

## CHAPTER 2

### MANAGEMENT AND PRESCRIPTIONS

---



Humpback whale (Dave Paton)

## Part 3. ZONING

---



Sailing to Middleton Reef (Nicola Udy)

### 3.1 ZONE CATEGORIES, NAMES AND OBJECTIVES

The EPBC Act requires this plan to assign an IUCN category to each marine park to. The Act also allows this plan to divide a marine park into zones and to assign a category to each zone, which may differ from the overall category of the marine park. Schedule 8 of the EPBC Regulations prescribes the Australian IUCN reserve management principles applicable to each category (Schedule 1).

This Part assigns an IUCN category to each marine park of the Temperate East Network, divides some marine parks into zones with their own category and sets out the objectives for each zone (Table 3.1). Zoning takes into account the purposes for which the marine parks were declared, the objectives of this plan (Section 1.4), the values of the marine park (Schedule 2), and the requirements of the EPBC Act and EPBC Regulations. Figure 3.1 and maps in Schedule 2 show the zones assigned to the Temperate East Network, Schedule 4 describes the zones assigned, and the management approach applied to activities within these zones is provided in Part 4. An overview of the Temperate East Network marine parks and zones is provided in Table S2.1.

#### Prescriptions

- 3.1.1. Each marine park in the Temperate East Network specified in Table 3.1 is assigned to the IUCN category specified in column 2 of Table 3.1.
- 3.1.2. Gifford Marine Park and Cod Grounds Marine Park are given the zone name specified in column 3 of Table 3.1, adjacent to the name of the marine park (column 1).
- 3.1.3. Norfolk, Lord Howe, Central Eastern, Solitary Islands, Hunter and Jervis Marine Parks are each divided into the zones shown in Figure 3.1 and more specifically shown in marine park maps in Schedule 2, and described in Schedule 4, and each zone is assigned to an IUCN category and given the zone name, specified in column 3 of Table 3.1, adjacent to the name of the marine park (column 1).
- 3.1.4. The objective of a Special Purpose Zone (VI) is to provide for ecologically sustainable use and the conservation of ecosystems, habitats and native species, while applying special purpose management arrangements for specific activities.

**Note:** there are two types of Special Purpose Zone (VI) in the Temperate East Network used to allow or prohibit certain activities.

- 3.1.5. The objective of the Multiple Use Zone (VI) is to provide for ecologically sustainable use and the conservation of ecosystems, habitats and native species.
- 3.1.6. The objective of a Habitat Protection Zone (IV) is to provide for the conservation of ecosystems, habitats and native species in as natural a state as possible while allowing activities that do not harm or cause destruction to seafloor habitats.

**Note:** there are two types of Habitat Protection Zone (IV) in the Temperate East Network used to allow or prohibit certain commercial and recreational fishing activities.

- 3.1.7. The objective of the Recreational Use Zone (IV) is to provide for the conservation of ecosystems, habitats and native species in as natural a state as possible while providing for recreational use.
- 3.1.8. The objective of the National Park Zone (II) is to provide for the protection and conservation of ecosystems, habitats and native species in as natural a state as possible.

**Table 3.1: Temperate East Network zoning and marine park management categories**

Column 1 Marine park name	Column 2 IUCN category	Column 3 Zone name and IUCN category						
		Special Purpose Zone (Trawl) (VI)	Special Purpose Zone (Norfolk) (VI)	Multiple Use Zone (VI)	Habitat Protection Zone (IV)	Habitat Protection Zone (Lord Howe) (IV)	Recreational Use Zone (IV)	National Park Zone (II)
Gifford	IV				✓			
Norfolk	IV		✓		✓			✓
Lord Howe	IV			✓	✓	✓	✓	✓
Central Eastern	IV			✓	✓			✓
Solitary Islands	VI	✓		✓				✓
Cod Grounds	II							✓
Hunter	IV	✓			✓			
Jervis	IV	✓			✓			

✓ Zone is assigned to the marine park named in column 1. Sections 3.1.2 and 3.1.3 of this plan explain the assignment of zones.

**Note:** There are two types of Special Purpose Zone (VI): Special Purpose Zone (Trawl) (VI) and Special Purpose Zone (Norfolk) (VI), and two types of Habitat Protection Zone (IV): Habitat Protection Zone (IV) and Habitat Protection Zone (Lord Howe) (IV). The variation in management approach for these zones is prescribed in Part 4.

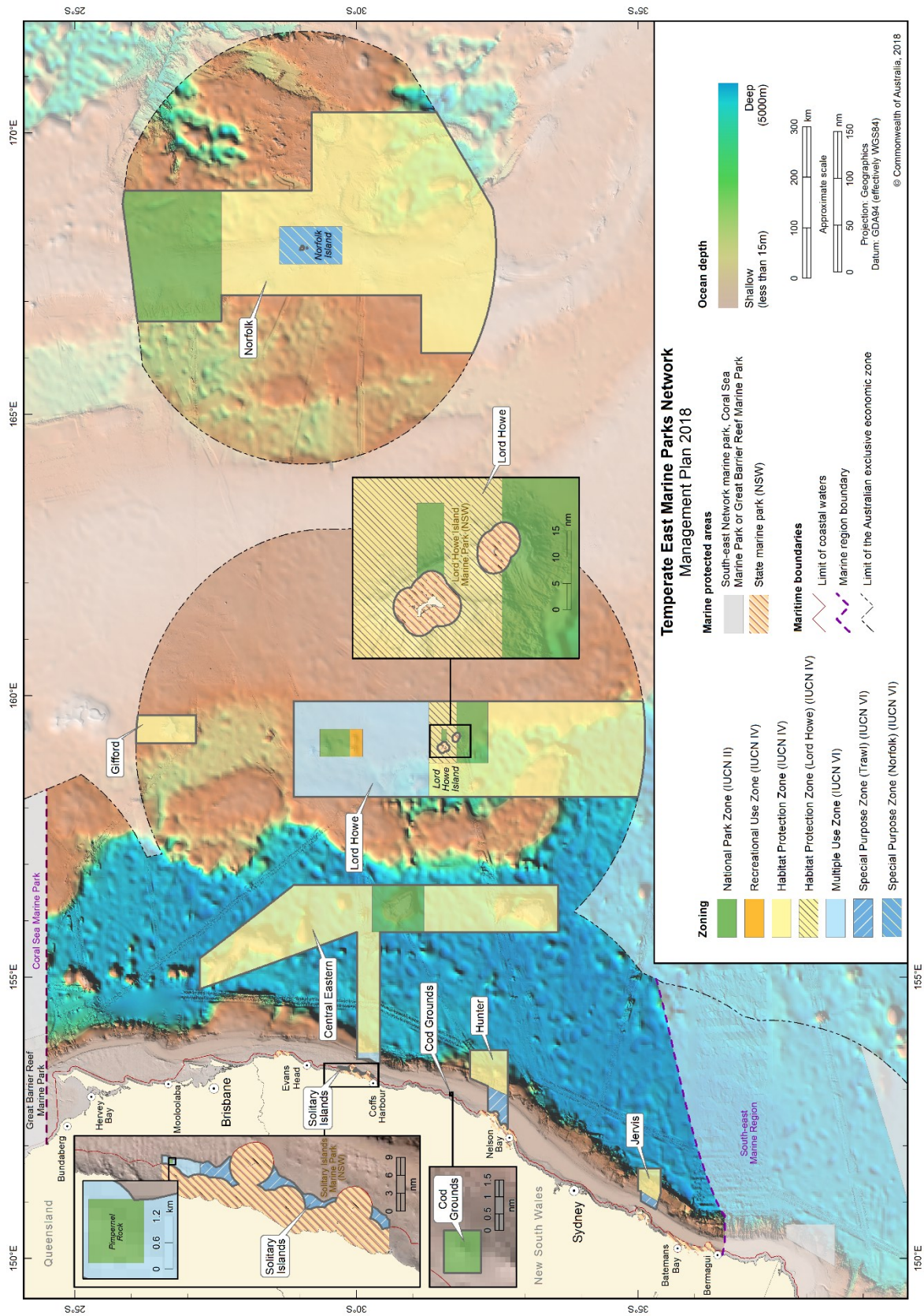


Figure 3.1 Temperate East Marine Parks Network showing zones

## Part 4. MANAGING ACTIVITIES

---



Divers and black cod (Department of the Environment and Energy)

## 4.1 OUTLINE OF PART 4

This plan enables a range of activities to be conducted that would otherwise be prohibited or controlled by the EPBC Act and EPBC Regulations (Schedule 1). This Part sets out for marine parks of the Temperate East Network, which activities are:

- a) allowed, without the need for authorisation, where consistent with zone objectives (Part 3) and conducted in accordance with this Part;
- b) allowable, and able to be conducted if an authorisation is issued (Section 4.4 Authorisation of allowable activities); or
- c) not allowed, because they are not consistent with zone objectives (Part 3).

For those activities that are allowed or allowable, this Part also sets out:

- a) the assessment and decision-making process for authorising an activity (Section 4.3 Making decisions about activities);
- b) the types of authorisations that may be issued (permits, class approvals, activity licences and leases) (Section 4.4 Authorisation of allowable activities); and
- c) how activities must be undertaken in marine parks of the Temperate East Network (Section 4.2 Rules for activities).

The rules support an adaptive management approach to respond to new information. Any changes to the management of activities would be made in accordance with Section 4.3.1 (Decision-making).

Depending on the type of activity, other provisions of the EPBC Act or other legislation (e.g. fisheries and mining laws) may also apply to an allowed or allowable activity (Schedule 1).

In accordance with s.359A of the EPBC Act, this plan does not prevent Indigenous people from continuing, in accordance with law, the traditional use of an area in a marine park for non-commercial hunting or food gathering, and for ceremonial and religious purposes. Section 8 of the EPBC Act provides that this plan does not affect the operation of the *Native Title Act 1993*, which also includes provisions that preserve customary rights to use land and waters (Schedule 1).

## 4.2 RULES FOR ACTIVITIES

This plan enables activities to be conducted in zones consistent with the zone objectives (Part 3) while enabling the impacts to be effectively managed. The prescriptions in Section 4.2.1 (General use, access, and waste management) apply to all marine park users of the Temperate East Network. Sections 4.2.2 to 4.2.12 prescribe the rules applying to particular uses. Section 4.2.12 (New activities and authorisations) enables new activities to be considered and new forms of authorisation to be used. Table 4.1 provides a summary of the rules for activities in zones assigned to marine parks of the Temperate East Network. The zones are shown in Figure 3.1 and more specifically shown in marine park maps in Schedule 2, and described in Schedule 4.

**Table 4.1 Summary of rules for activities in the Temperate East Network (provided in Part 4)**

Activity	Special Purpose Zone (Trawl) (VI)	Special Purpose Zone (Norfolk) (VI)	Multiple Use Zone (VI)	Habitat Protection Zone (IV)	Habitat Protection Zone (Lord Howe) (IV)	Recreational Use Zone (IV)	National Park Zone (II)
<b>GENERAL USE, ACCESS, AND WASTE MANAGEMENT (Section 4.2.1)</b>	✓	✓	✓	✓	✓	✓	✓
<b>COMMERCIAL SHIPPING (Section 4.2.2)</b>	✓	✓	✓	✓ <sup>B</sup>	✓ <sup>B</sup>	✓ <sup>B</sup>	✓ <sup>B</sup>
<b>COMMERCIAL FISHING (Section 4.2.3)</b>	A	A	A	A	A	x	x <sup>B</sup>
<b>AQUACULTURE (Section 4.2.4)</b>	A	A	A	A	x	x	x <sup>B</sup>
<b>COMMERCIAL MEDIA (Section 4.2.5)</b>	A	A	A	A	A	A	A
<b>COMMERCIAL TOURISM (Section 4.2.6)</b>	A	A	A	A	A <sup>E</sup>	A <sup>E</sup>	A
<b>RECREATIONAL FISHING (Section 4.2.7)</b>	✓	✓	✓	✓	✓ <sup>E</sup>	✓ <sup>E</sup>	x
<b>MINING (Section 4.2.8)</b>	A	x	A	x	x	x	x
<b>STRUCTURES AND WORKS (Section 4.2.9)</b>	A	A	A	A	A	A	A
<b>RESEARCH AND MONITORING (Section 4.2.10)</b>	A	A	A	A	A	A	A
<b>NATIONAL SECURITY AND EMERGENCY RESPONSE (Section 4.2.11)</b>	✓	✓	✓	✓	✓	✓	✓

✓ Activity is allowed in accordance with the prescriptions of this plan without the need for a permit, class approval or activity licence or lease issued by the Director.

x Activity is not allowed.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

B Anchoring is not allowed except in anchoring areas determined under r.12.56 of the EPBC Regulations.

E Spearfishing is not allowed. Charter fishing is not allowed in the Recreational Use Zone (IV).



## 4.2.1 General use, access, and waste management

The prescriptions in this Section apply to all marine park users of the Temperate East Network, including those carrying out activities provided for under this plan. These are summarised in Table 4.2.

The EPBC Act and EPBC Regulations control or enable the Director to control a range of activities in marine parks. Some provisions apply to particular classes of activities, such as commercial activities, mining operations or research. Other provisions relate to activities generally and include provisions (Schedule 1) enabling the Director to determine areas where waste may be disposed of, prohibit or restrict entry or activities, determine adventurous activities and areas where adventurous activities may be done, make determinations about the use of vessels, including to prohibit use, control anchoring and mooring, and set speed limits, and make determinations about the use of aircraft in and over marine parks. The taking-off and landing of an aircraft in a marine park can only be conducted in an area determined by the Director (r.12.58).

The EPBC Regulations prohibit ballast water discharge or exchange, disposal of domestic and industrial waste, camping (including overnight stays on vessels), and the operation of a drone in Australian Marine Parks unless authorised by or under a management plan.

Under this plan, waste from normal operations of vessels must be compliant with requirements under the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Maritime Organisation (IMO) convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. Ballast water discharge and exchange must be compliant with Australian ballast water management requirements administered by the Australian Maritime Safety Authority.

**Table 4.2 Summary of prescriptions for general use, access, and waste management in the Temperate East Network**

GENERAL USE, ACCESS, AND WASTE MANAGEMENT Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) (VI)	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Ballast water discharge and exchange (compliant with Australian ballast water requirements)	✓	✓	✓	✓	✓	✓	✓
Disposal of waste from normal operations of vessels (compliant with MARPOL requirements)	✓	✓	✓	✓	✓	✓	✓
Camping	A	A	A	A	A	A	A

GENERAL USE, ACCESS, AND WASTE MANAGEMENT Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) (VI)	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Recreational use (non-fishing, nature watching, boating, etc.)	✓	✓	✓	✓	✓	✓	✓
Non-commercial remote piloted aircraft, drones etc.	A	A	A	A	A	A	A

✓ Activity is allowed in accordance with the prescriptions of this plan without the need for a permit, class approval or activity licence or lease issued by the Director.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

**Note:** Disposal of waste from normal operations of vessels must comply with MARPOL requirements.

### Prescriptions

4.2.1.1 The Director may make, amend and revoke prohibitions, restrictions and determinations under rr.12.23, 12.23A, 12.26, 12.56 and 12.58 of the EPBC Regulations where it is considered necessary:

- a) to protect and conserve biodiversity and other natural, cultural and heritage values; or
- b) to ensure human safety or visitor amenity; or
- c) where it is otherwise necessary to give effect to this plan;

and the Director may issue an authorisation for an activity that would otherwise be prohibited by such an instrument. This Section applies despite the prescriptions in Sections 4.2.3 to 4.2.12.

4.2.1.2 Waste from normal operations may be disposed of from vessels to which the International Convention for the Prevention of Pollution from Ships (MARPOL) (Schedule 1) applies, in accordance with the requirements of MARPOL.

4.2.1.3 Disposal of waste in connection with activities authorised under Section 4.2.9 (Structures and works) will be managed in accordance with that Section.

4.2.1.4 Ballast water may be discharged or exchanged subject to compliance with:

- a) the Australian ballast water management requirements and relevant state ballast water management arrangements; and
- b) relevant Commonwealth and state legislation or international agreements (if any) relating to ballast water management.

4.2.1.5 A person may camp in areas above the high water mark in accordance with a permit.

**Note:** Camping above high water mark on Norfolk Island does not require a permit under this plan.

**Note:** Camping in connection with commercial tourism activities must be authorised under Section 4.2.6 (Commercial tourism)

- 4.2.1.6 Overnight stays on vessels do not require a permit to camp.
- 4.2.1.7 Remote piloted aircraft may be operated for non-commercial purposes in accordance with a permit, relevant provisions of Part 8 of the EPBC Regulations, and applicable aviation safety laws.

**Note:** Operation of remote piloted aircraft in connection with commercial media activities, commercial tourism activities, or research and monitoring must be authorised under Section 4.2.5, Section 4.2.6 or Section 4.2.10 respectively.

## 4.2.2 Commercial shipping (other than commercial fishing and aquaculture vessels)

The prescriptions in this Section set out the rules for anchoring and transit of commercial ships in the Temperate East Network. These are summarised in Table 4.3.

Australia is a party to a number of international agreements relevant to commercial shipping, in particular the United Nations Convention on the Law of the Sea (UNCLOS) and MARPOL (Schedule 1). UNCLOS provides a right of innocent passage through the territorial sea for foreign vessels, and a right of freedom of navigation through Australia's exclusive economic zone. This Section places some limits on the exercise of these rights in some zones. The limitations are necessary to protect marine park values, apply to all commercial shipping, and are consistent with Australia's rights and obligations under UNCLOS.

There are also a range of national laws, policies and procedures relevant to commercial shipping including the *National plan for maritime environmental emergencies* in relation to maritime pollution incidents and the *Biosecurity Act 2015* and Australian ballast water management requirements in relation to ballast water discharge. Prescriptions dealing with waste disposal and ballast water discharge and exchange are in Section 4.2.1 (General use, access, and waste management).

Rules for transit and anchoring of vessels engaged in commercial fishing and aquaculture activities are dealt with in Sections 4.2.3 and 4.2.4.

**Table 4.3 Summary of prescriptions for commercial shipping activities in the Temperate East Network**

COMMERCIAL SHIPPING Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Anchoring	✓	✓	✓	x <sup>B</sup>	x <sup>B</sup>	x <sup>B</sup>	x <sup>B</sup>
Vessel transiting	✓	✓	✓	✓	✓	✓	✓

✓ Activity is allowed in accordance with the prescriptions of this plan without the need for a permit, class approval or activity licence or lease issued by the Director.

x Activity is not allowed.

B Anchoring is not allowed except in anchoring areas determined under r.12.56 of the EPBC Regulations.

**Note:** Ballast water exchange is managed under national arrangements. Restrictions may apply in some areas (Section 4.2.1 General use, access, and waste management).

### Prescriptions

- 4.2.2.1 Commercial ships may transit through the Temperate East Network subject to compliance with the prescriptions in Section 4.2.1 (General use, access, and waste management) and relevant prescriptions in Sections 4.2.5 to 4.2.12 relating to the activity in which shipping is involved.

#### 4.2.2.2 Commercial ships may stop and anchor in a:

- a) Special Purpose Zone (Trawl) (VI);
- b) Special Purpose Zone (Norfolk) (VI);
- c) Multiple Use Zone (VI); and
- d) Habitat Protection Zone (IV), Habitat Protection Zone (Lord Howe) (IV), Recreational Use Zone (IV), and National Park Zone (II)—in anchoring areas determined under r.12.56 of the EPBC Regulations.

**Note:** This Section does not prevent stopping and anchoring outside a determined anchoring area in an IUCN category (IV) or (II) zone due to circumstances of force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

**Note:** This Section does not prevent the carrying out of activities, including stopping and anchoring, as part of operations authorised under Sections 4.2.5 to 4.2.12 and r.12.56 of the EPBC Regulations.

### 4.2.3 Commercial fishing

The prescriptions in this Section set out the rules for commercial fishing activities in the Temperate East Network, including the types of fishing gear and methods allowed in different zones, and requirements for vessel monitoring systems. These are summarised in Table 4.4.

Commercial fishing is managed for sustainability by the Australian Government and state and territory fisheries management agencies. In the Temperate East Network commercial fishing is subject to regulation under the *Fisheries Management Act 1991* (Fisheries Management Act) or Queensland or New South Wales fisheries laws (under arrangements made under Part V of the Fisheries Management Act).

Research in connection with commercial fishing activities will be managed in accordance with Section 4.2.10 (Research and monitoring).

Use of fishing gear not allowed at commencement of this plan may be authorised after satisfactory assessment that supports an adaptive management approach.

**Table 4.4 Summary of prescriptions for commercial fishing activities in the Temperate East Network**

COMMERCIAL FISHING Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Danish seine	A	x	x	x	x	x	x
Dropline	A	A	A	A	A	x	x
Hand collection (including using hookah, scuba, snorkel)	A	A	A	A	x	x	x
Hand net (hand, barrier, skimmer, cast, scoop, drag, lift)	A	A	A	A	x	x	x
Longline	x	x	x <sup>C</sup>	x	x	x	x

COMMERCIAL FISHING Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
(demersal, auto-longline)							
Longline (pelagic)	A	A	A	A	x	x	x
Minor line (handline, rod & reel, trolling, squid jig, poling)	A	A	A	A	A	x	x
Net (demersal)	x	x	x	x	x	x	x
Net (pelagic)	x	x	x	x	x	x	x
Purse seine	A	A	A	A	x	x	x
Trap, pot	A	A	A	x	x	x	x
Trawl (demersal)	A	x	x	x	x	x	x
Trawl (midwater)	A	A	A	A	x	x	x
Trotline	x	x	x <sup>C</sup>	x	x	x	x

x Activity is not allowed.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence issued by the Director.

C Longline (demersal, auto-longline) and trotline is allowable in the Multiple Use Zone (VI) of the Solitary Islands Marine Park.

**Note:** Commercial fishing methods not listed in Table 4.4 will require assessment and approval.

**Note:** The authorisation of activities may be modified during the life of this plan in accordance with Section 4.2.3.7.

**Note:** Transit is allowed as part of activities authorised under this Section.

**Note:** Anchoring by commercial fishing vessels is allowed except in the National Park Zone (II). Anchoring in the National Park Zone (II) is prohibited except in anchoring areas determined under r.12.56 of the EPBC Regulations. These requirements do not prevent stopping and anchoring due to circumstances of force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

## Prescriptions

- 4.2.3.1 Commercial fishing activities may be conducted in the Temperate East Network in accordance with and subject to:
- a class approval issued under Section 4.4.2 (Class approvals); or
  - an activity licence issued under Section 4.4.3 (Activity licences and leases) to a person who is not covered by a class approval; and
  - the following prescriptions in this Section;
  - the prescriptions in Section 4.2.1 (General use, access, and waste management); and
  - any determinations made under r.12.34 of the EPBC Regulations.
- 4.2.3.2 Commercial fishing activities may be conducted in a:
- Special Purpose Zone (Trawl) (VI);
  - Special Purpose Zone (Norfolk) (VI);
  - Multiple Use Zone (VI);
  - Habitat Protection Zone (IV); or
  - Habitat Protection Zone (Lord Howe) (IV).
- 4.2.3.3 Subject to Section 4.2.3.7 the following fishing gear must not be used:
- Longline (demersal, auto-longline) and trotline, except in the Multiple Use Zone (VI) of the Solitary Islands Marine Park; or
  - Net (demersal, pelagic).
- 4.2.3.4 Danish seine and trawl (demersal) must not be used in a Special Purpose Zone (Norfolk) (VI), Multiple Use Zone (VI), Habitat Protection Zone (IV) and Habitat Protection Zone (Lord Howe) (IV).
- 4.2.3.5 Hand collection, longline (pelagic), hand net, purse seine, and trawl (midwater) must not be used in the Habitat Protection Zone (Lord Howe) (IV).
- 4.2.3.6 Traps and pots must not be used in a Habitat Protection Zone (IV) and Habitat Protection Zone (Lord Howe) (IV).
- 4.2.3.7 Subject to satisfactory assessment under Section 4.3.1 (Decision-making), expert advice, and consultation with fisheries management agencies and the commercial fishing industry, the Director may authorise the use of:
- any fishing gear specified in Section 4.2.3.3 in a Special Purpose Zone (Trawl) (VI), Special Purpose Zone (Norfolk) (VI) or Multiple Use Zone (VI); and
  - pelagic fishing gear specified in Section 4.2.3.3 in a Habitat Protection Zone (IV) or Habitat Protection Zone (Lord Howe) (IV).
- 4.2.3.8 Fishing gear or methods not specified in a commercial fishing class approval or activity licence, or its conditions, must not be used.
- Note:** A class approval or activity licence may be varied under Section 4.4 (Authorisation of allowable activities) to specify additional fishing methods and gear types following satisfactory assessment in accordance with Section 4.3.1 (Decision-making).
- 4.2.3.9 Commercial fishing activities must be conducted in accordance with a commercial fishing concession issued under Commonwealth, state or territory fisheries laws to the extent those laws are capable of operating concurrently with this plan.

4.2.3.10 Commercial fishing vessels may transit through the Temperate East Network subject to compliance with the prescriptions in Section 4.2.1 (General use, access, and waste management) and Section 4.2.3.11.

4.2.3.11 Commercial fishing vessels may stop and anchor in a:

- a) Special Purpose Zone (Trawl) (VI);
- b) Special Purpose Zone (Norfolk) (VI);
- c) Multiple Use Zone (VI);
- d) Habitat Protection Zone (IV);
- e) Habitat Protection Zone (Lord Howe) (IV);
- f) Recreational Use Zone (IV); or
- g) National Park Zone (II) in anchoring areas determined under r.12.56 of the EPBC Regulations in accordance with Section 4.2.1.1.

**Note:** This Section does not prevent stopping and anchoring outside a determined anchoring area in an IUCN category (II) zone due to circumstances of force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

4.2.3.12 Fishing gear must be kept stowed and secured at all times during transit through, or while stopping and anchoring in, a zone in which fishing activities are not authorised.

4.2.3.13 Fishing gear that is:

- a) specified in Sections 4.2.3.3 to 4.2.3.6;
- b) not specified in a class approval or activity licence as gear that may be used; or
- c) prohibited by a determination under r.12.34 of the EPBC Regulations,

must be kept stowed and secured at all times during transit through, or while stopping and anchoring in, zones in which that gear is not allowed.

4.2.3.14 Following consultation with the relevant fisheries management agencies and the commercial fishing industry, the Director may require all commercial fishing vessels transiting or conducting fishing activities in the Temperate East Network to carry an operating vessel identification and monitoring system.

**Note:** At the commencement of this plan vessel identification and monitoring systems were required on all vessels operating in Commonwealth managed fisheries. The conditions of a class approval or activity licence issued under Section 4.4 (Authorisation of allowable activities) may require the use of vessel identification and monitoring systems on all commercial fishing vessels operating in the Temperate East Network.

4.2.3.15 The Director may make determinations under r.12.34 of the EPBC Regulations relating to the conduct of commercial fishing.

## 4.2.4 Commercial aquaculture

The prescriptions in this Section set out the rules for commercial aquaculture in the Temperate East Network. These are summarised in Table 4.5.

Commercial aquaculture is managed under Queensland or New South Wales laws. These laws apply to the extent that they can operate consistently with the EPBC Act and EPBC Regulations and this plan.

Research in connection with commercial aquaculture will be managed in accordance with Section 4.2.10 (Research and monitoring).

**Table 4.5 Summary of prescriptions for commercial aquaculture activities in the Temperate East Network**

COMMERCIAL AQUACULTURE Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Aquaculture	A	A	A	A	x	x	x

x Activity is not allowed.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

**Note:** Transit and anchoring is allowed as part of activities authorised under this Section.

**Note:** Anchoring by commercial aquaculture vessels is allowed except in the National Park Zone (II). Anchoring in the National Park Zone (II) is prohibited except in anchoring areas determined under r.12.56 of the EPBC Regulations. These requirements do not prevent stopping and anchoring due to circumstances of force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

## Prescriptions

4.2.4.1 Commercial aquaculture may be conducted in the Temperate East Network in accordance with and subject to:

- a) a class approval issued under Section 4.4.2 (Class approvals); or
- b) an activity licence issued under Section 4.4.3 (Activity licences and leases) to a person who is not covered by a class approval; and
- c) the following prescriptions in this Section;
- d) the prescriptions in Section 4.2.1 (General use, access, and waste management); and
- e) any determinations made under r.12.34 of the EPBC Regulations.

4.2.4.2 Commercial aquaculture may be conducted in a:

- a) Special Purpose Zone (Trawl) (VI);
- b) Special Purpose Zone (Norfolk) (VI);
- c) Multiple Use Zone (VI); or
- d) Habitat Protection Zone (IV).

4.2.4.3 Commercial aquaculture must be conducted in accordance with applicable Commonwealth, state or territory laws to the extent those laws are capable of operating concurrently with this plan.

4.2.4.4 Commercial aquaculture vessels may transit through the Temperate East Network, subject to compliance with the prescriptions in Section 4.2.1 (General use, access, and waste management) and Section 4.2.4.5.

4.2.4.5 Commercial aquaculture vessels may stop and anchor in a:

- a) Special Purpose Zone (Trawl) (VI);
- b) Special Purpose Zone (Norfolk) (VI);
- c) Multiple Use Zone (VI);



- d) Habitat Protection Zone (IV);
- e) Habitat Protection Zone (Lord Howe) (IV);
- f) Recreational Use Zone (IV); or
- g) National Park Zone (II) in anchoring areas determined under r.12.56 of the EPBC Regulations in accordance with Section 4.2.1.1.

**Note:** This Section does not prevent stopping and anchoring outside a determined anchoring area in circumstances of force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

- 4.2.4.6 Commercial aquaculture equipment not authorised for use by a class approval or activity licence as gear that may be used, or that is prohibited by a determination under r.12.34 of the EPBC Regulations, must be kept stowed and secured at all times during transit through, or while stopping and anchoring in, zones in which that gear is not allowed.
- 4.2.4.7 The Director may make determinations under r.12.34 of the EPBC Regulations relating to the conduct of commercial aquaculture.

### 4.2.5 Commercial media

The prescriptions in this Section set out the rules for commercial media in the Temperate East Network. These are summarised in Table 4.6.

Research in connection with commercial media activities will be managed in accordance with Section 4.2.10 (Research and monitoring).

**Table 4.6 Summary of prescriptions for commercial media activities in the Temperate East Network**

COMMERCIAL MEDIA Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Commercial media	A <sup>D</sup>	A <sup>D</sup>	A <sup>D</sup>	A <sup>D</sup>	A <sup>D</sup>	A <sup>D</sup>	A <sup>D</sup>

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

D News-of-the-day reporting may be undertaken on terms determined by the Director from time to time, and subject to the Director being notified.

### Prescriptions

- 4.2.5.1 Commercial media activities other than reporting news of the day may be conducted in the Temperate East Network in accordance with and subject to:
  - a) a permit issued under Section 4.4.1 (Permits); or
  - b) an activity licence issued under Section 4.4.3 (Activity licences and leases); and
  - c) the prescriptions in Section 4.2.1 (General use, access, and waste management); and
  - d) the prescriptions in Section 4.2.2 (Commercial shipping).
- 4.2.5.2 Commercial media activities for the purposes of reporting news of the day may be undertaken on terms determined by the Director from time to time, and subject to the Director being notified.

## 4.2.6 Commercial tourism (includes charter fishing tours, scuba diving, nature watching tours)

The prescriptions in this Section set out the rules for commercial tourism in the Temperate East Network. These are summarised in Table 4.7.

Requirements for interacting with cetaceans and whale watching in the Australian Whale Sanctuary (the Temperate East Network is part of the Sanctuary) are prescribed by Part 8 of the EPBC Regulations. The prescriptions in Section 4.2.7 (Recreational fishing) apply to the clients of charter fishing tours. The prescriptions in Section 4.2.9 (Structures and works) apply to the installation and maintenance of moorings and other structures and works as part of commercial tourism activities. Research in connection with commercial tourism will be managed in accordance with Section 4.2.10 (Research and monitoring).

**Table 4.7 Summary of prescriptions for commercial tourism (including charter fishing, scuba diving and nature watching tours) in the Temperate East Network**

COMMERCIAL TOURISM Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Non-fishing related tourism (including nature watching, scuba/snorkel tours)	A	A	A	A	A	A	A
Charter fishing tours (including spear diving tours)	A	A	A	A	A <sup>E</sup>	x	x
Commercial aviation tours (up to 3000 m above sea level)	A	A	A	A	A	A	A

x Activity is not allowed.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

E Spearfishing is not allowed.

**Note:** Transit and anchoring is allowed as part of activities authorised under this Section.

**Note:** Fishing gear must be kept stowed and secured at all times during transit through, or stopping and anchoring in a National Park Zone (II).

## Prescriptions

- 4.2.6.1 Commercial tourism activities may be conducted in the Temperate East Network in accordance with and subject to:
- a) an activity licence or lease issued under Section 4.4.3 (Activity licences and leases); and
  - b) the following prescriptions in this Section;
  - c) the prescriptions in Section 4.2.1 (General use, access, and waste management);
  - d) the prescriptions in Section 4.2.2 (Commercial shipping); and
  - e) in relation to charter fishing, the prescriptions in Section 4.2.7 (Recreational fishing).
- 4.2.6.2 Commercial tours, other than charter fishing tours, may be conducted in a:
- a) Special Purpose Zone (Trawl) (VI);
  - b) Special Purpose Zone (Norfolk) (VI);
  - c) Multiple Use Zone (VI);
  - d) Habitat Protection Zone (IV);
  - e) Habitat Protection Zone (Lord Howe) (IV);
  - f) Recreational Use Zone (IV); or
  - g) National Park Zone (II).
- 4.2.6.3 Charter fishing tours may be conducted in a:
- a) Special Purpose Zone (Trawl) (VI);
  - b) Special Purpose Zone (Norfolk) (VI);
  - c) Multiple Use Zone (VI);
  - d) Habitat Protection Zone (IV) or
  - e) Habitat Protection Zone (Lord Howe) (IV).

**Note:** Spearfishing is not allowed in the Habitat Protection Zone (Lord Howe) (IV).

- 4.2.6.4 Fishing gear on charter fishing vessels must be kept stowed and secured at all times during transit through, or stopping and anchoring in, zones in which charter fishing tours are not allowed.
- 4.2.6.5 Commercial aviation tours may be conducted in the airspace up to 3000 m above sea level, in accordance with a permit and relevant provisions of Part 8 of the EPBC Regulations.

**Note:** The EPBC Act and EPBC Regulations do not apply to commercial aviation tours in airspace over 3000 m above sea level.

## 4.2.7 Recreational fishing

The prescriptions in this Section set out the rules for recreational fishing in the Temperate East Network. These are summarised in Table 4.8.

Research in connection with recreational fishing will be managed in accordance with Section 4.2.10 (Research and monitoring).

**Table 4.8 Summary of prescriptions for recreational fishing activities in the Temperate East Network**

RECREATIONAL FISHING Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Recreational fishing (including spearfishing)	✓	✓	✓	✓	✓ <sup>E</sup>	✓ <sup>E</sup>	x
Anchoring	✓	✓	✓	✓	✓	✓	✓
Vessel transiting	✓	✓	✓	✓	✓	✓	✓

✓ Activity is allowed in accordance with the prescriptions of this plan without the need for a permit, class approval or activity licence or lease issued by the Director.

x Activity is not allowed.

E Spearfishing is not allowed.

**Note:** The Director may make an instrument under the EPBC Regulations to manage recreational fishing access in the Recreational Use Zone (IV) at Elizabeth Reef, including to require permits, consistent with longstanding arrangements prior to the commencement of this plan.

**Note:** Transit and anchoring is allowed as part of activities authorised under this Section.

**Note:** Fishing gear must be kept stowed and secured at all times during transit through, or stopping and anchoring in a National Park Zone (II).

### Prescriptions

4.2.7.1 Recreational fishing may be conducted in the Temperate East Network in accordance with and subject to:

- a) the following prescriptions in this Section;
- b) the prescriptions in Section 4.2.1 (General use, access, and waste management); and
- c) any determinations made under r.12.35(3) of the EPBC Regulations.

4.2.7.2 Recreational fishing may be conducted in a:

- a) Special Purpose Zone (Trawl) (VI);
- b) Special Purpose Zone (Norfolk) (VI);
- c) Multiple Use Zone (VI);
- d) Habitat Protection Zone (IV);
- e) Habitat Protection Zone (Lord Howe) (IV) or
- f) Recreational Use Zone (IV).

- 4.2.7.3 Fish must not be taken by use of a spear or spear gun in the Habitat Protection Zone (Lord Howe) (IV), or the Recreational Use Zone (IV).
- 4.2.7.4 Recreational fishing must be conducted in accordance with relevant laws of Queensland or New South Wales or Norfolk Island applying to the area of the Temperate East Network in which the activity is conducted (to the extent those laws are capable of operating concurrently with this plan).
- 4.2.7.5 The Director may make determinations under r.12.35 (3) of the EPBC Regulations relating to the conduct of recreational fishing.
- 4.2.7.6 Regulations 12.35 (4) and (5) of the EPBC Regulations do not apply to recreational fishing conducted in accordance with this Section.

**Note:** As provided by Section 4.2.7.5, the Director may make determinations under r.12.35 (3) in relation to matters described in rr.12.35 (4) and (5).

- 4.2.7.7 Fishing gear must be kept stowed and secured at all times during transit through, or stopping and anchoring in, zones in which recreational fishing is not allowed.

#### 4.2.8 Mining operations (includes exploration)

The prescriptions in this Section set out the rules for mining operations in the Temperate East Network and are summarised in Table 4.9. Mining operations are defined in s.355(2) of the EPBC Act, and include offshore petroleum activities, transportation of minerals by pipeline, and oil spill response (Schedule 1.1 of this plan).

Under s.359 of the Act, ss.355 and 355A do not apply to usage rights to conduct mining operations that were held immediately before the proclamation of the marine parks.

The prescriptions allow for the Director to authorise mining activities that are also subject to other legislative regimes and assessed and approved by other agencies under those regimes.

Mining operations that are likely to have a significant impact on a matter protected under Part 3 of the EPBC Act will be subject to assessment and decision in accordance with Chapter 4 of the Act. At the commencement of this plan petroleum and greenhouse gas activities undertaken in Commonwealth waters in accordance with the *Program report—strategic assessment of the environmental management authorisation process for petroleum and greenhouse gas storage activities administered by the National Offshore Petroleum Safety and Environmental Management Authority under the Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) were endorsed under Part 10 of the EPBC Act. Offshore petroleum and greenhouse gas activities covered by and excluded from the program are detailed in the class of actions approval issued by the Minister for the Environment under EPBC Act on 27 February 2014. Activities that have an environment plan accepted by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) under the endorsed program may be conducted in accordance with the relevant petroleum title under the OPGGS Act and a class approval under this plan. Accordingly, mining operations covered by the endorsed NOPSEMA program do not require additional assessment by the Director because the endorsed program takes account of impacts and risks to marine park values in a manner that satisfies the Director.

Offshore petroleum activities that are excluded from the endorsed NOPSEMA program and associated class of actions approval will require an environment plan accepted by NOPSEMA under the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Environment Regulations) and will also be considered and authorised by the Director in accordance with Section 4.2.12 (New activities and authorisations) of this plan if any activities are proposed.

The definition of mining operations in the EPBC Act does not include capture and storage of greenhouse gases, including carbon dioxide. If any of these activities were proposed they would also be considered in accordance with Section 4.2.12 (New activities and authorisations).

The Director is a relevant person for the purposes of the Environment Regulations and must be consulted by title holders in the preparation of environment plans where a proposed activity or part of the activity is within a marine park, and/or activities proposed to occur outside a marine park may impact on the marine park values.

Mining operations also include activities regulated under the *Offshore Minerals Act 1994*. For non-petroleum mining operations, additional assessment by the Director may not be required where mining operations are assessed under Chapter 4 of the EPBC Act.

Actions required to respond to oil pollution incidents, including environmental monitoring and remediation, in connection with mining operations authorised under the OPGGS Act may be conducted in all zones. The Director should be notified in the event of an oil pollution incident that occurs within, or may impact upon, an Australian Marine Park and, so far as reasonably practicable, prior to a response action being taken within a marine park.

Research that is a mining operation as defined in s.355 of the EPBC Act, or is incidental to such an operation is covered by prescriptions in this Section. Mining-related research activities that do not require an environment plan under the OPGGS Act are covered by prescriptions in 4.2.10 (Research and monitoring).

Transit through the Temperate East Network for the purposes of mining operations conducted elsewhere is covered by Section 4.2.2 (Commercial shipping).

**Table 4.9 Summary of prescriptions for mining operations in the Temperate East Network**

<b>MINING Activity</b>	<b>Special Purpose Zone (Trawl) VI</b>	<b>Special Purpose Zone (Norfolk) VI</b>	<b>Multiple Use Zone VI</b>	<b>Habitat Protection Zone IV</b>	<b>Habitat Protection Zone (Lord Howe) IV</b>	<b>Recreational Use Zone IV</b>	<b>National Park Zone II</b>
Mining operations including exploration	A	x	A	x	x	x	x
Construction and operation of pipelines	A	A	A	A	A	A	A

x Activity is not allowed.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

**Note:** Proposed mining operations conducted under usage rights that existed immediately before the declaration of a marine park do not require approval from the Director.

## Prescriptions

- 4.2.8.1 Mining operations may be conducted in the Temperate East Network in accordance with and subject to:
- a) a permit issued under Section 4.4.1 (Permits); or
  - b) a class approval issued under Section 4.4.2 (Class approvals); or
  - c) an activity licence issued under Section 4.4.3 (Activity licences and leases) for mining operations that are the construction and operation of pipelines; and
  - d) the following prescriptions in this Section;
  - e) the prescriptions in Section 4.2.1 (General use, access, and waste management); and
  - f) the prescriptions in Section 4.2.2 (Commercial shipping).
- 4.2.8.2 Mining operations may be conducted in a:
- a) Special Purpose Zone (Trawl) (VI); or
  - b) Multiple Use Zone (VI),
- in accordance with Sections 4.2.8.3 and 4.2.8.4.
- 4.2.8.3 Mining operations in a Special Purpose Zone (Trawl) (VI) or Multiple Use Zone (VI):
- a) that have been approved under Part 9 of the EPBC Act, may be conducted in accordance with conditions of that approval and a class approval issued under Section 4.4.2;
  - b) that are authorised by a policy, plan or program that has been endorsed under Part 10 of the EPBC Act may be conducted in accordance with the conditions of that authorisation and a class approval under Section 4.4.2; or
  - c) that are the subject of a decision under Part 7 of the EPBC Act and are not a controlled action if taken in a particular manner may be conducted in that manner and in accordance with the conditions of a class approval issued under Section 4.4.2.
- 4.2.8.4 Mining operations in a Special Purpose Zone (Trawl) (VI) or Multiple Use Zone (VI) not authorised by a class approval referred to in Section 4.2.8.3 may be conducted in accordance with a permit issued under Section 4.4.1 (Permits) or a class approval issued under Section 4.4.2 (Class approvals).
- 4.2.8.5 Mining operations that are the construction and operation of pipelines and the carrying on of other activities for the purposes of those operations (e.g. surveys) may be conducted in a:
- a) Special Purpose Zone (Norfolk) (VI);
  - b) Habitat Protection Zone (IV);
  - c) Habitat Protection Zone (Lord Howe) (IV);
  - d) Recreational Use Zone (IV), or
  - e) National Park Zone (II),
- in accordance with Section 4.2.8.6.

4.2.8.6 The Director may issue an authorisation under Section 4.4 (Authorisation of allowable activities) for the construction and operation of pipelines and the carrying on of other activities for the purposes of those operations (e.g. surveys) through a:

- a) Special Purpose Zone (Norfolk) (VI);
- b) Habitat Protection Zone (IV);
- c) Habitat Protection Zone (Lord Howe) (IV);
- d) Recreational Use Zone (IV); or
- e) National Park Zone (II),

if the Director is satisfied that alternative routes are not feasible or practicable.

4.2.8.7 Mining operations must be conducted in accordance with an authorisation (however described) under the OPGGS Act or the *Offshore Minerals Act 1994* (to the extent those laws apply to the operations and are capable of operating concurrently with this plan).

4.2.8.8 Notwithstanding Section 4.2.8.1, actions required to respond to oil pollution incidents, including environmental monitoring and remediation, in connection with mining operations authorised under the OPGGS Act, may be conducted in all zones without an authorisation issued by the Director, provided that the actions are taken in accordance with an environment plan that has been accepted by NOPSEMA, and the Director is notified in the event of oil pollution within a marine park, or where an oil spill response action must be taken within a marine park, so far as reasonably practicable, prior to response action being taken..

4.2.8.9 Scientific research and environmental monitoring in connection with a particular mining operation may be conducted in all zones in accordance with Section 4.2.10 (Research and monitoring).

**Note:** For the avoidance of doubt, research and monitoring does not include activities or operations for the purpose of prospecting or exploration for minerals.



## 4.2.9 Structures and works

The prescriptions in this Section set out the rules for structures and works in the Temperate East Network, where the activity is not covered by Sections 4.2.1 to 4.2.8. These are summarised in Table 4.10. Research in connection with structures and works will be managed in accordance with Section 4.2.10 (Research and monitoring).

The prescriptions do not affect any structures or works that were installed in a marine park under a usage right relating to the seabed that existed immediately before the proclamation of the Temperate East Network (and preserved by s.359 of the EPBC Act).

**Table 4.10 Summary of prescriptions for structures and works activities in the Temperate East Network**

STRUCTURES AND WORKS Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Excavation (other than dredging), erection and maintenance of structures, and works	A	A	A	A	A	A	A
Dredging and disposal of dredged material	A	A	A	x	x	x	x
Artificial reefs	A	A	A	A	A	A	A <sup>F</sup>
Fish aggregating devices	A	A	A	A	A	A	x

x Activity is not allowed.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

F Activity is allowable only for the protection, conservation or restoration of habitats.

**Note:** Structures may include, but are not limited to, moorings, submarine cables, platforms (including any man made structure at sea, whether floating or fixed to the seabed, but does not include a vessel), jetties and other infrastructure. The erection and maintenance of structures associated with mining operations must be carried out in accordance with Section 4.2.8 (Mining).

## Prescriptions

- 4.2.9.1 A person other than the Director may carry out an excavation (including dredging), erect a structure, or carry out works including maintenance of structures, and associated activities (including disposal of dredged material) in the Temperate East Network in accordance with and subject to:
- a) a permit issued under Section 4.4.1 (Permits); or
  - b) a class approval issued under Section 4.4.2 (Class approvals); or
  - c) an activity licence or lease issued under Section 4.4.3 (Activity licences and leases); and
  - d) the following prescriptions in this Section; and
  - e) the prescriptions in Section 4.2.1 (General use, access, and waste management), including any determinations made under rr.12.23 and 12.23A of the EPBC Regulations; and
  - f) the prescriptions in Section 4.2.2 (Commercial shipping).

**Note:** An authorisation for the purposes of Section 4.2.9.1 may be part of an authorisation for another allowable activity (e.g. a tourism activity licence that authorises the licensee to erect and/or maintain a mooring).

- 4.2.9.2 Subject to Sections 4.2.9.3 and 4.2.9.4, an authorisation may be issued for excavations (including dredging), erection of structures, works and maintenance, and associated activities (including disposal of dredged material), other than in relation to fish aggregating devices, in the Temperate East Network where the action is necessary for:
- a) maritime or visitor safety, including aiding navigation; or
  - b) maintaining the values of the Temperate East Network; or
  - c) research and monitoring; or
  - d) critical infrastructure in the national interest; or
  - e) commercial tourism; and
  - f) it is not practicable for the action to be taken outside the zone.
- 4.2.9.3 Dredging and disposal of dredged material may only be conducted in a Special Purpose Zone (Trawl) (VI), Special Purpose Zone (Norfolk) (VI), and Multiple Use Zone (VI).
- 4.2.9.4 Artificial reefs may only be authorised in a National Park Zone (II) to assist the protection, conservation or restoration of habitats.
- 4.2.9.5 Excavations (including dredging), erection of structures, works and maintenance, and associated activities (including disposal of dredged material), other than in relation to fish aggregating devices, in a Special Purpose Zone (Trawl) (VI), Special Purpose Zone (Norfolk) (VI), and Multiple Use Zone (VI):
- a) that have been approved under Part 9 of the EPBC Act, may be conducted in accordance with conditions of that approval and a class approval issued under Section 4.4.2 (Class approvals);
  - b) that are authorised by a policy, plan or program that has been endorsed under Part 10 of the EPBC Act may be conducted in accordance with the conditions of that authorisation and a class approval issued under Section 4.4.2 (Class approvals);
  - c) that have been authorised by a permit under *the Environment Protection (Sea Dumping) Act 1981* may be conducted in accordance with the conditions of that permit and a class approval issued under Section 4.4.2 (Class approvals);

- d) that are the subject of a decision under Part 7 of the EPBC Act and are not a controlled action or a controlled action if taken in a particular manner may be conducted in that manner and in accordance with the conditions of a class approval issued under Section 4.4.2 (Class approvals); or
- e) that are not covered by paragraphs a) to d) may be conducted in accordance with a permit issued under Section 4.4.1 (Permits) or an activity licence or lease issued under Section 4.4.3 (Activity licences and leases).

4.2.9.6 Excavations (other than dredging), erection of structures, and works and maintenance, and associated activities, other than disposal of dredged material and in relation to fish aggregating devices, in a Habitat Protection Zone (IV), Habitat Protection Zone (Lord Howe) (IV), Recreational Use Zone (IV), and National Park Zone (II):

- a) that have been approved under Part 9 of the EPBC Act, may be conducted in accordance with conditions of that approval and a class approval issued under Section 4.4.2 (Class approvals);
- b) that are authorised by a policy, plan or program that has been endorsed under Part 10 of the EPBC Act may be conducted in accordance with the conditions of that authorisation and a class approval issued under Section 4.4.2 (Class approvals);
- c) that have been authorised by a permit under the *Environment Protection (Sea Dumping) Act 1981* may be conducted in accordance with the conditions of that permit and a class approval issued under Section 4.4.2 (Class approvals);
- d) that are the subject of a decision under Part 7 of the EPBC Act and are not a controlled action or not a controlled action if taken in a particular manner may be conducted in that manner and in accordance with the conditions of a class approval issued under Section 4.4.2 (Class approvals); or
- e) that are not covered by paragraphs (a) to (d) may be conducted in accordance with a permit issued under Section 4.4.1 (Permits) or an activity licence or lease issued under Section 4.4.3 (Activity licences and leases).

4.2.9.7 Fish aggregating devices may be installed in a Special Purpose Zone (Trawl) (VI), Special Purpose Zone (Norfolk) (VI), Multiple Use Zone (VI), Habitat Protection Zone (IV), Habitat Protection Zone (Lord Howe) (IV), and Recreational Use Zone (IV) in accordance with an authorisation issued under Section 4.4 (Authorisation of allowable activities).

4.2.9.8 The Director may carry out an excavation, erect a structure or carry out works and maintenance in the Temperate East Network after assessing consistency with the zone objectives and the likely impacts of the activity consistent with Section 4.3.1 (Decision-making).

## 4.2.10 Research and monitoring

The prescriptions in this Section set out the rules for research and monitoring activities in the Temperate East Network. These are summarised in Table 4.11.

Research and monitoring activities that affect listed threatened species or ecological communities, listed migratory species, cetaceans or listed marine species must also comply with the provisions of Part 13 of the EPBC Act, unless conducted in accordance with this plan.

Where biological resources are sought for the purpose of research and development on their genetic or biochemical components, a permit is required under Part 8A of the EPBC Regulations, which operates subject to this plan.

Where authorisation for research and monitoring activities is provided, the Director will require results of research and monitoring to be made available to inform adaptive management.

**Table 4.11 Summary of prescriptions for research and monitoring activities in the Temperate East Network**

RESEARCH AND MONITORING Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Research	A	A	A	A	A	A	A

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

**Note:** Transit and anchoring is allowed as part of activities authorised under this Section.

### Prescriptions

4.2.10.1 The Director may conduct research and monitoring activities in the Temperate East Network that involves actions covered by ss.354 and 354A and Part 13 of the EPBC Act.

4.2.10.2 A person other than the Director may conduct research and monitoring activities in the Temperate East Network, including taking actions covered by the EPBC Act ss.354 and 354A and Part 13 of the EPBC Act in accordance with and subject to:

- a) a permit issued under Section 4.4.1 (Permits);
- b) a class approval issued under Section 4.4.2 (Class approvals); or
- c) an activity licence or lease issued under Section 4.4.3 (Activity licences and leases); and
- d) the following prescriptions in this Section;
- e) the prescriptions in Section 4.2.1 (General use, access, and waste management); and
- f) the prescriptions in Section 4.2.2 (Commercial shipping).

4.2.10.3 A class approval will not be issued for research and monitoring that involves activities covered by Section 4.2.10.7.

- 4.2.10.4 Research activities that involve access to biological resources within the meaning of Part 8A of the EPBC Regulations must comply with the requirements of that Part (in addition to the requirements of this Section).
- 4.2.10.5 In assessing authorisation applications or deciding whether to issue a class approval, the Director will consider the aim of the proposed activity or class of activities, ethical issues and how knowledge from the proposed activity or class of activities might benefit the understanding and management of the Temperate East Network.
- 4.2.10.6 An authorisation may be issued to carry out research and monitoring activities if the Director is satisfied that the activity is relevant to, or a priority for, the management of the Temperate East Network.
- 4.2.10.7 An authorisation may be issued to conduct research and monitoring that involves commercial fishing activities that are prohibited under Section 4.2.3 (Commercial fishing) if the Director is satisfied that:
- a) the activity will provide information relevant to understanding the impacts of activities on the marine environment, or to supporting sustainable use in the marine environment; and
  - b) the activity is relevant to, or a priority for, the management of the Temperate East Network.
- 4.2.10.8 Authorisation holders will be required to make results of research and monitoring available to the Director (in a specific format where relevant), where the Director is satisfied that the information will improve the knowledge and understanding of the values and management of the Temperate East Network.

#### **4.2.11 National security and emergency response**

The prescriptions in this Section set out the rules for defence, border protection, law enforcement and emergency response activities in the Temperate East Network. These are summarised in Table 4.12.

Provisions of the EPBC Act and EPBC Regulations (Division 12.2) relating to Australian Marine Parks apply generally to the Commonwealth and its agencies. In addition, s.362(2) of the EPBC Act requires the Commonwealth and Commonwealth agencies to perform functions and exercise powers in relation to Australian Marine Parks in a way that is not inconsistent with this plan. The Director will build on existing partnerships with Commonwealth agencies (Section 1.8).

Response to oil pollution events associated with petroleum and other mining operations by title holders are covered by prescriptions in Section 4.2.8 (Mining operations) of this plan.

**Table 4.12 Summary of prescriptions for national security and emergency response activities in the Temperate East Network**

NATIONAL SECURITY AND EMERGENCY RESPONSE Activity	Special Purpose Zone (Trawl) VI	Special Purpose Zone (Norfolk) VI	Multiple Use Zone VI	Habitat Protection Zone IV	Habitat Protection Zone (Lord Howe) IV	Recreational Use Zone IV	National Park Zone II
Actions by or under direction of the Commonwealth and Commonwealth agencies—defence, border protection, law enforcement and emergency response	✓	✓	✓	✓	✓	✓	✓
Actions by or under direction of the Commonwealth and Commonwealth agencies—not covered elsewhere by this plan	A	A	A	A	A	A	A

✓ Activity is allowed in accordance with the prescriptions of this plan without the need for a permit, class approval or activity licence or lease issued by the Director.

A Authorisation required. Activity is allowable, subject to assessment, in accordance with a permit, class approval or activity licence or lease issued by the Director.

**Note:** Transit and anchoring is allowed as part of activities authorised under this Section.

### Prescription

4.2.11.1 Actions by or under direction of the Commonwealth and Commonwealth agencies in the Temperate East Network that are covered by ss.354 and 354A and Part 13 of the EPBC Act, and activities covered by Division 12.2 of the EPBC Regulations:

- a) for the purposes of training and operations for defence, customs, border protection, law enforcement or emergency response, including response to maritime environmental emergencies in accordance with the *National plan for maritime environmental emergencies* may be conducted without the need for a permit or class approval issued under Section 4.4 (Authorisation of allowable activities); or
- b) for other purposes may be conducted under a permit or class approval issued by the Director in accordance with Section 4.4 (Authorisation of allowable activities).

## 4.2.12 New activities and authorisations

New activities may be required or proposed in the Temperate East Network during the life of this plan that are not covered by the prescriptions in Sections 4.2.2 to 4.2.11 of this plan. The prescriptions in this Section enable the Director to consider and authorise new activities in the Temperate East Network. They also enable the Director to authorise activities in new ways that are identified to be more efficient and effective and reduce unnecessary administrative burden.

### Prescriptions

- 4.2.12.1 The Director may take actions that are not covered by specific prescriptions in this plan, including actions covered by ss.354 and 354A of the EPBC Act.
- 4.2.12.2 The Director may authorise (by a permit, class approval, activity licence or lease under Section 4.4 Authorisation of allowable activities) actions by other persons that are not covered by specific prescriptions in this plan, including actions covered by ss.354 and 354A of the EPBC Act and EPBC Regulations.
- 4.2.12.3 The Director may issue permits, class approvals, activity licences or leases, or other usage rights, in place of existing authorisations under this plan.
- 4.2.12.4 The Director may make determinations, prohibitions or restrictions under provisions of Division 12.2 of the EPBC Regulations that are not covered by prescriptions in this plan.

## 4.3 MAKING DECISIONS ABOUT ACTIVITIES

This plan provides for a higher level of protection within marine parks than applies to the Commonwealth marine area outside the Temperate East Network. The prescriptions in this Section outline the approach and considerations of the Director when assessing and making decisions about what activities will be authorised in marine parks.

### 4.3.1 Decision-making

#### Prescriptions

- 4.3.1.1 Decisions about activities will be consistent with the objectives of this plan, objectives of the zone or zones in which the activity will be or is being conducted, and the applicable reserve management principles (Schedule 8 of the EPBC Regulations).
- 4.3.1.2 Decisions will take into account the impacts and risks of the activity on the values of the Temperate East Network and/or specific marine parks, acceptability of those impacts and risks, and potential impacts on marine park users, stakeholders and Indigenous people.
- 4.3.1.3 Impacts and risks of an activity will be assessed in accordance with the processes and policies established under the assessments and authorisations program (Section 2.5).
- 4.3.1.4 Before authorising a proposed activity the Director must be satisfied that:
  - a) the proponent suitably understands the marine park values;
  - b) environmental impacts and risks on marine park values are understood, evaluated and able to be avoided or reduced to as low as reasonably practicable;
  - c) the proponent has the capacity to comply with the conditions of the authorisation; and
  - d) that relevant regulatory requirements have been or will be met.

4.3.1.5 The Director will not authorise an activity unless satisfied that:

- a) the activity is consistent with the zone objectives for the zone or zones in which the activity will be conducted (Part 3); and
- b) the potential impacts and risks of the activity on marine park values will be avoided or reduced to as low as reasonably practicable; and
- c) the potential impacts and risks of the activity on marine park values and representativeness are acceptable.

**Note:** The Director will issue guidance on assessment of impacts.

## 4.3.2 Assessments under other processes

### Prescription

4.3.2.1 For the purposes of Section 4.3.1 (Decision-making) the Director may accept the assessment of activities made under Chapter 4 of the EPBC Act, the *Environment Protection (Sea Dumping) Act 1981* or under a government or industry policy, plan or program, where the Director is satisfied that:

- a) the assessment is done in a manner consistent with Section 4.3.1.3; and
- b) the assessment process provides for appropriate consultation with the Director and consideration of the Director's views in relation to activities in the Temperate East Network or potential impacts on the Network or marine park values.

## 4.3.3 Review of decisions

The prescriptions in this Section outline the processes for seeking a review of a decision. A person whose interests are affected by a decision under this Part, including a decision about an authorisation, may seek review in accordance with the *Administrative Decisions (Judicial Review) Act 1977*. A person whose interests are affected by a decision about a permit under the EPBC Regulations may also seek review of the decision in accordance with the Regulations. This plan extends the same review rights to decisions about other authorisations made by the Director under this plan. Where the Director issues a class approval for an activity that has been assessed in accordance with Chapter 4 of the EPBC Act or other government or industry policy, plan or program, review is limited to the making of the class approval.

### Prescriptions

4.3.3.1 The Director will comply with Division 14.3 of the EPBC Regulations in relation to the reconsideration of decisions about permits.

4.3.3.2 The Director will reconsider a decision about other types of authorisations made by the Director under this Part when requested by a person whose interests are affected by the decision. A request for reconsideration must be made and considered in the same manner as provided by Division 14.3 of the EPBC Regulations. Subject to the *Administrative Appeals Tribunal Act 1975*, a person who has requested a reconsideration of a decision may apply to the Administrative Appeals Tribunal for review of the reconsidered decision.

## 4.4 AUTHORISATION OF ALLOWABLE ACTIVITIES

The Director may authorise allowable activities through a permit, class approval, activity licence or lease in accordance with this Part. The prescriptions in this Section describe those types of authorisations, the processes and consideration for issuing them, and the conditions that may be imposed by the Director.

### 4.4.1 Permits

A permit can be issued to authorise an activity by a person or persons to conduct an allowable activity, for example for an activity that is either one-off, time bound, or not conducted in the same way by all operators.



## Prescriptions

- 4.4.1.1 A permit may be issued for an allowable activity where prescribed by Section 4.2 (Rules for activities) of this plan, in accordance with Part 17 of the EPBC Regulations, subject to the prescriptions (if any) relating to the particular activity.
- 4.4.1.2 In assessing a permit application, the Director may ask the applicant for more information if the Director considers there is insufficient information to decide whether to issue the permit.
- 4.4.1.3 In assessing a permit application for an activity that has been subject to a referral under Part 7 of the EPBC Act, or an assessment under the *Environment Protection (Sea Dumping) Act 1981*, the Director will consider any referral or assessment documents and related information.
- 4.4.1.4 A permit may be subject to conditions including but not limited to (and depending on the type of activity):
- a) specifying the area in which, and the periods during which, the approved activity may be conducted;
  - b) requiring the impacts of the permitted activity to be mitigated by specified actions developed in consultation with the Director;
- Note:** The Director will issue guidance specific to activity types on requirements for mitigation.
- c) regulating the use of, or requiring the use of, vessel identification and monitoring systems;
  - d) the provision of, or consent for access to, data for compliance and monitoring purposes;
  - e) making results of data collection, research and monitoring available to the Director (and in a specific format where relevant);
  - f) requiring reporting or auditing;
  - g) complying with other Commonwealth, state or territory laws and authorisations issued under such laws;
  - h) allowing for the Director or representative to board vessels, accompany tours or enter premises for the purpose of evaluating compliance with permit conditions; and
  - i) requiring, restricting or prohibiting the use of specified gear, equipment or practices.
- 4.4.1.5 A permit may be suspended or cancelled and permit conditions may be varied or revoked in accordance with Part 17 of the EPBC Regulations.

### 4.4.2 Class approvals

This plan provides for the Director to issue class approvals to authorise a specified class of activities by a specified person or class of persons where the activities are generally done in the same way by all persons conducting the activity. This can include activities that have been authorised under Chapter 4 of the EPBC Act, the *Environment Protection (Sea Dumping) Act 1981*, or effectively assessed and authorised under other government or industry processes. At the commencement of this plan fees were not payable for class approvals but may be introduced during the life of this plan. Class approvals will be published on the Parks Australia website (Section 4.4.4).

Issuing class approvals reduces regulatory burden by avoiding duplication in assessment and approval processes for matters protected by Part 3 of the EPBC Act. Decision-making under Chapter 4 of the EPBC Act is well established and takes account of the impacts of individual projects on marine parks consistent with this plan. Reflecting this, a class approval may be given for commercial fishing, mining operations, and certain works where they have been considered and authorised under Chapter 4 of the EPBC Act. This includes assessments and decision making under policies, plans or programs endorsed under Part 10 of the Act, such

as the environmental management authorisation process for petroleum and greenhouse gas storage activities administered by the National Offshore Petroleum Safety and Environmental Management Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

The *Environment Protection (Sea Dumping) Act 1981* fulfils Australia's international obligations under the *1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972* (London Protocol) to prevent marine pollution by regulating the types of materials that may be considered for ocean disposal. Reflecting this a class approval may be given to certain works where they have been considered and authorised under the *Environment Protection (Sea Dumping) Act 1981*.

Class approvals may also be issued for activities regulated under other government or industry policies, plans or programs where the impacts of activities are subject to satisfactory assessment, and would be introduced in consultation with the relevant person or class of persons.

### Prescriptions

- 4.4.2.1 The Director may issue a class approval for activities where prescribed by Section 4.2 (Rules for activities).
- 4.4.2.2 A class approval may be subject to conditions including but not limited to (and depending on the class of activities):
- a) specifying the area in which, and the periods during which, the approved activity or class of activities may be conducted;
  - b) requiring the impacts of the authorised activity to be mitigated by specified actions developed in consultation with the Director;
  - c) regulating the use of, or requiring the use of vessel identification and monitoring systems;
  - d) the provision of, or consent for access to, data for compliance and monitoring purposes;
  - e) making results of data collection, research and monitoring available to the Director (and in a specific format where relevant);
  - f) requiring reporting or auditing;
  - g) complying with other Commonwealth, state or territory laws and authorisations issued under such laws;
  - h) requiring, restricting or prohibiting the use of specified gear, equipment or practices;
  - i) allowing for the Director or representative to board vessels, accompany tours or enter premises for the purpose of evaluating compliance with class approval conditions; and
  - j) providing for the payment of fees.
- 4.4.2.3 A class approval may be varied, suspended or cancelled, and approval conditions may be varied or revoked, or further conditions imposed, if the Director is satisfied that:
- a) the activities, or an activity in the class of activities, to which the approval relates have not been, are not being, or likely will not be, conducted in accordance with the approval or a condition of the approval; or
  - b) assessment of impacts under a policy, plan or program to which Section 4.3.2 (Assessments under other processes) applies is not being made, or is likely not to be made, in a manner consistent with Section 4.3.1.3 or is not being made in accordance with the approval or a condition of the approval; or
  - c) the impacts of the activities, or an activity in the class of activities, to which the approval relates are no longer acceptable (Section 4.3.1 Decision-making); or

- d) activities, or an activity in the class of activities, to which the approval relates are likely to cause an unacceptable risk to public health and safety; or
- e) there are reasonable grounds for believing that if the decision to issue the approval were being considered again the approval would not be issued, or would not be issued in the same terms or subject to the same conditions (for example, because of new information, or if a relevant matter that the Director took into account in deciding to issue an approval has changed or no longer exists).

- 4.4.2.4 Class approval conditions may be varied or revoked, or further conditions imposed, if the Director is satisfied that it is necessary or appropriate to do so for the efficient or effective management of the activities to which the approval relates.
- 4.4.2.5 Class approval conditions may be revoked if the Director is satisfied that the condition(s) is/are not necessary and the impacts of the activities to which the approval relates will remain acceptable (Section 4.3.1 Decision-making).
- 4.4.2.6 A class approval or conditions may be varied if the Director is satisfied that the impacts of the activities to which the approval relates will remain acceptable under the approval or conditions as varied (including, for example, to allow new or additional commercial fishing methods and gear types to be used).
- 4.4.2.7 A class approval may be varied to remove a person from the class of approved persons at the request of that person.
- 4.4.2.8 A class approval may be varied to remove a person from the class of approved persons if the Director is satisfied that the person:
  - a) has breached a condition of the approval; or
  - b) has in the previous 10 years been convicted of, or is subject to proceedings for, an offence under the EPBC Act, EPBC Regulations, or any other law of the Commonwealth about the protection, conservation or management of native species or ecological communities.

**Note:** Where a person has been removed from a class approval, they may apply for a permit under Section 4.4.1 (Permits) or an activity licence under Section 4.4.3 (Activity licences and leases).

**Note:** Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

### 4.4.3 Activity licences and leases

An activity licence or lease may be issued to authorise an activity where it is more appropriate than the use of a permit or class approval, such as for tourism activities or activities that involve the installation of infrastructure (such as moorings or marker buoys). For the majority of these types of activities a licence will be the most suitable form of authorisation; however, this plan also provides for the Director to grant leases over land. Licences and leases are transferable and generally granted for a longer term than permits. They may include agreed fees reflecting the commercial value of the authorisation and, in the case of leases, provide security of tenure over land to support investment in infrastructure.

An activity licence authorises the holder to conduct their activities in the area to which the licence relates. A lease provides exclusive possession of the area of land in which an activity is to be conducted. Licences and leases enable continued growth of marine park services and allow for the growth of appropriate commercial business opportunities and partnerships with the Director that will maintain and promote marine park values.

## Prescriptions

- 4.4.3.1 An activity licence or lease may be granted where prescribed by Section 4.2 (Rules for activities), subject to the prescriptions (if any) relating to the activity.
- 4.4.3.2 An activity licence or lease may be subject to conditions including but not limited to:
- a) specifying the area in which, and the periods during which, the authorised activity may be conducted;
  - b) requiring the impacts of the authorised activity to be prevented or mitigated by specified actions developed in consultation with the Director;
  - c) regulating the use of, or requiring the use of vessel identification and monitoring systems;
  - d) the provision of, or consent for access to data for compliance and monitoring purposes;
  - e) making results of data collection, research and monitoring available to the Director (and in a specific format where relevant);
  - f) requiring reporting or auditing;
  - g) complying with other Commonwealth, state or territory laws and authorisations issued under such laws;
  - h) requiring, restricting or prohibiting the use of specified gear, equipment or practices;
  - i) allowing for the Director or representative to board vessels, accompany tours or enter premises for the purpose of evaluating compliance with licence conditions; and
  - j) providing for the payment of fees.

## 4.4.4 Publication of authorisations

### Prescription

- 4.4.4.1 The Director will publish on the Parks Australia website a list of all authorisations issued under this plan, which may include the name of the authorised person or class of persons, the period for which the authorisation is issued, and a description of the authorised activities.