

## Commonwealth Marine Reserves

### Draft Management Plans Comments

The following comments are made with specific reference to the draft North-west CMR Network Management Plan.

Given the common approach to the drafting of all the Network and Coral Sea CMR Plans the comments are also made with respect to the corresponding Sections in those other Plans.

Section	Issue / Comment
3.1	It is not stated in the Section why there are two types of IUCN IV and VI category zones. Suggest this be clarified.
4.2.1 (and other Sections)	<p>The phrase “The following prescriptions” at the beginning of the first paragraph of the introduction/background to the Section suggests the remaining paragraphs in the introduction/background are prescriptions.</p> <p>It would be clearer if this paragraph was the final in the introduction/background to the Section, or if the paragraph opened, “The prescriptions in this Section .....”.</p>
4.2.1.1	The indent level of the last 3 lines needs to be less – at the Section level rather than paragraph level.
4.2.1.2	It is not clear whether it is intended the Director of National Parks could make determinations about waste disposal under 12.14 – 12.14B of the EPBC Regulations. The wording of Section 4.2.1.2 (that waste may be disposed of in accordance with MARPOL) is inconsistent with those regulations applying.
4.2.1.3	The Section appears intended to be a qualifier on/exception to 4.2.1.2. This should be made clear by the wording of either/both Sections.
4.2.1.4	The Section deals with ballast water, which is waste for the purposes of the EPBC Act and Regulations, and therefore also covered by the general waste prescription in Section 4.2.1.2. Should be made clear 4.2.1.4 is a qualifier on/exception to 4.2.1.2.
4.2.1.7	<p>The legal basis for the prescription to deal with operating remote piloted aircraft is not clear. There is no provision in the EPBC Act or Regulations dealing with operating aircraft generally in Commonwealth reserves or in the airspace over a reserve. Regulation 12.58 deals with, or allows the Director to make a determination about, particular aspects of aircraft operation, but not operation generally.</p> <p>It is not clear what the Section means by “operate” a remote piloted aircraft. It is also not clear whether the Section is seeking to apply to a remote piloted aircraft operating in or over a reserve generally, or a person who is physically within a reserve operating an aircraft.</p>
4.2.2	The two Notes at the end of the Section should not be indented. They apply to all of Section 4.2.2 but the current indent level suggests they only apply to Section 4.2.2.2.
4.2.2.1 &	The relationship of Section 4.2.2.2 to 4.2.2.1 is not clear – because it is not

4.2.2.2	<p>clear on the face of the wording of the Sections that “transit” does not by definition allow stopping. The definition of transit in the Glossary includes stopping and anchoring.</p> <p>Further work seems needed on the definition of transit and its relationship to Sections 4.2.2.1 and 4.2.2.2. Consideration could be given to combining the two Sections.</p>
4.2.3.8 & 4.2.3.9	<p>Similar issue to Sections 4.2.2.1 &amp; 4.2.2.2. There is overlap/duplication in the Sections. Section 4.2.3.8 deals with stopping and anchoring. Section 4.2.3.9 deals with transit, which is defined to include stopping and anchoring.</p> <p>Also, there is inconsistency across Sections with the order in which transit and stopping/anchoring are dealt with. In Section 4.2.3 stopping and anchoring comes first, but in Section 4.2.2 transit comes first.</p>
4.2.3.12	<p>The Note to the Section needs rewording. It states that a class approval may be issued to require VMS, ie. that an approval would be needed for the sole purpose of requiring VMS. A class approval is issued to authorise commercial fishing, and conditions of the approval may require VMS, either in the approval as issued or by later variation to the conditions.</p>
4.2.6	<p>Suggest for clarity that the Section include reference/link to the definition of news of the day in the Glossary.</p>
4.2.6.2	<p>The Section provides for news of the day activities on “Terms determined by the Director”. The wording can be read as meaning a single determination of terms, and not allowing the Director to vary the terms over time. If it is contemplated they should be able to be changed over time the wording should be amended, eg. “Terms determined by the Director from time to time”.</p> <p>Authorisation of news of the day could be via a class approval issued by the Director, which could be varied in accordance with Section 4.4.2.</p>
4.2.7 & 4.2.8	<p>The Notes refer to r.12.35 determinations being made in relation to Ashmore Reef CMR. The wording could be taken to indicate that a determination could/would only ever be made with respect to that reserve. If this is not the intention the Note should be amended to clarify.</p>
4.2.9	<p>Greenhouse gas storage does not fall within the meaning of mining operation in the EPBC Act – because it is not “operations or activities connected with, or incidental to, the mining or recovery of minerals or the production of material from minerals”. The Section does not make clear that greenhouse gas storage activities are not covered by the Section. It could be incorrectly assumed that they are.</p>
4.2.9.3	<p>The references to authorising mining operations via class approval under Section 4.2.9.4. Should be referring to Section 4.4.2. Section 4.2.9.4 deals with operations not covered by Section 4.2.9.3.</p>

4.2.9.5	The reference to Section 4.2.9.7 should be to Section 4.2.9.6.
4.2.9.7	The citation of Offshore Minerals Act 1994 should be italicised, ie. <i>Offshore Minerals Act 1994</i> .
4.2.10.1	The words “without an authorisation under Section 4.4” indicate that existing structures require an authorisation and could be given an authorisation, which is not correct. The presence of a structure in a reserve does not itself require authorisation – there is no provision in the EPBC Act or Regulations that deals with the presence of structures. There are provisions that deal with the establishment of structures (eg. ss.354/354A) but the time for the operation of those provisions has passed in relation to any existing structures, and an authorisation cannot be issued with retrospective effect.
4.2.10.3	The Section appears to list all zone types in the Network so could just refer to the Network.
4.2.10.3	The specified pre-conditions for authorisation of structures would seem to exclude authorisation for eg. tourism purposes.
4.2.10.4.e)	As worded the paragraph does not flow logically from paragraphs a) to d). It could be made a separate prescription (which would be consistent with the approach in relation to Sections 4.2.9.3 and 4.2.9.4), or amended to commence in terms consistent with paragraphs a) to d), eg. “that are not covered by paragraphs a) to d) ....”.
4.2.11.5	The Section relates to both permits and class approvals but the wording doesn’t suit class approvals, eg. “the project” and “the proposed activity”. Class approvals would not be used for a single project or activity.
4.3.3	The title of the Section is “Review of Decisions” but the Section only deals with decisions related to authorisations, and not to other decisions that might be made under the plan, eg. to make, vary or revoke a determination, prohibition or restriction under the EPBC Regulations.
Glossary	As noted in relation to Sections 4.2.2.1 & 4.2.2.2 the definition of transit seems to need some amendment.

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