



SYDNEY
CENTRE FOR INTERNATIONAL AND GLOBAL LAW

MEDIA SUMMARY

Global Climate Change and the Great Barrier Reef: Australia's Obligations under the World Heritage Convention

A REPORT PREPARED FOR THE ENVIRONMENTAL DEFENDER'S OFFICE
(NSW) LTD, CANA – CLIMATE ACTION NETWORK AUSTRALIA,
GREENPEACE AUSTRALIA PACIFIC

21 SEPTEMBER 2004

In early 2004 the Sydney Centre for International and Global Law was asked by the Environmental Defender's Office (NSW), Climate Action Network Australia (CANA) and Greenpeace Australia Pacific to provide a report examining whether Australia was in breach of its international legal obligations to protect the Great Barrier Reef World Heritage Area ('**GBRWHA**') from the effects of global climate change. Specifically we were asked whether Australia had complied fully with the World Heritage Convention.

Legal and Factual Background: the GBRWHA, the World Heritage Convention and the Effects of Climate Change

The 1972 World Heritage Convention seeks to establish an effective system of collective protection of the world cultural and natural heritage of outstanding universal value. Australian became the fifth party to the Convention in 1974.

The GBRWHA was inscribed on the World Heritage List in 1981 as a natural property possessing World Heritage values. As a party to the Convention, and under accepted principles of international law, Australia is required to perform the obligations imposed by the Convention in relation to the GBRWHA in good faith, including the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the GBRWHA.

The coral reefs that make up the GBRWHA are particularly sensitive to climate change. Increases in sea temperature of as little as 1 degree Celsius may lead to coral bleaching and the eventual death of corals. The Great Barrier Reef Marine Park Authority considers climate change to pose the greatest long-term risk to the GBRWHA. It is predicted that without substantial reductions ('deep cuts') in global emissions of anthropogenic greenhouse gases (that are the main cause of climate change), coral cover worldwide will decrease to less than 5 per cent on most reefs by the middle of this century.



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The Australian Government has not adopted a policy of pursuing 'deep cuts' in Australia's greenhouse gas emissions. Nor is the Australian Government committed to ratifying the Kyoto Protocol and working within the framework of that instrument to pursue more substantial emissions reduction targets than those agreed under the first commitment period of the Protocol.

Our Key Conclusions

Australia's Failure to Ratify the Kyoto Protocol Constitutes a Breach of the World Heritage Convention

The Kyoto Protocol offers the only currently existing international legal framework for achieving specified reductions in global greenhouse gas emissions that are responsible for the increases in sea temperatures which constitute the most serious threat to the world heritage values of the GBRWHA. Australia signed the Kyoto Protocol on 29 April 1998, but has indicated that it does not intend to move to ratification.

Article 4 of the World Heritage Convention imposes a general and broad obligation of conduct upon Australia in relation to the GBRWHA. As global warming represents the most significant long-term threat to the heritage values of the GBRWHA, and the Kyoto Protocol is the only available legal framework for achieving binding reductions in greenhouse gas emissions, it is argued that by not ratifying the Kyoto Protocol Australia has failed to "do all it can" to ensure the protection and conservation of the GBRWHA.

By not ratifying the Kyoto Protocol and implementing its provisions in Australian law, it is also argued that Australia has not taken the appropriate legal and administrative measures necessary for the protection, conservation and rehabilitation of the GBRWHA.

Australia's Failure to Commit to 'Deep Cuts' in Greenhouse Gas Emissions Constitutes a Breach of the World Heritage Convention

Neither Australia's stated objective of voluntarily meeting its Kyoto Protocol emissions target nor its ratification of the Kyoto Protocol will necessarily entail the complete discharge of Australia's obligations under the World Heritage Convention given the significance of the threat posed by climate change to the GBRWHA. Further measures are required in order to satisfy Article 4 of the Convention.

Such additional measures are likely to include significant reductions by Australia of its greenhouse gas emissions. Determining the precise level of reductions in greenhouse gases that must be adopted in order to meet the requirements of Article 4 is a complex and difficult legal question. Nonetheless it is argued that Australia's decision not to commit to any reduction in greenhouse gases below its 1990 baseline emissions level constitutes a clear failure to comply with Article 4 of the World Heritage Convention if it is within the resources of the Australian Government to pursue more substantial cuts.

Australia is Required to Report its Climate Change Policies to the World Heritage Committee

One of the essential functions of the World Heritage Committee is to monitor the state of the conservation of properties inscribed upon the World Heritage List. The effects of climate change upon the GBRWHA and the policies of the Australian Government in



relation to climate change are clearly matters that may be the subject of both reactive monitoring and periodic reporting.

In relation to reactive monitoring, it is open to the World Heritage Centre, other sectors of UNESCO and the IUCN to furnish the World Heritage Bureau and World Heritage Committee with information concerning the impacts of climate change upon the GBRWHA and the Australian Government's climate change policies.

In relation to periodic reporting, it can be argued that the Australian Government should include in periodic reports on the GBRWHA information and documentation concerning the development of Australia's climate change policy and an assessment of the extent to which the integrity of the GBRWHA has been, and will be, impaired by the effects of climate change.

The GBRWHA may be Inscribed on the List of World Heritage in Danger

It is clearly open to the World Heritage Committee to consider that the GBRWHA should be inscribed on the List of World Heritage in Danger. The deterioration of the GBRWHA as a result of climate change may be considered to constitute both an "ascertained" and a "potential" danger.

It is argued in the report that a potential danger may arise where a State Party to the World Heritage Convention has not taken adequate steps to protect and conserve a world heritage property through failing, for instance, to establish and implement a management plan addressing all of the threats to the property. On this basis the World Heritage Committee could determine that the GBRWHA should be placed on the List of World Heritage in Danger on the grounds that the Australian Government has not developed an appropriate and effective response to climate change through ratification of the Kyoto Protocol and a commitment to substantial reductions in greenhouse gas emissions.

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