program must have the flexibility to continuously improve.

The seafood industry has no security of investment. A cloud of speculation is ever present. Review of the Representative Areas Program should be clearly defined at 10 year intervals to give industry certainty.

Commercial fisheries in the Great Barrier Reef Marine Park are managed by the Queensland Department of Primary Industries & Fisheries in accordance with the Offshore Constitutional Settlement. The role of the Authority in regard to fisheries should be limited to biodiversity monitoring and an advisory function. The avenue for duplication should be closed and the Fisheries Critical Issues Group forced to detach from fisheries management.

## **Statement of Expectations**

Ocean Watch submits the following points for inclusion in the Statement of Expectations from the Minister to the Executive:

- Transparent and meaningful relationships with outsiders
- Respect for the principle of Ecologically Sustainable Development
- Respect for the integrity of ecosystem based fisheries management

## **Statement of Intent**

Ocean Watch submits the following points for consideration by the Minister before accepting the Statement of Intent from the Executive. Our submission details key performance indicators for each point outlined in the Statement of Expectations.

### *Transparent and meaningful relationships with outsiders*

- KPI: Establish communication protocols with industry and community representative bodies.
- KPI: Independently convened community and industry consultation
- KPI: Results of community and industry consultation published on the Authority website

### *Respect for the principle of Ecologically Sustainable Development*

- KPI: Adhere to the obligation of ensuring a balanced triple bottom line
- KPI: Advocate ecologically sustainable development in the marine park
- KPI: Apply the principles of ecologically sustainable development to all industry and community sectors equally and fairly

### *Respect for the integrity of ecosystem based fisheries management*

- KPI: The Fisheries Critical Issues Group will not duplicate Queensland government fisheries management obligations
- KPI: Publish all scientific research papers on the Authority website regardless of the nature of the findings.

## **Recommendations**

- The Authority Fisheries Group should be disbanded. The unit has lost the confidence of the commercial fishing industry, because of its overbearing, condescending and inconsistent approach to the industry. It is a gross duplication of fisheries management and waste of taxpayer's funds that achieves nothing in the way of progressing fisheries management.
- The Authority should be made more accountable by having an independent board created or by creating a management structure that answer either to a government department or directly to its relevant Minister. Further to that, executive management positions and board positions must be clearly separated to create a clear line of accountability and diffuse any possible conflicts of judgement or interest.

- Clear and transparent accountability frameworks must be set up to provide better mechanisms for consultation processes that do not allow the Authority to remove itself from either its stated objectives, or; the correct functions of the Authority.
- The review of the role of office holders must be more than just the board positions/CEO; it must examine the powers, roles and actions of senior and middle level management positions.

Please do not hesitate to contact me on (02) 9660 2262 should you require further information regarding these matters.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AL', followed by a long horizontal line extending to the right.

**Anissa Lawrence**  
**Executive Officer**  
Ocean Watch Australia Ltd