

# Great Barrier Reef Marine Park Authority Governance Review – Background Paper, March 2017

## About the Background Paper

The Independent Reviewer has released this background paper to seek views on the effectiveness of the role and composition of the Great Barrier Reef Marine Park Authority's board and on the Authority's executive management<sup>1</sup> arrangements in supporting the functions of the Authority.

This paper:

- outlines the background, rationale and scope of the review
- describes the Authority's current governance arrangements
- outlines factors that may affect the need for alternative governance arrangements
- discusses options for alternative governance arrangements
- provides questions to assist with submissions.

## Making submissions

The review is accepting submissions in response to the Terms of Reference. The due date for submissions is 7 April 2017. All submissions may be published on the Department's website unless explicitly marked as confidential. Submissions must be accompanied by the prescribed cover sheet.

Submissions can be made:

- by email to [GBRMPAReview@environment.gov.au](mailto:GBRMPAReview@environment.gov.au)
- By post  
GBRMPA Governance Review  
Department of the Environment and Energy  
GPO Box 787  
Canberra ACT 2601

## Background, rationale and scope

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.

Governance arrangements for the Authority were last considered in 2006 as part of the review of the *Great Barrier Reef Marine Park Act 1975*. The review recommended, amongst other things, that the Chairperson of the Authority also perform the role of Chief Executive Officer (CEO). It also noted that the Authority's future governance needs will be shaped by the changing needs of the Reef.

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<sup>1</sup> Executive management includes those establishing strategy (the Chairperson and members of the Authority's board) and those implementing strategy (the Chairperson as CEO).

Dr Russell Reichelt, the current Chairperson and CEO, has decided to conclude his tenure at the end of his current five year term in October 2017. The Government has decided to use his departure as an opportunity to review the Authority's governance arrangements. The Government is committed to ensuring that the institutions in place to support the health and resilience of the Reef are strong and fit for purpose.

In line with the Terms of Reference ([Attachment A](#)) the review will consider how effective the Authority's current governance arrangements are in supporting it to fulfil its functions as outlined in the *Great Barrier Reef Marine Park Act 1975*. Specifically, it will seek to determine whether the scope of responsibilities and functions vested in the Chairperson and other members of the board are optimal given the needs of the Reef and the evolving landscape of institutions and programs in place to address those needs.

### Current governance arrangements of the Authority

The Great Barrier Reef Marine Park Authority is established by the *Great Barrier Reef Marine Park Act 1975*. The functions and powers of the Authority are set out in the Act and include:

- advising and making recommendations to the Minister for the Environment and Energy in relation to the care and development of the Marine Park, including the areas that should be declared to be part of the Park;
- developing zoning plans and plans of management;
- managing the Marine Park cooperatively with the Queensland Government. This includes performing permitting and approval functions and enforcing the 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.

For practical purposes reference to 'the Authority' when discussing the Great Barrier Reef Marine Park Authority is generally taken to include the Chairperson/CEO, the board and staff of the organisation. The *Great Barrier Reef Marine Park Act 1975* however defines the Authority more narrowly, as the Chairperson and between two and four other members, often referred to informally as 'the board'. The Chairperson is, for the purposes of the *Public Governance, Performance and Accountability Act 2013*, the 'accountable authority' for the Authority, meaning that the Chair is generally responsible for, and has control over, the day to day operations of the Authority and its staff.

All members of the board must possess qualifications or experience relevant to the functions of the Authority. Additionally, one member must be Indigenous with knowledge of Indigenous issues in the marine park, one other must have knowledge of or experience in the tourism industry, and one must be nominated by the Queensland Government.

The role of the Authority members (or board) is to ensure the efficient and effective performance of the functions set out in the *Great Barrier Reef Marine Park Act 1975*. In fulfilling this role the board 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 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.

The Authority is supported in its role by staff employed under the *Public Service Act 1999*. In 2015-16, the Authority employed 208 staff. This includes three Senior Executive Service Band 1 officers and an Executive Level 2 Chief Operating Officer. For the purposes of the *Public Service Act 1999* the staff of the Authority, together with the Chairperson, constitute a 'statutory agency' of which the Chairperson is the head, or CEO. The Chairperson is not subject to direction by the other members of the Authority for responsibilities relating to the management of the agency.

### Governance in the public sector

Effective governance is essential to the performance of public sector entities. Governance arrangements need to enable and support entities to achieve the best results for the Australian community, in line with their legislative and policy mandates. At the same time they must allow for the entity to deliver on its responsibilities in an efficient, effective and sustainable manner (ANAO, 2014).

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* encapsulates core elements of contemporary governance with its focus on performance, accountability, engaging with risk and collaborating effectively in pursuit of outcomes. It provides two broad governance structures for public sector entities. A key difference between the two concerns executive-level accountability (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 (Commonwealth of Australia, 2006). The Great Barrier Reef Marine Park Authority is currently established in this way.
- 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.

The appropriate governance structure for particular public sector entities depends upon a range of factors including the functions specified in their enabling legislation and the degree of independence from government required to perform those functions. As a general rule, the more independent of government a public sector organisation is, the greater the need for clear and effective governance arrangements to ensure it is discharging its delegation appropriately.

### Factors which may affect the need for change

The governance framework of the Authority was last substantially reviewed as part of the broader review of the *Great Barrier Reef Marine Park Act 1975* in 2006. That review recommended, based upon the challenges and circumstances facing the Reef, that the executive management governance model

outlined above was most appropriate. In reviewing the governance arrangements for the Authority it is important to consider whether changes since 2006 warrant alternative arrangements for the future.

Areas of change with possible implications for governance of the Authority include:

- the breadth of threats and challenges to the Reef and understanding of its values;
- investment in programs by Commonwealth, state and local governments aimed at ensuring the health and resilience of the reef;
- the range of institutions with a role or interest in the Reef;
- changes to legislation relevant to management of the Reef; and
- plans and policies introduced or in place for management of the Reef.

Also relevant to governance of the Authority is the scale of the activities it undertakes and the structures in place through its Senior Executive Service management. These impact the scale of the management task associated with the role of the Chairperson who also acts as Chief Executive Officer.

It is appropriate to consider how changes in the landscape in which the Authority operates affect the operations of the Authority board and Chairperson/CEO. In particular, the review will consider whether the changes that have occurred since 2006 have created a need for additional capacity that cannot be provided by the current executive chair and board arrangements.

### Options for change

As set out above, the *Public Governance, Performance and Accountability Act 2013* provides two broad governance structures for public sector entities. Options for future governance of the Authority can therefore be described under either the 'executive management' or 'governing board' model.

#### *Executive Management Options*

- Maintain the current arrangements

Under this option the Chairperson would remain the accountable authority and retain all responsibilities as agency Head. The Authority would continue to be comprised of the Chair and between two and four other members and the expertise required of members would be as currently specified in the *Great Barrier Reef Marine Park Act 1975*. This option would be the least disruptive to the operations of the Authority. It does not require any amendment to the Act.

- Supplement the Authority's board

Under this option the Chairperson would remain the accountable authority and agency Head. Membership of the Authority would be expanded to include additional members. This option would provide additional capacity to the Authority's board to provide strategic direction and support to the Chairperson through additional expertise in relevant areas. It would require an amendment to the *Great Barrier Reef Marine Park Act 1975* to specify the new composition of the Authority and the skills and background required of members.

- Senior Executive Chief Operating Officer to support the Authority's board

Under this option the Chairperson would remain the accountable authority and agency Head, but would delegate certain duties relating to management of the agency to a Senior Executive Chief Operating Officer (COO). This option would provide the Chairperson with additional executive management

support and allow greater capacity to focus on strategy and direction. It would not require amendment to the Act but would require the delegation of relevant functions from the Chairperson to the new COO.

- Supplement Senior Executive Service management support

Under this option the Chairperson would remain the accountable authority and retain all responsibilities as agency Head. Senior Executive Service management capacity within the agency would be supplemented in line with the identified needs of the agency. The Authority would continue to be comprised of the Chair and between two and four other members and the expertise required of members would be as currently specified in the Great Barrier Reef Marine Park Act 1975. It would not require any amendment to the Act but would have resource implications.

#### *Governing Board Option*

- Establish a governing board and separate the Chief Executive Officer

Under this option a newly established governing board would become the accountable authority under the *Public Governance, Performance and Accountability Act 2013*. The board 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. A Chief Executive Officer position (without membership of the board) would also be established as the agency Head. The Chief Executive Officer would report to the board and assume responsibility for day-to-day management of the agency. This option would provide the agency with significant additional strategic and management capacity and would require amendments to the Act for its operation.

#### Questions

The questions presented below can be considered as a starting point in preparing your submission.

- What are the major issues facing the Reef and how are they impacting on governance of the Authority?
- What, if any, issues do you perceive with the operation of the current governance arrangements of the Authority?
- What future challenges do you consider likely to impact on effective governance of the Authority?
- What arrangements would most effectively support the governance and operation of the Authority? Why?

#### References

Australian National Audit Office 2014, *Public Sector Governance Strengthening Performance through Good Governance Better Practice Guide*

Commonwealth of Australia 2006, *Review of the Great Barrier Reef Marine Park Act 1975 Review Panel Report*

Commonwealth of Australia 2003, *Review of the Corporate Governance of Statutory Authorities and Office Holders*

## **Attachment A**

### ***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.