

Protecting a natural wonder

Words: Federal Agent Jason Byrnes, Manager, Cairns Office



While the AFP's law enforcement role reaches all corners of the globe, its capacity within Australia is equally diverse — extending beyond the shore and into the sea. Protection of the Great Barrier Reef — a natural wonder of the world — is an important role performed by Queensland-based investigators.

Stretching almost 2000km south from the northern tip of Australia and representing almost one fifth of the world's coral reefs, the Great Barrier Reef dominates the waters to the east of Queensland.

The Great Barrier Reef was issued a world heritage listing by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1981 after 99 per cent of it (345,500km²) was declared a marine park by the Australian Government in 1975. Often no wider than 30km, the reef is a vast, complex and increasingly fragile ecosystem of warm water,

coral and tropical islands containing 800 different types of starfish and sea urchins, more than 30 species of marine mammals, 22 species of sea birds and six endangered species of marine turtles. Creatures who visit the reef area include annual migrations of humpback whales from Antarctica to give birth to their young.

More than 1.8 million tourists visit the reef each year, an annual turn-over for the tourist industry of \$1.4 billion. Further, more than 800,000 people fish recreationally in the waters off Queensland each year along with scores of licenced fishing companies.

In addition to thousands of recreational and cruise ships, more than 2000 heavy ships carrying sugar, iron ore, oil and coal travel within the reef's shipping lanes to service several large cities and export raw products overseas. The presence of humans and the impacts of climate change, however, have adversely impacted the reef. Its future is the subject of ongoing national focus.

Several state and federal agencies have responsibility to oversight or enforce aspects of maritime operations, tourism and trade in the reef region. Some of the agencies the AFP regularly works

with include the Great Barrier Reef Marine Park Authority (GBRMPA), the Australian Fisheries Management Authority, the Australian Customs Service and the Australian Maritime Safety Authority.

The trigger for AFP involvement in criminal investigations in the reef is generally a referral from a client agency. The following two examples are indicative of the differing types of investigations that the AFP can be involved in and how federal agents work with staff from other agencies to bring alleged offenders before the courts.

Lindeman Island sewage spill

Lindeman Island lies at the south of the Whitsunday Island chain, in the bottom half of the reef. The Whitsundays have a number of exclusive tropical holiday resorts but the islands are mostly unspoilt by modern life. In December 2000, Lindeman Island's Club Med resort reported a sewage spill to the state Environmental Protection Agency. As the main regulatory body for the reef, GBRMPA commenced an investigation and found the problem had been ongoing for some time. With the resort's owners refusing permission for GBRMPA staff to enter the premises, and sensing a complex investigation ahead, the senior GBRMPA investigator approached the AFP for assistance.

A joint agency investigation began and the AFP executed a search warrant with GBRMPA staff, entering and inspecting the resort. It became readily apparent



Lindeman Island. Photo: Great Barrier Reef Marine Park Authority.

HALF-HEARTED ATTEMPTS WERE MADE TO FIND THE CAUSE OF THE OVERFLOW AND HUNDREDS OF THOUSANDS OF LITRES OF EFFLUENT FLOWED INTO THE SEA.

that half-hearted attempts had been made to find the cause of the overflow and hundreds of thousands of litres of untreated effluent had flowed directly into the sea near the beach where the resort's patrons swam. The overflow was so bad in places that resort staff had worn rubber boots to avoid sewage as they walked on the lawns near the restaurant's kitchen!

Police interviewed serving and former resort employees while the underground sewerage system was thoroughly inspected by independent engineers and GBRMPA investigators armed with cameras and testing equipment (and nose plugs).

The AFP alleged the company had not met its legal obligations in the provision of repair equipment and appropriate

>



A diver assesses the damage after the *Doric Chariot* collision.

Photo: Great Barrier Reef Marine Park Authority.

reef passage. The ship, carrying coal from Queensland to India, was under the command of a Greek Officer of the Watch (OOW) while the captain was asleep. Also on board was an Australian pilot who was tasked with advising the OOW how to navigate through the treacherous and tricky passages among the coral. After successfully navigating one gap in the reef, the pilot lay down on a day bed near the wheelhouse and fell asleep. The OOW, despite having charts clearly indicating the passage to be taken, steered the ship directly towards Piper Reef. The pilot awoke too late to avoid a collision and the huge ship smashed into the remote reef, becoming stuck

The reef is home to an array of marine creatures. Photo: Great Barrier Reef Marine Park Authority.

<

support to staff. Furthermore, attempts to repair the damaged pipes had been delayed or halted by management, who had not wanted to disrupt guests with the sound of heavy machinery. A summons was served on the company for negligently or recklessly discharging waste into the marine park without authorisation.

In 2003, the matter was heard in court and although entering a plea of guilty, the company disputed the prosecution's assertions about the amount of waste and the circumstances in which it was discharged.

Minor issues were argued in court, including the definitions of sewerage and whether what had flowed from the pipes constituted effluent. The magistrate nevertheless convicted the company of negligence and believed that it had put profit before the environment.

A fine of \$6000 was imposed, which was consistent with the then-low penalty applicable for the offence, as well as the magistrate's view that the

spill was at the lower end of the scale and that the company had already spent \$60,000 cleaning the site up.

Bulk carrier collision

In the early hours of 29 July 2002, a 73,000 tonne Greek-registered bulk carrier *Doric Chariot* was sailing north on what is known as the inner





Often no wider than 30km, the reef is a vast, complex and increasingly fragile ecosystem of warm water, coral and tropical islands. Photo: Max Mokrij.

just after 3.30am. The collision occurred 15km off shore, approximately 200km south of the northern tip of Australia and 600km north of Cairns. The location presented an inordinate amount of logistical headaches in the coming weeks.

Six federal and state agencies had jurisdiction over aspects of the incident. As authorities mounted an emergency operation to free the ship and deal with a potential oil spill (the ship was carrying 400 tonnes of fuel), debate developed among the various agencies about which was the most appropriate criminal offence.

In the wake of another grounding incident in 2000, offences under the *Great Barrier Reef Marine Park Act 1975* had been strengthened by the Australian Government, and GBRMPA therefore called upon the AFP to coordinate the criminal investigation. Because of the remote location of the

vessel and the priority to prevent a potential oil spill and refloat the ship, there was enough time to ensure a well coordinated multi-agency investigation.

On 31 July the same year, federal agents and other state and federal personnel hired a small charter plane and flew from Cairns to the remote Aboriginal settlement of Lockhart River, and to the ship's location via State Government helicopter. The vessel's relevant log books and charts were seized as evidence. GBRMPA scientific staff, federal agents and state wildlife experts later returned to the ship and took water samples and paint scrapings from the area to measure the impact of damage and to forensically prove a collision had taken place.

In Cairns, the pilot gave a full account of his actions, and later had his licence temporarily revoked by Australian authorities.

It took more than a week before the *Doric Chariot* was pulled from the reef by a tug boat. Court proceedings began the next day with charges laid concerning damaging the reef. After subsequent detailed considerations,

prosecutors pursued charges against the ship's owners and the OOW.

On 1 November 2004, guilty pleas were entered by the two defendants. The OOW received a \$10,000 fine and the company was fined \$100,000. In setting a penalty, the magistrate noted the company's previous good behaviour, that it had adhered to relevant international requirements in its management of the ship, the damage had been moderate, and the company spent \$1 million cleaning up.

The five week clean-up operation included vacuuming and removing 60 cubic metres of soil and sediment after it was poisoned by the ship's anti-corrosive paint. Broken coral was painstakingly replanted to encourage regrowth and the return of fish.

The above examples give an insight to the type of environmental crime that the AFP can find itself investigating. Supporting client agencies and coordinating criminal investigations has proven the most effective way for the AFP to best protect the Great Barrier Reef so future generations can enjoy its magnificent qualities. 