

Submission to Director Parks Australia:
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Draft Management Plan for the Jervis Commonwealth Marine Reserve

Background

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Comments are in relation to the Temperate East Network but have some applicability to other reserves. The comments are primarily concerning the continuation of commercial trawling within a Commonwealth Marine Reserve. This threatening process is proposed through the zoning provisions of the draft management plan. We would like to see commercial trawling cease within the reserve and the Commonwealth to invest in properly managing the reserve for future generations of Australians. The information contained in the submission can be published.

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Introduction

The views in this submission are provided in response to the Draft Management Plan to assist the federal government's review of marine reserves determined under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The objects of this Act are, *inter alia*, to:

- (a) provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance; and
- (b) promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and
- (c) promote the conservation of biodiversity.¹

¹ *Environment Protection and Biodiversity Conservation Act 1999*, <https://www.legislation.gov.au/Details/C2016C00777>

The Jervis Commonwealth Marine Reserve (CMR) covers an area of more than 2400 km² at a Depth range of between 120–5000 metres. It was proclaimed under the EPBC Act on 14 December 2013. The Reserve is outlined below with the proposed change to zoning in yellow. ²

Figure 1 Jervis Commonwealth Marine Reserve

Source: Department of Environment and Energy, 2017

The recommended action in the draft plan is to change the zoning of the deepest section of the park (1965 km²) from Multiple Use Zone (IUCN Category VI)² to Habitat Protection Zone (IUCN IV). The remaining section of the park (508 km²) remains Special Purpose Zone (IUCN Category VI)—the lowest level of protection. The Jervis Marine Park is significant because it contains habitats, species and ecological communities associated with the Central Eastern Province and the Southeast Shelf Transition. It includes two key ecological features: canyons on the eastern continental slope; and shelf rocky reefs (both valued as unique seafloor features with ecological properties of regional significance).³

² There are six zoning categories used for Australian Marine Reserves. These are (from least protection to highest protection) Special Purpose Zone (IUCN VI), Multiple Use Zone (IUCN VI), Habitat Protection Zone (IUCN IV), Habitat Protection Zone (IUCN IV) Lord Howe, Recreational Use Zone (IUCN IV), and Marine National Park (IUCN II).

³ Australian Marine Parks, Draft Temperate East Commonwealth Marine Reserves, Network Management Plan (2017) p.108

The recommended change in zoning for Jervis CMR aims to improve the conservation outcome for this reserve 'without impacting further on recreational or commercial fisheries'. The Habitat Protection Zone that will cover nearly 80 per cent of the reserve area provides for an increased level of protection to six conservation features in the Temperate East Network. However, the recommended zoning for 3

the Jervis CMR will not change the level of access for recreational and charter fishers or the impact on commercial fishing from the 2012 proclaimed zoning.⁴

⁴ Commonwealth Marine Reserves Review Report of the Expert Scientific Panel (2015)

<http://www.environment.gov.au/system/files/pages/23061bf8-df19-4b74-b867-5a57ccbc5c8b/files/cmreviewexpertsscientificpanelreportfinal.pdf>

⁵p.11, <http://www.environment.gov.au/system/files/pages/23061bf8-df19-4b74-b867-5a57ccbc5c8b/files/cmreviewexpertsscientificpanelreportfinal.pdf>

The Scientific Panel and the need for evidence-based advice

The recommendations of the expert panel were based largely on consultation with stakeholders given the absence of scientific research, monitoring or evaluation and the absence of any baseline data to make robust decisions. As noted by the scientific panel in their report.

A robust adaptive management approach is required if management investment for the CMR estate is to be effective and efficient. Well-targeted, long-term scientific research, monitoring and evaluation are essential. Baseline information is critical for measuring environmental change and management effectiveness. Initial baselines must be established and data collected as soon as possible across the estate before this opportunity is lost.⁵

The consultation process was heavily influenced by the fishing industry to the point that the advice on the status of the marine parks appears to be more about protecting trawling rather than the marine environment. Trawling could reasonably be regarded as a threatening process under the EPBC Act and yet the focus of extending marine protection was 'not pursued due to the operational impact on trawl and the popularity of the canyon edges for recreational and charter fishing'.⁶ So in effect the government is considering the continuation of a threatening process even though it has no knowledge of its impact and has made no additional effort to find out what species or ecological communities might be involved. Further, there appears to be little consideration of the precautionary principle enshrined within the EPBC Act. 'The Minister must take account of the precautionary principle in making a decision listed in the table in subsection (3), to the extent he or she can do so consistently with the other provisions of this Act'. This appears to be a serious oversight in the report of the panel. Overfishing is a global problem well recognised in the literature. The 2011 National State of the Environment Report highlighted that:

The impacts of fishing – such as the large and broad scale reductions in biomass that persist even when fishing ceases – have been observed in many large species that are fished, across all global oceans and in Australian waters. It is possible for biodiversity to recover when pressures are reduced as has been observed in the case of humpbacked whales in Australia's waters. However, the recovery is usually much slower than the rate of decline and often more uncertain.

While there is some evidence that there has been some improvement in fisheries management practices in recent years in Australia, 'the pressure of present day fishing acts to maintain low abundances and biomass and probably to reduce the resilience of the populations being fished and their ocean ecosystems'. (SOE, 2011, Ch.6). Marine debris and ghost nets continue to be a threat to species and ecological systems in marine reserves. Given these risks it could reasonably be argued that while 'significant information gaps hinder robust, evidence-based decision-making for the 4

management of the marine reserve,' the presumption is the status quo and continuing a threatening process in the absence of any specific information to the contrary.

Recommendation 1

We strongly recommend that the government:

(a) cease all commercial trawling in the Jervis Commonwealth Marine Reserve;

(b) put in place an adequately resourced, scientific capability for efficient and effective decision making on marine parks as soon as practicable; and

(c) make sure advice and decisions on threatening processes are consistent with the objects of the EPBC Act and the precautionary principle as specified in the act.⁷

⁷ The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.

Upgrading the status of marine protection zones

While we commend the recommendation to change the zoning on part of the marine reserve from Multiple Use Zone (IUCN VI) to Habitat Protection Zone (IUCN IV) we note that for practical purposes this will result in no change in activity (or threatening processes for the purposes of the EPBC Act) because it allows commercial fishing including long line (pelagic), purse seine and trawling (mid-water). The Eastern Tuna and Billfish Fishery (see Figure 2) and the Southern and Eastern Scalefish and Shark Fishery (Commonwealth south-east trawl sector) (see Figure 3), cut right across the marine reserve and there are few controls to give effect to the conservation objectives of the EPBC Act. For example, the Australian Fisheries Management Authority (AFMA) notes that the main fishing type for catching target species in the Eastern Tuna and Billfish Fishery is by longline. AFMA does not set any limits on number of hooks that can be used in these longlines. Longlines are still permitted within the Habitat Protection Zone (IUCN IV) within the Jervis Commonwealth Marine Reserve. The recognised by-catch of non-target species is also problem that is likely to have a significant negative impact on the ecology of the marine reserve. 5

Figure 2: Map of Eastern Tuna and Billfish Fishery

Source: AFMA website

The Department of the Environment's Assessment of the Southern and Eastern Scalefish and Shark Fishery (February 2013) noted that the Southern and Eastern Scalefish and Shark Fishery covers almost half of the Australian Fishing Zone. The area of the fishery extends south from Fraser Island in southern Queensland, around New South Wales, Victoria, Tasmania and South Australia, to Cape Leeuwin in southern Western Australia (Figure 3). The fishery operates in both Commonwealth and state waters, under Offshore Constitutional Settlement arrangements with the different state governments. The marine conservation areas are substantially dwarfed by the scale of the fishery and virtually insignificant at the scale presented in Figure 3. 6

Figure 3: Southern and Eastern Scalefish and Shark Fishery Map

Source: AFMA website

We note that marine reserves are one of the key matters of National Environment Significance that trigger the *Environment Protection and Biodiversity Conservation Act 1999*. As noted in the 2016 State of the Environment report significant risks remain for the marine environment generally from additional factors such as ‘anthropogenic ocean warming and ocean acidification, as well as natural climate variations. No marine species have been removed from the EPBC Act threatened species list since 2011; eight species and one ecological community have been added. Generally, habitats, communities and species groups in the Temperate East and South-east marine regions have been affected by historical pressures to a greater degree than those in other regions’.⁸

⁸ Commonwealth of Australia, State of the Environment Report, 2016, <https://soe.environment.gov.au/theme/marine-environment>

As a minimum we would like to see the Jervis Commonwealth Marine Reserve upgraded to a Habitat Protection Zone (IUCN IV) consistent with the provisions applying to Lord Howe Island Marine Reserve. Given the small scale of the Marine Reserve at 2400 sq km, this would **not** have a significant impact on commercial fishers and would provide a sanctuary zone to enable the recharge of commercial fish species in the future. The current and proposed controls over fishing are grossly inadequate and are inconsistent with the objectives of the *Environment Protection and Biodiversity Conservation Act 1999*.

Recommendation 2

We strongly recommend that the Jervis Commonwealth Marine Reserve be upgraded to a Habitat Protection Zone (IUCN IV) consistent with the provisions applying to Lord Howe Island Marine Reserve.

7

The need for greater continuity and linkage between the Jervis Commonwealth Marine reserve and the Jervis Bay Marine Park.

One of the key considerations in the establishment of the Jervis Commonwealth Marine Reserve was its location in respect to the Jervis Bay Marine Park. This consideration recognised that marine species are mobile and move between sheltered waters and the open ocean during their life cycle. However, Jervis Commonwealth Marine Reserve is not contiguous with Jervis Bay Marine Park. In contrast, the Hunter Commonwealth Marine Reserve is contiguous with the Port Stephens – Great Lakes Marine Park. This limits the benefits of locating the reserve close to the Jervis Bay Marine Park, as there are risks of overfishing the representative species of the reserve in their migration from the sheltered and protected waters of Jervis Bay to the marine reserve with its potential as an open sea sanctuary. Consistency and complementarity between the provisions of Commonwealth and state marine reserves would also be highly desirable given that marine species do not readily differentiate between jurisdictions in Australia! We recognise that the Expert Scientific Panel considered that this was outside its terms of reference. Nevertheless, it is a matter that could be considered by the Minister. We therefore strongly argue for the extension of the boundaries of Jervis Commonwealth Marine Reserve to the Jervis Bay Marine Park boundaries. This will ensure that the Marine Reserve and Jervis Bay Marine Park are complementary and mutually reinforce the environmental objectives of both the Commonwealth and the State of NSW.

Recommendation 3

We strongly recommend that the Government extend the boundaries of Jervis Commonwealth Marine Reserve to the Jervis Bay Marine Park boundaries to provide a contiguous marine protection environment free from the threats posed by commercial fishing.

Enhancing or expanding the sustainability of activities within Marine Reserves

We strongly recognise and in any decision to create marine reserves there needs to be a consideration of the long-term benefits for local communities from sustainable development in the marine environment. Within this context we suggest that due consideration be given to the potential expansion of eco-tourism and recreational activities (including tag and release game fishing, eco-tourism, scuba diving, and boating activities) that could be adversely impacted by continued high levels of commercial fishing in the marine reserve. Employment opportunities remains an important issue for people within the Shoalhaven region and marine conservation with associated tourist activities is one area where there is potential growth and new business opportunities with the right balance and focus on sustainability.

Recommendation 4

We strongly recommend that consideration be given to the potential expansion of eco-tourism and recreational activities (including tag and release game fishing, eco-tourism, scuba diving, and boating activities within the Jervis Commonwealth Marine Reserve). 8

Compliance and reporting

In any application of government legislation there needs to be due consideration of the appropriate level and resourcing for compliance and reporting to provide the community with a degree of transparency and to hold government agencies accountable for their actions. We appreciate the challenges of compliance in relation to marine reserves and note that there is a plan to introduce a risk based approach to compliance planning, enforcement and auditing.⁹ This is very important if the community is to have the confidence in government decision making. As regular divers in the Jervis Bay and other marine area we are regularly appalled by the evidence of fishing in marine national parks (Commonwealth and State) as well as the number of fish affected by hooks and land based pollution from storm water outlets and boats in particular.

⁹ Australian Marine Parks, Draft Temperate East Commonwealth Marine Reserves, Network Management Plan (2017) p.34.

Recommendation 5

We strongly recommend that adequate resourcing is allocated to a compliance and monitoring function to maintain the integrity of the Jervis Commonwealth Marine Reserve) and outcomes be publicly reported in the Annual Report of the Director, National Parks each year.

Conclusion

In conclusion, we consider that there is a strong argument for enhancing the protection of marine reserves in Australia and in particular, the Jervis Commonwealth Marine Reserve. There are real uncertainties around whether or not the conservation outcomes anticipated in the draft management plan will ever be achieved. Unsustainable overfishing has been, and continues to be, a problem in Australia that can, in part, be addressed through strong and effective protection in marine reserves. As noted that the Expert Scientific Panel, a robust adaptive management approach is required if management investment for the Commonwealth Marine Reserve estate is to be effective and efficient. Well-targeted, long-term scientific research, monitoring and evaluation are essential. Baseline information is critical for measuring environmental change and management effectiveness. Initial baselines must be established and data collected as soon as possible across the estate before this opportunity is lost. Additionally, there needs to be well designed boundaries of the reserves that reflect good scientific data on species and communities that require protection. The Commonwealth and State governments need to work together to provide contiguous areas to protect identified species. The benefits of more sustainable practices should be recognised in any social/economic analysis and appropriate compliance and reporting is needed to give the community confidence in the Government's commitment to the environment. Finally, strong ongoing consultation will help to give the management of the reserve a credibility and profile commensurate with the importance of the marine environment to the people of the Shoalhaven region.