



About Dr Ted Christie & Great Barrier Reef Litigation (Updated 16 June 2017)

In conjunction with his professional practice as a Barrister, Ted held a part-time appointment as the Environmental Member and a Presiding Member of the Commonwealth Administrative Appeals Tribunal (“AAT”) over a 15-year period, before resigning from the Tribunal.

During this period, he was a member of every 2- or 3- member Tribunal constituted to hear and decide all appeals under the *Great Barrier Reef Marine Park Act 1975 (Cth)* on permit applications for proposed activities in the Great Barrier Reef Marine Park (“GBRMP”).

Applications for permits are assessed by the GBRMP Authority. A decision to not grant approval for a permit triggers an appeal pathway to the AAT “*on the merits*” (*facts and law*); & ultimately to the Federal Court on a *question of law*.

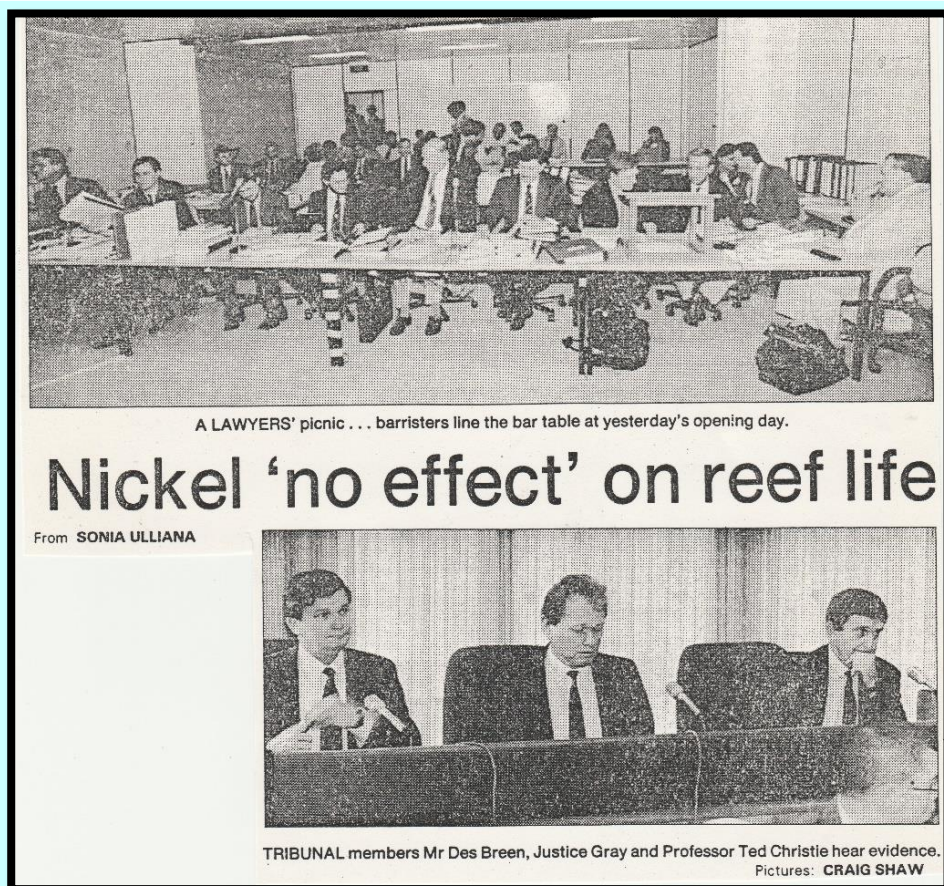


FIGURE: Front page article, “Townsville Bulletin”: Day 1 - Queensland Nickel Management Pty. Ltd. and Great Barrier Reef Marine Park Authority, Townsville Port Authority, Saunders Beach Action Group, North Queensland Conservation Council, Queensland Commercial Fishermen's Organisation and the State of Queensland. It involved 95 days of hearing, the evidence of 69 expert witnesses and 12000 pages of transcript.

In March 1989, Dallhold Nickel - later to be known as Queensland Nickel Management (“QNM”) - applied to the Great Barrier Reef Marine Park Authority for a permit to offload imported nickel ore through the construction of an off-shore mooring point within the Marine Park.

The decision made by the Authority in June 1990, was to refuse the grant of a permit. A request for the reconsideration of the proposal was then made. The application for review by the Administrative Appeals Tribunal commenced in Townsville in July 1991; final addresses were completed in May 1992.

A significant trend to emerge over time has been the increasing importance of social and cultural and heritage considerations in the legal framework for GBRMP decision-making.



In *Zen Pearls & Another and Great Barrier Reef Marine Park Authority and the Manbarra Peoples & Others*, reviews were sought of decisions made by the GBRMP Authority granting permits for limited pearling mariculture in the waters of the Palm Island Group in North Queensland

“**Cultural and heritage values**” were a key consideration in the Tribunal’s decision-making process in this case under the GBRMP regulatory framework.

In its reasons for decision, the Tribunal concluded:

“that the inhabitants of Great Palm Island hold cultural and heritage values in relation to Fantome Island including the waters of Juno bay and off Harrier Point which will be affected by continued pearl farming by Indian Pacific Pearls

and Zen Pearls. These values are held by the inhabitants of Great Palm Island as traditional inhabitants and involve aboriginal traditions.

The values relate both to beliefs and practices. The beliefs involve spiritual beliefs such as the need to respect deceased ancestors buried on Fantome Island and the need to seek the consent of traditional owners before entering upon another's country.

The practices involve fishing, gathering and hunting, including traditional fishing, gathering and hunting..."



In *Fantasea Cruises Pty Limited and Great Barrier Reef Marine Park Authority*, the central issue was whether Fantasea should be given permission to install and conduct a private mooring at the southern end of Whitehaven Beach, Whitsunday Island – in an area just to the south of a small reef and between it and the southernmost tip of Whitehaven Beach where there was a further coral reef.

“**Amenity**” was a key consideration in the Tribunal’s decision-making process in the Fantasea case. Under the Great Barrier Reef regulatory framework, in considering all applications in the Marine Park, the Authority must have regard to a number of issues, such as:

*“the nature and scale of the proposed use in relation to the existing **use and amenity**, and the future or desirable use and amenity, of the relevant area and of nearby areas”.*

One of the Tribunal’s conclusions, in its reasons for decision, was that it was satisfied that Fantasea's proposal would significantly affect the existing use and amenity of the area.