

# **Proposed regulation of trans-shipping activities in Queensland waters and the Great Barrier Reef**

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# Trans-shipping in Queensland waters and the Great Barrier Reef

The Queensland Government is committed to clear and consistent regulation of industries which have the potential to harm the state's marine environments. Trans-shipping, which has the potential to cause significant environmental impacts, must be carefully considered when conducted in any marine environment and even more so in areas of special significance such as the Great Barrier Reef.

In the Reef 2050 Long-term Sustainability Plan, the Queensland Government committed to not supporting trans-shipping operations which adversely affect the Great Barrier Reef Marine Park<sup>1</sup>. This commitment complements the policy delivered in the *Sustainable Ports Development Act 2015*, which confines port development in the Great Barrier Reef Region to declared port areas.

Trans-shipping involves the transfer of bulk cargo from one vessel to another while at sea in the context of either importing or exporting. Varying types of cargo, distances travelled, and amount of cargo are involved. The activity carries with it environmental risks related to the release of materials in the marine environment; possible works to install and maintain offshore structures; and increasing traffic and vessel activities.

While the environmental risks of trans-shipping apply to all marine environments, they present a particular risk to Great Barrier Reef region ecosystems, which are already facing pressures from climate change, catchment water quality, and existing port and shipping activities. Initiatives that avoid additional pressures on these vulnerable ecosystems will help to protect the Great Barrier Reef's outstanding universal value, natural integrity and cultural values.

The current regulatory framework under the Environmental Protection Regulation 2008, was designed to manage – through licensing – the environmental risks associated with loading or unloading of some types of cargo in certain circumstances. However, as the industry has evolved and responded to new technologies and logistical challenges, the environmental risks of certain activities involving offshore loading and unloading of bulk cargo, can no longer be adequately managed under the current framework.

The gaps in the current regulatory framework need to be filled so that trans-shipping cannot occur offshore in the Great Barrier Reef Marine Park and other Queensland waters without approval or appropriate levels of assessment. This will reduce the risk of potentially harmful cargo being transferred at sea without appropriate environmental protections.

Amendments are proposed to the *Environmental Protection Act 1994* and its associated regulations to ensure that trans-shipping activities are:

- subject to consistent environmental assessment and oversight where they are carried out in Queensland Waters and the Great Barrier Reef region;
- not permitted in the Great Barrier Reef region unless the activity occurs in association with a declared port.

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<sup>1</sup> Any reference to Great Barrier Reef Marine Park in this paper means the area included in the State and Commonwealth Great Barrier Reef Marine Park.

## What is trans-shipping?

Trans-shipping will be defined as the transfer of bulk materials (including bulk liquids), minerals or petroleum, from one vessel to another within Queensland waters or the Great Barrier Reef Marine Park.

The activity includes associated loading or unloading of vessels onshore; ship movements to load or unload the vessel; loading and unloading using an onshore structure; and any works required to establish any offshore trans-shipping site. The activity could occur in the context of importing or exporting.

Trans-shipping will not include:

- refuelling activities, which are subject to existing regulation
- loading or unloading of packaged materials
- loading or unloading at a rate of less than 100t/day
- loading or unloading of fishing vessels
- marine emergency response practices
- movement of cargo from one vessel to another via landside logistics.

These exclusions will ensure that the regulation of trans-shipping will not capture regular activities to supply small communities; activities which have a lower risk of environmental harm; and activities which are subject to certain other regulation.

## What are the risks of trans-shipping?

The environmental risks of trans-shipping include:

- release of contaminants to the marine environment through both chronic exposure to dust and small spills, and acute exposure through more significant accidents
  - recent studies have shown the extent to which coal dust is hazardous to coral;
  - studies have also shown that other types of material can, even if they are not ordinarily considered toxic, cause toxicity or adversely altered conditions in the marine environment (e.g. vegetable oils).
- increased ship movements, including in areas not currently exposed to high levels of ship activity. Intensive shipping can have a variety of adverse impacts on the marine environment. These impacts include adverse noise and light, and increased risk of marine animal strikes
- adverse effects on benthic environments – including sea grass and corals – from anchoring; the construction of any structures; and/or any works or bed levelling needed to establish or maintain a trans-shipping site.

## Where will trans-shipping be allowed?

Trans-shipping activities will need to be authorised by an environmental authority, through a site-specific application, if carried out in Queensland waters (which are, generally, internal waters and the sea out to three nautical miles) outside the GBR marine park.

Applications for activities which are partly or wholly in the Great Barrier Reef marine park will also require authorisation by an environmental authority and, additionally, will be refused in certain circumstances:

- If the activity is not carried out in association with a declared port i.e. the onshore part of the activity is not in a declared port<sup>2</sup>, or
- For activities that are carried out in association with a port – if the activity involves a certain level of environmental risk (see full refusal criteria in appendix 1).

Appendix 1 summarises the locations and situations where trans-shipping is allowed.

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<sup>2</sup> The definition of port limits should be in accordance with the *Transport and Infrastructure Act 1994*, or for priority ports, by reference to the master planned area under the *Sustainable Ports Development Act 2015*.

## How will trans-shipping applications be assessed?

Trans-shipping proposals will be assessed as site-specific environmental authority applications.

These applications will be subject to the same assessment criteria as all other site-specific environmental authority applications.

In addition, trans-shipping proposals will be assessed against the following objectives to ensure that the specific impacts of this marine-based activity are thoroughly assessed as part of the environmental objectives assessment. Some of the assessment criteria proposed for trans-shipping relate to the choice of site, and address specific concerns associated with trans-shipping activities occurring in state marine parks.

Assessment criteria:

- The activity is located such that dust or other air emissions will not settle on a sensitive marine community (being, coral, seagrass or communities to which the relevant material is toxic/harmful).
- The activity will be operated so as to avoid discharges to waters that may cause an adverse impact on an environmental value of the marine environment.
- Noise from the activity will not have an adverse effect on marine species or communities.
- The choice of site where the activity will be carried out minimises the risk of environmental harm to areas of high conservation value or special significance, including by ensuring that:
  - the activity is not located within a marine park, unless it can be demonstrated that the activity cannot be accommodated within existing port limits
  - in marine parks, the offshore trans-shipping site is located within the general use zone and ship movements are – to the extent practicable – also confined to the general use zone
  - travel distances between the onshore and offshore sites are minimised
  - ship movements are in locations which avoid or minimise the risk of interactions with marine turtles or mammals
  - activity is located to avoid adverse effects of light and noise on marine animals
  - activity is located in a way which avoids disturbance to benthic communities, and the construction of structures
  - contingency measures are in place to prevent or minimise adverse effects on the environment due to unplanned releases or discharges of contaminants to water.
- The design of the activity permits its operation in accordance with best practice environmental management.

## What happens with existing trans-shipping activities and proposals?

There are some existing operations within Queensland waters and the Great Barrier Reef Marine Park that involve a trans-shipping component. Those operators, if applicable, will have a period of 12 months to apply for an environmental authority to authorise the activity. The 'must refuse' criteria on trans-shipping in the Great Barrier Reef region will not apply to activities which are currently lawfully operating, but will apply to any intensification of such activities.

There are some existing proposals to carry out trans-shipping, many of which have not progressed beyond the initial stages of their approvals process. Those proposals will need to be authorised by an environmental authority before they start.

## Are any other changes proposed?

There has been recent uncertainty about whether the scope of ERA 50 – which currently applies to the loading and unloading of 'bulk materials' and 'minerals' – includes the handling of unpackaged liquids and petroleum.

The intent of ERA 50 is to ensure that environmental harm is not caused through air emissions due to the generation of dust and particulates, or through the spillage of uncontained materials to waters. In that regard, it is appropriate to clarify that the regulation of 'bulk materials' includes bulk liquids and petroleum. The same will apply for trans-shipping activities.

Amendment of the current ERA 50 will allow for consistency when managing the environmental risks of trans-shipping. It will also promote industry certainty regarding which materials are regulated under the framework.

This amendment may impact on operations that handle petroleum or liquids and have not applied for an environmental authority due to uncertainties in the definitions in the current ERA 50. These operations will also have a period of 12 months to apply for an environmental authority to authorise the activity.

## **Have your say**

The Queensland Government seeks your feedback on the proposed approach for regulating trans-shipping in Queensland waters and the GBR marine park. Email your written submission to [Epact.Policy@ehp.qld.gov.au](mailto:Epact.Policy@ehp.qld.gov.au). Submissions close 20 October 2017.

Following consideration of submissions, draft regulation amendments will be prepared.

## Appendix 1

Where is the activity located?	Extent of EHP's regulating power	Is trans-shipping allowed?	Additional criteria for the assessment?
Great Barrier Reef Marine Park (including State and Commonwealth park)	The whole of the Great Barrier Reef (GBR) State and Commonwealth Park in the GBR region including waters beyond the 3NM limit of Queensland waters.	Yes, when the onshore component of the activity is in association with a declared port and the activity does not trigger any other refusal criteria.	For activities that do not trigger the refusal criteria, the additional assessment criteria for the new ERA apply.
Other state marine parks	Within Queensland waters.	Yes, the activity will be regulated under the new ERA.	EA application will be assessed against additional criteria which include specific requirements for activities operating in state marine parks.
Any other location	Within Queensland waters.	Yes, the activity will be regulated under the new ERA.	EA application will be assessed against additional criteria.

### *Refusal criteria*

The environmental authority will be refused in the following circumstances, for activities located wholly or partly in the Great Barrier Reef Marine Park (including Commonwealth and State marine park):

- the activity is not carried out in association with a declared port [“in association” means that the onshore part of the activity happens in a single port which is the closest port to the offshore site; port has the meaning given in the Transport Infrastructure Act 1994] or
- for activities that are carried out in association with a declared port:
  - the activity involves the construction of structures, other than a buoy mooring or similar low-impact mooring, in the Great Barrier Reef state or commonwealth marine park; or
  - is conducted at a location, or in a manner, which:
    - results in a high risk of strikes to marine mammals or turtles
    - is likely to have a significant adverse effect on a threatened species; or
    - is likely to have a significant adverse effect on seagrass or coral communities in the vicinity of the activity through benthic disturbance, changes in water quality or chronic or acute exposure to contaminants; or
    - to the extent that activity is undertaken outside of the port's master planned area, it is carried out in any area which is not within both the designated shipping area and the general use zone.

### *Assessment criteria*

Applications for the new ERA will be subject to the same assessment criteria as all other site-specific environmental authority applications. However, trans-shipping proposals will also be assessed against the following objectives to ensure that the specific impacts of trans-shipping, as a marine-based activity, will be thoroughly assessed as part of the environmental objectives assessment:

- The activity is located such that dust or other air emissions will not settle on a sensitive marine community (being, coral, seagrass or communities to which the relevant material is toxic/harmful).
- The activity will be operated so as to avoid discharges to waters that may cause an adverse effect on an environmental value of the marine environment.
- Noise from the activity will not have an adverse effect on marine species or communities.
- The choice of site at which the activity will be carried out minimises the risk of environmental harm to areas of high conservation value or special significance, including by ensuring that:
  - the activity is not located within a marine park, unless it can be demonstrated that the activity cannot be



- o accommodated within existing port limits;
  - o for activities in a marine park, the offshore trans-shipping site is located within the general use zone and ship movements are, to the extent practicable, also confined to the general use zone;
  - o travel distances between the onshore and offshore sites are minimised;
  - o ship movements are in locations which avoid or minimise the risk of interactions with marine turtles or mammals;
  - o activity is located to avoid adverse effects of light and noise on marine animals;
  - o activity is located in a way which avoids disturbance to benthic communities, dredging and the construction of structures; and
  - o contingency measures are in place to prevent or minimise adverse effects on the environment due to unplanned releases or discharges of contaminants to water.
- The design of the activity permits its operation in accordance with best practice environmental management.