

Legal identity for the Great Barrier Reef

Tania Heber ¹

¹ *Environmental Defenders Office of Northern Queensland, Level 1, 96-98 Lake Street, Cairns*

Abstract:

Queensland's iconic Great Barrier Reef has been in the news in 2016 for all the wrong reasons. Land clearing; the impacts of climate change; agricultural and mining industry practices in reef catchments; and invasive species have all contributed to serious concerns for the Reef's health. For some years now, the Environmental Defenders Office of Northern Queensland has researched, educated and advocated for the recognition of a legal identity for the Reef as a means to achieve better environmental outcomes for this world heritage listed ecosystem. So what hurdles do the existing legislative and policy settings present to Reef health?

The hurdles include the legislative requirement to prove legal standing before taking proceedings to challenge actions and decisions impacting the Reef; the notion underpinning our legal system that land, water, flora, fauna and natural systems are property to be owned and exploited as mere resources; and the failure of the current system to attribute any weight to cumulative impacts from land use and development decisions.

Other jurisdictions have sought to overcome similar hurdles by attributing a legal identity to nature. In New Zealand two approaches have been adopted: the indigenous approach and the health law approach.

The indigenous approach relies on an ethos that the environment has a physical and spiritual identity with a recognisable life force. The health law approach examines whether the Reef, an ecosystem, can be granted legal identity on a rights basis. This approach seeks to argue that a living part of the ecosystem can be recognised as a patient. If so, then the question arises whether there is an ethical duty to heal the Reef. Implications for Australian law and the Reef will be considered.

Keywords: environmental law, health law, indigenous rights, legal standing, rights of nature.

BIOGRAPHY

Tania Heber is the principal solicitor at the Environmental Defenders Office of Northern Queensland in Cairns. EDO NQ is a member of the EDOs of Australia network. For 20 years EDO NQ has advocated, educated and sought law reform in relation to the outstanding values of the World Heritage listed Great Barrier Reef.