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Draft Regulation Impact Statement: Banning the Disposal of Capital Dredge Spoil Material in the Great Barrier Reef Marine Park

Ports Australia is the peak industry body representing port authorities and corporations, both publicly and privately owned, at the national level. This includes all Queensland port authorities being: Brisbane, Gladstone, North Queensland Bulk Ports, Townsville and Ports North.

Ports are critical to maintaining and growing the Australian and Queensland economies, enabling the export of our agricultural and mineral commodities and imports such as fuel, cars and household goods that support our communities. The importance of ports is recognised in the National Ports Strategy, the Queensland Ports Strategy and related transport legislation and regulations. Port growth will be required in the future to support increasing population and enable development of Queensland's resource and agricultural industries. Ports Australia strongly believes that port growth can continue while also ensuring important environmental and social values are protected.

Ports Australia has previously made representations to the Australia Government expressing our concern with the intended Regulation to ban the dumping of capital dredge spoil material in the Great Barrier Reef Marine Park (Marine Park). Ports Australia does not support the proposed Regulation as it is manifestly a poor strategic policy choice, which is not supported by environmental or economic evidence. The ban will, in the future, negatively affect the efficiency and competitiveness of the ports community in Queensland.

While we understand the Government is set on implementing the policy, we believe that the supporting information that explains the Regulation and its implications should inform the public and the Parliament of the implications of such a ban in a detailed and balanced manner. The Regulation Impact Statement (RIS) released on 16 March 2015 fails to do this in any meaningful way.

The Best Practice Regulation Guidelines developed by the Council of Australian Governments (COAG) in October 2007 sets out of 8 principles which should be followed in the development of regulation. As identified in **Table 1**, the draft RIS falls significantly short of following virtually all of these principles. A more detailed assessment of the limitations of the Draft RIS is included in **Attachment A**.

Table 1 – Assessment of the draft RIS against the COAG Best Practice Regulation Guidelines

COAG Principle	Draft RIS Shortcomings
1. Establishing a case for action before addressing a problem	The RIS, the Reef 2050 Sustainable Development Plan and the GBR Strategic Assessment have not made a clear case for banning capital dredge material disposal in the Marine Park ahead of other options including case by case assessment and management of risks.
2. A range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed	The RIS does not include or reference an objective and detailed analysis of potential alternative options to the policy.
3. Adopting the option that generates the greatest net benefit for the community	The benefits and impacts upon the community have not been fully analysed or articulated, including the potential impacts on jobs, employment or the increased cost of traded commodities.
4. In accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:- a) the benefits of the restrictions to the community as a whole outweigh the costs, and b) the objectives of the regulation can only be achieved by restricting competition	Points a) and b) have not been analysed through a proper cost-benefit analysis of the policy. The proposed Regulation will reduce the competitiveness of Queensland’s northern and central ports and, more importantly, Queensland’s trading businesses.
5. Providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear	The policy intent is clear, however the justification for the policy and the regulatory pathways for onshore placement and reclamation, as alternatives, remain highly uncertain.
6. Ensuring that regulation remains relevant and effective over time	The long-term sustainability of the policy has not been demonstrated.
7. Consulting effectively with affected key stakeholders at all stages of the regulatory cycle	Consultation on the proposed Regulation did not form part of the Reef 2050 Partnership process or the GBR Strategic Assessment. Consultation using the current draft RIS as a basis is flawed due to the lack of rigorous analysis within the RIS.
8. Government action should be effective and proportional to the issue being addressed.	The scientific and environmental benefits of the ban have not been established. The banning of dredge material placement in the Marine Park is disproportionate to documented impacts and risks.

This lack of transparency and failure to follow due process as evidenced by **Table 1** is of great concern.

Ports Australia is urging all governments to stand firm on the dredging issue and not succumb to non-science based arguments and lobbying. Unless policy is based on scientific principles and proper cost-benefit analysis, Australia will find itself with outcomes that contribute to double-digit unemployment and much-reduced GDP. Regulatory risk attached to dredging and the upkeep of our channels is becoming a major factor impacting on the confidence of our ports and resources sectors.

Ports Australia would welcome any opportunity to elaborate on the points raised in this letter.

Yours sincerely,



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Cc:

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ATTACHMENT A:

Draft Regulation Impact Statement: Banning the Disposal of Capital Dredge Spoil Material in the Great Barrier Reef Marine Park – Detailed Ports Australia Comments

Ports Australia has the following detailed comments on the Draft RIS:

1. Does not properly acknowledge the importance of port supply lines and the need to dredge

Shipping channels and berths provide safe and efficient access to our ports. They are critical pieces of national infrastructure equal in importance to our road and rail networks.

Decisions impacting on the performance of our ports and channels are intrinsically tied to our national interest given our dependence on commodity exports and Australia's exposure to trade generally. Likewise, the aspirations of governments to develop northern Australia and to strengthen our agricultural supply chains will never be realised without a strong and competitive ports sector.

Dredging of shipping channels is an essential part of port operation in Australia and globally. Declared shipping channels make use wherever possible of naturally deep-water areas, thus enabling the safe passage of shipping, but dredging will always be required.

Channel widening and deepening is necessary to ensure ports can accommodate the increasing volume and size of ships trading with Australian ports. As the international economy grows and larger ships are used to achieve economies of scale, the necessity to dredge channels and berths will continue. Ports in northern areas of Australia are being developed or expanded to meet the growing mineral resource export trade and capital dredging for channel improvements will be required (major size increases in bulk vessels have occurred over the past few decades given the cost advantages and this will continue in the future).

Dredging has necessarily involved placement of material at sea. Land based or reuse options for dredged sediment are often not viable in northern Australian where adjacent coastal lands may have high conservation or cultural value or as such are viable only for small amounts of material. Material placed at sea must be non-toxic and be placed at an approved Dredged Material Placement Area (DMPA) away from sensitive receptors such as corals and seagrass. DMPAs form an essential part of the port infrastructure; their location and operation taking into account environmental, social and economic considerations.

The development of the proposed new policy has failed to consider these matters and the RIS does not deal with them in a sufficient or detailed manner.

2.0 Proposed policy may lead to poorer environmental outcomes

Dredging is highly regulated and subject to well-established processes stipulated under the London Protocol (to which Australia is a signatory) and the *National Assessment Guidelines for Dredging 2009* which requires that a comparative assessment of all dredge disposal options is undertaken to ensure the most sustainable option is chosen. For some dredging projects, the best solution is onshore disposal or beneficial applications, but for many others such options may not be appropriate or available. As a general rule marine sediments are, for sound environmental reasons, best left in the marine environment.

The "blanket" position now being implemented by the Government, that does not require various disposal options to be assessed on their merits, is not appropriate on both ecological and economic grounds. It is likely to result in sub-optimal environmental outcomes being pursued that will lead to increased pressure on regulatory processes. It will certainly be detrimental in economic terms given the high cost and logistical issues posed by land based options.

The policy development process and RIS has paid scant regard for the results of detailed monitoring of previous dredging projects in the GBRMP, which indicate that dredging and disposal of dredge material at sea are not key threats to the Reef. In fact, most dredge material placement in the GBR occurs in inshore turbid environments well away from areas of high conservation value, distant from coral reefs and has not led to unanticipated or unacceptable impacts. The Ports Australia report: *Dredging and Australian Ports* (April 2014), which was independently written and peer reviewed, demonstrated this reality.

The impacts, both economic and environmentally, of possible sub optimal outcomes should be analysed and addressed in the RIS.

The RIS sets out that the desired outcomes of the proposed Regulation are to:

- Improve water quality in the Marine Park;
- To increase protection and conservation of the plants and animals of the Marine Park,
- Including protected species; and therefore
- To improve the Great Barrier Reef's overall World Heritage values.

The RIS then claims that “*GBRMPA considers that a key action to assist with achieving the desired outcomes is to implement a regulation to ban the dumping of capital dredge spoil material in the Great Barrier Reef Marine Park*”. However the RIS does not then outline how the Regulation will actually deliver on this result in the context of other, much more significant, actions that are impacting these matters, such as cyclones, increased flood run off and nutrients and sediments from rivers and farms.

3.0 Selective referencing of the GBR Strategic Assessment

The RIS has cited the GBR Strategic Assessment as having formed a significant part of the consultation on the proposed regulation. This is misleading and selective. The GBR Strategic Assessment did not propose or recommend a ban on sea disposal of dredge material in the Marine Park. As such it is difficult to see how it formed a direct consultation process for the proposed Regulation.

In fact, the GBR Strategic Assessment reached a number of findings that counter the need for Regulation in this area, these include:

- Technical studies for the Great Barrier Reef Strategic Assessment concluded that on land placement of dredged material (particularly fine grained maintenance material) was not a long term viable option for the six major ports in the Great Barrier Reef region (SKM 2013)
- Impacts from dredging and material placement are generally localised and short term.

The RIS should accurately reflect the content of the GBR Strategic Assessment and justify why an alternative policy approach is being adopted.

4.0 Inadequate analysis of options

One of the most surprising elements of the RIS is the approach and methodology adopted to analyse and compare policy alternatives and options including the status quo. The comparison undertaken focuses mainly on whether the various options deliver the government's intended policy. This is clearly a self-fulfilling assessment that automatically leads to supporting the introduction of the proposed Regulation. The RIS must analyse options in terms of delivering intended environmental outcomes and the respective costs and benefits of each option, as compared to the other options. Such an analysis may well find in favour of the proposed regulation, but the public and, most importantly, parliamentarians who read and consider the proposed Regulation and supporting RIS should be informed of the benefits, consequences and costs of the respective options.

This aspect of the RIS must be corrected before it is finalised if a balanced consideration of the proposed Regulation is to be made.

5.0 Economic analysis is severely lacking

The RIS identifies that the Regulation “*would mostly affect the businesses that manage large ports*”, but does not provide any commentary or analysis on the impact to businesses that rely on these ports, such as the agricultural and resources sector. For instance, the RIS provides economic values for the tourism industry associated with the GBR, which is of questionable relevance, but does not provide any economic analysis of the major trade related industries that rely on effective port operations.

The value of trade through Queensland ports equates to approximately \$50 billion per annum. Increasing unnecessary regulation and changing policy on dredging puts this trade at risk and does not address the real issues for the Great Barrier Reef.

Australia is now a high cost economy where small margins on costs and price will mean all the difference in terms of retaining a competitive edge in our commodity markets. This is particularly the case for our mineral and energy export industries, which are experiencing significant price reductions. The proposed Regulation on capital dredging will result in substantially greater costs for our export/import industries. Of particular concern is the context of the Government’s commitment to a productive and competitive economy and to reduce the cost of regulation, and how increased resource commodity costs will play through to the Government’s fiscal outlook, already under pressure from declining royalties. Importantly, the proposed regulation will not improve the investment environment and provide certainty in relation to dredge material placement, in contrast to what is claimed in the RIS. We are already seeing activist groups opposing land-based placement of dredge material.

Dredged material placed on land or used for reclamation needs to be stored in a dedicated facility with containment (bund) walls, potentially lined to avoid groundwater salination problems, have special tailwater treatment ponds and needs to be engineered to cater for cyclones and storm surges. The material would take years to dry and the area needs to be actively managed and fenced for public safety. In effect, large areas of the coast will be permanently sterilised from any other use.

The RIS fails to analyse these cost elements or evaluate the benefits in comparison to the status quo or other options. The analysis provided is far too brief, overly simplistic and has not looked at any actual cases or projects. For a policy with serious implications this is unacceptable.

Real project data is available that could be used to better inform the RIS, for instance:

- Assessments for the Cairns Shipping Development Project indicate that land based placement of 4.4 million cubic metres of dredge material was 5 times more expensive than placement at sea (\$360M compared to \$60M), excluding any land purchase or dredge material management costs.
- Published analysis for dredge material placement options at Abbot Point identified that onshore placement would range in cost from \$100 million to \$320 million more than offshore disposal. Onshore options would also take between 2-5 years longer in terms of approvals and construction lead in times, significantly increasing the lost opportunity costs for projects.
- The Western Basin Strategic Dredging and Disposal Project at Gladstone identified that reclamation using suitable material would cost \$20/cubic metre compared to \$28/cubic metre for ocean disposal. Significant costs savings were achieved in this analysis because the material was being used to establish approximately 153 hectares of useable port land.

Ports Australia would be happy to work with the Government to provide real and useful cost comparisons to further inform the RIS.

6.0 Impact on community groups

The RIS makes the following simplistic claim:

“The proposed regulation should not negatively impact community groups as the community does not undertake major projects that result in the need to dispose of capital dredge spoil in volumes greater than 15,000 cubic metres. Rather, the proposed regulation should positively impact community groups and scientific organisations as they are generally in support of increasing the protection of the marine environment within the Marine Park.

However, the RIS makes no mention, let alone provide any analysis, of potential impacts both direct and indirect on jobs, the cost of commodities (e.g. fuel and food), household budgets and salaries. The potential impacts on communities especially in the longer term, as shipping restrictions due to limited channel access starts to impact, could be significant.

Ports Australia strongly believes that the RIS needs to be re-worked considerably if it is to provide any useful information on the regulatory impacts that may arise.

7.0 Maintenance Dredging

Ports Australia appreciates that the proposed regulation will make a clear distinction between capital and maintenance dredging. The Federal Government has provided assurances to Ports Australia that existing policies on maintenance dredging will be protected and supported and we have an expectation that the regulation will reflect these assurances. Any ban or restriction on the long established maintenance dredging process of placing natural sediments (transported from nearby shallow areas by floods and currents into deeper shipping channels and berths) at designated at-sea sites would be devastating economically for ports and their client industries and render some unviable.

Dredging to ensure designated depths are maintained is critical to the continued operation of our ports that support our regional and national economies. This is particularly the case in Queensland where the majority of major commercial ports are located within the cyclone activity zone and are accordingly subject to periodic (and unpredictable) high levels of siltation bringing about immediate requirements for maintenance dredging. Any change to maintenance dredging policy will accordingly compromise the ability of ports to respond to a changing climate and increased frequency of extreme events that rapidly alter coastal siltation patterns.