



Section 5.4 of the Zoning Plan (Revision 0)

Target audience: All Authority staff and delegates who apply section 5.4 of the Great Barrier Reef Marine Park Zoning Plan 2003 (Cth) (Zoning Plan) or Authority and Field Management staff who intend to undertake management activities in the Great Barrier Reef Marine Park (Marine Park).

Purpose

1. To provide a transparent and consistent approach to determining which activities are eligible to be authorised, or should be authorised, to be undertaken in a zone of the Marine Park, for the purposes of management of the Marine Park, under section 5.4 of the Zoning Plan.

Definitions

2. 'Management activities' are activities undertaken by the Authority or authorised by the Authority in co-operation or under an agreement, for the purposes of managing the Marine Park under section 5.4 of the Zoning Plan. Management activities include, but are not limited to, delivering services, carrying out research or investigations and providing incident response support, to assist in the management of the Marine Park (refer to Table 1 for examples of management activity authorisations).
3. 'Managing agencies' collectively refers to the Great Barrier Reef Marine Park Authority (the Authority) and the Queensland Parks and Wildlife Service & Partnerships (QPWS&P), which jointly deliver an ongoing Reef Joint Field Management Program (Reef Joint FMP) for the Great Barrier Reef Marine Park and Queensland marine and national parks within the Great Barrier Reef World Heritage Area (see Schedule C to the Great Barrier Reef Intergovernmental Agreement 2015).
4. 'Marine Parks' refers to the Commonwealth Marine Park (established by the *Great Barrier Reef Marine Park Act 1975* (Cth)) and the adjoining and overlapping State Great Barrier Reef (Coast) Marine Park (established by the *Marine Parks Act 2004* (Qld)).
5. 'Research project' has the same meaning as the definition for that term under the *Great Barrier Reef Marine Park Regulations 2019* (Cth) (Regulations); that is 'a diligent and systematic inquiry or investigation into a subject, in order to discover facts or principles, that has its own objectives, sampling design and outcomes'.
6. 'Third party' refers to a person or institution (such as an entity or government agency) other than the 'managing agencies'.

Related documents/ material/ requirements

7. [Great Barrier Reef Marine Park Act 1975 \(Cth\)](#) (the Act)
8. [Great Barrier Reef Marine Park Regulations 2019 \(Cth\)](#) (the Regulations)
9. [Great Barrier Reef Marine Park Zoning Plan 2003 \(Cth\)](#) (the Zoning Plan)
10. [Great Barrier Reef Intergovernmental Agreement 2015](#) (Intergovernmental Agreement)
11. [Native Title Act 1993 \(Cth\)](#) (Native Title Act)
12. [Guidelines on Applications for restoration/adaptation projects to improve resilience of habitats in the Great Barrier Reef Marine Park 2018](#) (Reef Interventions Application Guidelines)
13. [Great Barrier Reef Marine Park Act, Regulations, Zoning Plan and Plans of Management \(GBRMPA\) Delegations](#) (GBRMPA Delegations)
14. [Traditional Owner Heritage Assessment Guidelines](#)
15. [Aboriginal and Torres Strait Islander Heritage Strategy for the Great Barrier Reef Marine Park](#)

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Documents under development and relevant to these guidelines

16. Discretionary clauses for Plans of Management guidelines (Discretionary Guidelines) - *under development*
17. Section 5.4 of the Great Barrier Reef Marine Park Zoning Plan - Assessment and Consideration for the authorisation of a management activity template (section 5.4 Assessment and Consideration template) - *under development*
18. Reef Interventions Policy - *under development*

Guidance

19. The [Zoning Plan](#) identifies the types of activities that may occur in each Marine Park zone. Parts 2 to 4 of the Zoning Plan provide that certain activities require written permission from the Authority (Marine Park permission).
20. Part 5 of the Zoning Plan allows for additional purposes for use or entry where section 5.4 of the Zoning Plan allows for the Authority to undertake, or authorise the undertaking of management activities in the Marine Park, without a Marine Park permission (Section 5.4 Authorisation).

Note - Section 36(1) of the Act states that '[w]hile a zoning plan is in force in relation to a zone the Authority shall perform its functions and exercise its powers in relation to the zone in accordance with that plan and not otherwise'.

21. There may however be other requirements that need to be met before the management activity can be undertaken or authorised. For example:
 - 21.1. Nothing in a Plan of Management (PoM) prohibits or restricts anything being done in accordance with Part 5 of the Zoning Plan as described in 39ZI of the Act and all PoMs. It is therefore important to ensure that management activities are consistent with the policy intent of the relevant PoM (for further guidance refer to the Discretionary Guidelines and the section 5.4 Assessment and Consideration template).

Note - section 39ZI of the Act provides that while a PoM is in force in relation to an area of the Marine Park, a species within the Marine Park or an ecological community within the Marine Park, 'the Authority must perform its functions and exercise its powers in relation to [the area, species or community] in accordance with that plan and not otherwise'.

- 21.2. An activity may also require permissions or approvals under relevant State or other Commonwealth legislation.

Note - Through the joint management arrangements, most management activities considered through section 5.4 will also be considered under the relevant State legislation. The coordinated approach for considering management activities is facilitated through the Reef Joint Field Management Program (Reef Joint FMP). In the case where the activity is proposed on a Commonwealth Island (such as Lady Elliot Island), consideration under State legislation is unlikely to be required.

- 21.3. The general duties under the Act, for all persons who use or enter the Marine Park, to take all reasonable steps to prevent or minimise harm to the environment in the Marine Park.

Note - a person who uses or enters the Marine Park must take all reasonable steps to prevent or minimise harm to the environment in the Marine Park that might or will be caused by the person's use or entry (refer to 37AA of the Act). When determining whether all reasonable steps have been taken to minimise harm from the proposed activity, subregulation 37AA(3) of the Act requires consideration of a number of factors.

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Management activities undertaken by the Authority

22. Sections 7 and 8 of the Act prescribe the functions and powers of the Authority, respectively.
23. Under section 7(1B) of the Act, the Authority is responsible for the management of the Marine Park.
24. Section 5.4 of the Zoning Plan provides that, despite any other limitations imposed under the Zoning Plan, the Authority may undertake an activity in a zone, or part of a zone, for the purposes of management of the Marine Park. Therefore, the Authority does not require authorisation or a Marine Park permission to undertake activities to perform its management functions in the Marine Park.

Note – in managing the Marine Park (and performing its other functions) the Authority must have regard to, and seek to act in a way that is consistent with:

- the objects of the Act in section 2A; and
- the principles of ecologically sustainable use (see section 3AB); and
- the protection of the world heritage values of the Great Barrier Reef World Heritage Area. (See section 7(3) of the Act)

25. If the Authority undertakes management activities in collaboration with a third party, a Section 5.4 Authorisation will be required for the activities undertaken by the third party, regardless of the Authority's level of participation. For example, where Authority staff are working alongside third party staff on a management activity a Section 5.4 Authorisation will be required.
26. In order to maximise transparency the Authority's national education facility, ReefHQ Aquarium, requires a Marine Parks permission to collect specimens for the facility.

Activities authorised by the Authority for the purposes of management

27. The [permission system](#) remains the primary tool to allow third parties to access and use the various zones of the Marine Park, including to undertake restoration and adaptation intervention projects (refer to Reef Interventions Policy and the Reef Interventions Application Guidelines) for further information). Notwithstanding that, most permitted research and monitoring activities in the Marine Park contribute to the understanding and management of Marine Park values.
28. If the proposed activities are considered by the delegate to be management activities, the delegate may grant a Section 5.4 Authorisation in respect of those activities, which may also include conditions. Where management activities are assessed as being eligible for Section 5.4 Authorisation, the Marine Park permission system may not apply.
29. Authorisations granted by the Authority under section 5.4 will generally be provided under one of the following:
 - 29.1. under **an arrangement** with a third party where the Authority has entered into a legally binding contractual agreement with a third party for services to assist in performing its management functions; or
 - 29.2. **in co-operation**, such as activities undertaken:
 - (a) through the **intergovernmental agreement with Queensland**, in particular the delivery of the Reef Joint Field Management Program (Reef Joint FMP) and the activities described in the Annual Business Plan (ABP) or any other activity identified as a priority through the program by the joint Queensland and Authority Strategy Group. The Reef Joint FMP is developing criteria to guide when the program would seek to formally invest in projects in the Marine Parks, as well as the Queensland marine and national parks within the Great Barrier Reef World Heritage Area.

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Note – Section 8(3) of the Act expressly provides that the Authority may perform any of its functions (which would include management of the Marine Park), in co-operation with Queensland, a Queensland authority or local governing body (e.g. local council).

- (b) **in partnership with a third party to carry out research or investigations**, including, potentially, reef intervention pilot proof-of-concept projects (commercial or non-commercial) where the partnership allows the managing agencies to:
- (i) work collaboratively with a third party to achieve the objects of the Act and to inform future management options, including increased educational outcomes;
 - (ii) influence the broader project outcomes and design (from inception to completion) of the activity, which may involve reshaping the activity or ceasing the activity, if deemed necessary;
 - (iii) maintain open, transparent communication, where findings or other relevant information is available to the managing agencies as soon as it is realised; and
 - (iv) support the partnership activity through the allocation of human and/or financial resources, including in-kind contribution (such as vessel time) and undertake the activity within a specified timeframe.

Note – ‘research and investigation’ refers to activities relevant to the management of the Marine Park (refer to Section 7(1)(b) of the Act).

29.3. **incident response support**, including management activities undertaken by partners or key stakeholders with a current Marine Parks permission (such as tourism operators or researchers) in the response effort within a specified timeframe. Incident response support activities for example may include in-water or aerial surveys, re-securing coral following a cyclone, or removing sediment from coral following a flood event.

30. Further detail on the application of section 5.4 is set out in Table 1, which provides examples of activities likely to be considered management activities for the purposes of section 5.4, potential risk mitigation measures, Native Title future act notification requirements, Traditional Owner consultation guidance and other considerations. Also refer to the section below on managing risks associated with section 5.4, particularly if the proposed activity will be conducted in co-operation with a third party to carry out research or investigations.

Note - an activity is likely to be considered appropriate for consideration under section 5.4 if it is:

- consistent with the Authority’s plans, policies and guidelines, including the Reef Interventions Policy and Reef Interventions Application Guidelines, or
- likely to receive necessary permissions under relevant Queensland or other Commonwealth legislation.

Procedures

31. A Section 5.4 Authorisation may be granted at the discretion of the Authority delegate (see [GBRMPA Delegations](#)). In their assessment of whether to grant a Section 5.4 Authorisation and on what conditions, the delegate should have regard to the matters for consideration as set out in the relevant section 5.4 Assessment and Consideration template, which includes a risk assessment and the identification of suitable avoidance and mitigation measures.
32. If a management activity is identified as a future act, the Authority will lodge the relevant Native Title Notifications and the managing agencies will consult with the relevant Traditional Owners (applies to low - high risk activities). In addition, if the management activity involves a third party,

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the Authority will communicate its expectations of the roles and responsibilities of the third party for continued consultation and involvement with the relevant Traditional Owners.

FUTURE ACTS AND TRADITIONAL OWNER INVOLVEMENT

Under the Native Title Act, future acts include activities that restrict reasonable use of an area or potentially impact on cultural practices and native title rights (for example some relevant activities include pilot project proof-of-concept projects, research projects, restoration and rehabilitation projects, capital works projects, and the installation of moorings and reef protection markers). Where a future act occurs, Traditional Owners must be notified through the Native Title Notification system (refer to the [Queensland Cultural Heritage Register and Database](#) for authorised contacts for each coastal area and the [Native Title Tribunal](#) for authorised contacts where determinations are in place or under consideration).

The Authority also expects that relevant Traditional Owners are consulted directly and early to respect their connection to their sea country and allow for appropriate avoidance and mitigation measures to be identified, endorsed and implemented which aim to protect and conserve their Indigenous heritage values and other values, such as biodiversity, social and historic values (refer to the [Traditional Owner Heritage Assessment Guidelines](#); and the [Traditional Owner contact list](#) – only Authority access).

Where relevant, it is also expected that Traditional Owners are included on project advisory panels to have direct influence on the project outcomes. Further, it is the Authority's expectation that Traditional Owners directly involved in research projects, pilot projects and monitoring activities for the management of the Marine Park, have their contribution and Intellectual Property recognised in any relevant reports or publications.

Some activities conducted by the Authority or through the Reef Joint FMP, such as compliance and surveillance activities, site visits, and some monitoring activities are not considered future acts.

The managing agencies are increasingly working with Traditional Owners as partners in the management of the Marine Park to achieve greater environmental, cultural and social outcomes. They are directly involved in in-park management activities, including compliance and monitoring programs and we continue to work together to expand and strengthen co-management partnerships (refer to the [Aboriginal and Torres Strait Islander Heritage Strategy for the Great Barrier Reef Marine Park](#) for guiding principles, objectives and relevant actions).

33. The Authority requires that vessels, aircraft or other related services accessing the locations for the purposes of the management activity is done so under a relevant and current Marine Park permission. However, in cases where a Marine Park permission does not cover a particular vessel, aircraft or other related service, and exceptional time constraints exist with limited alternative options, then the written Section 5.4 Authorisation should specify the details of the relevant service. It should also state that the vessel and aircraft owners and operators continue to owe a duty of care in relation to the vessel or aircraft or other related services.
34. A Section 5.4 Authorisation should include in writing specific conditions as to how, where and when the activity may be undertaken, in line with the risk assessment (refer to the managing risks section below, section 5.4 Assessment and Consideration template).
35. If an agreement is to be entered into between the Authority and a third party to undertake a management activity, the Section 5.4 Authorisation should make reference to that agreement, and the agreement should specify the conditions.
36. In the case of activities assessed as “lower risk”, and where a separate agreement is not entered into between the Authority and a third party, the written Section 5.4 Authorisation should specify all relevant conditions, including:
 - 36.1. any reporting requirements

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- 36.2. any insurance requirements
- 36.3. that the activity is to be undertaken in accordance with all relevant work, health and safety laws; and
- 36.4. that the person undertaking the activities must comply with all relevant legislation where applicable.
37. The procedure for higher risk activities will depend on the risks and the avoidance and mitigation measures applied (refer to 'managing risks associated with section 5.4 authorisations' section below).
38. The Reef Joint FMP Compliance Unit and the Permits Compliance Team are to be informed of a Section 5.4 Authorisation prior to the activity being conducted.
39. Section 5.4 Authorisations are to be recorded on a [register](#), published on the Authority's website in near real time, and reported in the Authority's Annual Report.

Managing risks associated with section 5.4 authorisations

40. Risks of a management activity are considered case-by-case. In general, the depth and effort put into a risk assessment will be consistent with the expected level of risk or potential consequences. The risk assessment considers risks to the values of the Marine Park and those to the Authority, including reputational, legal, financial, and social licence risks.
41. The section 5.4 Assessment and Consideration template is primarily based on the [Permission System Risk Assessment procedure](#) and associated templates.
42. As part of the risk assessment, existing policies, plans and guidelines (such as the Zoning Plan, Plans of Management) relevant to the proposed location must be considered, as some instances may arise if there is the need to transition from a Section 5.4 Authorisation to a Marine Parks permission (or vice versa) in the longer term.

Managing risks when activities are in co-operation with a third party - to carry out research or investigations

43. Management activities that are undertaken '**in co-operation with a third party - to carry out research or investigations**' are likely to present the greatest range of risk factors when considering a Section 5.4 Authorisation. Generally, these activities are likely to involve new approaches and techniques, which need to be evaluated to identify potential risks to the values of the Marine Park. As part of the risk assessment the potential benefits of new innovative and effective in-park tools, which are designed to assist with the adaptive management of the Marine Park under a changing climate, are also evaluated.
44. As part of the risk assessment of these more complex activities, avoidance and mitigation measures to manage the potential risks may include:
 - (a) the contemporary understanding of the biophysical values;
 - (b) the contemporary understanding of the cultural and social values, by seeking:
 - (i) Traditional Owner advice as the custodians of the land and sea country;
 - (ii) public comment and/or targeted stakeholder engagement;
 - (iii) it may also be necessary for the third party to establish an Environmental Management Plan (EMP), which identifies potential risks to the values of the Marine Park, the proposed avoidance and mitigation measures, a suitable monitoring plan, and if applicable a decommissioning plan (refer to [Assessment Guidelines](#) for further information about EMPs);

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- (c) identifying and evaluating the risks to the Commonwealth and any Work Place Health and Safety concerns; and/or
- (d) establishing an executed contractual agreement:
 - (i) to allow for enforceable conditions that specify how, where and when the activity should and should not be undertaken, as well as specifying reporting requirements;
 - (ii) when the Authority intends to retain the intellectual property rights of the activity (for example when the objective of the activity is to roll it out to other locations in the Marine Park, if the pilot is successful);
 - (iii) the Authority and/or the provider deem it necessary to have a provision to terminate the activity prior to the end date of the authorisation period; and/or
- (e) imposing a deed and/or bond on the Section 5.4 Authorisation holder (for example when the activity involves a facility or structure where the Authority wants to lawfully limit its responsibility for the facility or structure, including its maintenance, inspections, removal or demolition, or cost to remedy any adverse impacts that may result from facility or structure) (refer to [Permission assessment and decision guidelines](#) for further information on deeds and bonds).

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Table 1. Section 5.4 management activities authorisations - assisting the Authority to perform its functions (such as to provide a service or to carry out research and investigations relevant to the Marine Park)

	WHO	HOW - mechanism	examples	risk mitigation measures	Native Title Act	Traditional Owner consultation and involvement	other considerations
under an arrangement with a third party	where the Authority has approached the market for a service and enters a legally binding contractual agreement with the service provider	section 5.4 consideration with the accompanying contractual agreement which specifies the requirements	restoration and rehabilitation activities, including those related to compliance matters (e.g. ship grounding) works or maintenance requirements research and monitoring that supports the functions of the Authority	risk assessment contractual arrangements deed and/or bond may be required if the activity involves a facility or structure access of vessel, aircraft or other related service is covered under a Marine Park permission	yes – future act and may result in changes to the use of an area or impacts on cultural practices. Applies to activities such as restoration and rehabilitation projects, capital works projects, and the installation of moorings and reef protection markers	yes - best practice is to ask first to identify potential impacts to their cultural heritage values. Identified avoidance and mitigation measures endorsed and implemented where relevant, Traditional Owners are invited to have representation on the advisory panel Traditional Owners involvement is acknowledged and Intellectual Property is recognised in outputs	other relevant Queensland or other Commonwealth legislation may apply requiring respective permission/s prior to undertaking the section 5.4 authorised activity
in co-operation with Queensland through the intergovernmental agreement	Reef Joint Field Management Program (as per Schedule C of the agreement) – Authority and QPWS&P	pre-authorisation of activities under section 5.4: approved Annual Business Plan (ABP)	day to day operations, including site visits and monitoring activities	the Reef Joint Field Management Strategy Group oversees the Reef Joint FMP	unlikely – these activities are generally not considered as future acts	Authority and Reef Joint FMP are increasing Traditional Owners involvement as partners, including direct involvement in compliance and monitoring programs	under an arrangement (such as a contractual agreement), a third party may conduct some of these activities on behalf of the managing agencies access of vessel, aircraft or other related service
		the activity is included in the approved ABP but the activity may alter reasonable use and/or Traditional use of an area: a separate section 5.4 consideration is required	installation of a facility, including public moorings and Reef Protection Markers	Traditional Owner advice and public comment risk assessment, including consideration of existing site planning arrangements	yes – future act and have been notified to date	yes - best practice is to ask first to identify potential impacts to their cultural heritage values. Identified avoidance and mitigation measures endorsed and implemented. Traditional Owners are involved wherever possible	under an arrangement (such as a contractual agreement), a third party may conduct some of these activities on behalf of the managing agencies access of vessel, aircraft or other related service other relevant Queensland or other Commonwealth legislation may apply requiring respective permission/s prior to undertaking the section 5.4 authorised activity
		activities not covered in ABP: are considered case-by-case if a separate section 5.4 consideration is required and/or appropriate approvals through the Reef Joint FMP	additional activities determined as a priority through Reef Joint FMP, including new management related techniques	risk assessment depending on level of risk public comment maybe required as well as Traditional Owner advice	maybe	yes - best practice is to ask first to identify potential impacts to their cultural heritage values. Identified avoidance and mitigation measures endorsed and implemented. Traditional Owners are involved wherever possible	under an arrangement (such as a contractual agreement), a third party may conduct some of these activities on behalf of the managing agencies access of vessel, aircraft or other related service other relevant Queensland or other Commonwealth legislation may apply requiring respective permission/s prior to undertaking

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							the section 5.4 authorised activity
	Queensland Department of Environment and Science (DES) activities other than FMP activities	if the activity relates to the functions of the Authority, it may be considered as a separate section 5.4, if relevant a Marine Park permission may also be required under other Parts of the Zoning Plan	historic shipwreck surveys	risk assessment an Authority and/or Reef Joint Field Management staff member may be directly involved in the activity	maybe	yes - best practice is to ask first to identify potential impacts to their cultural heritage values. Identified avoidance and mitigation measures endorsed and implemented. Traditional Owners are involved wherever possible	other relevant Queensland or other Commonwealth legislation may apply requiring respective permission/s prior to undertaking the section 5.4 authorised activity access of vessel, aircraft or other related service
in co-operation with a third party	key partners such as Australian Institute of Marine Science, relevant universities, recipients of government funding to assist in the management of the Marine Park key stakeholders such as researchers and tourism industry private entities, NGOs and philanthropic organisations seeking to engage in and contribute to Marine Park management	section 5.4 consideration and depending on the risk factors the authorisation maybe accompanied with a contractual agreement which specifies the requirements and conditions	carrying out research or investigations (including research projects, reef intervention pilot projects – proof-of-concept (commercial or non-commercial), where the Authority considers there to be future benefit for management of the Marine Park	likely to involve complex risk factors (refer to 'in co-operation with a third party - to carry out research or investigations' section in the guidelines for further details) risk assessment, including consideration for existing planning arrangements Traditional Owner advice and public comment contractual agreement may or may not be required as a risk mitigation measure Environmental Monitoring Plan (EMP) deed and/or bond may be required if the activity involves a facility or structure access of vessel, aircraft or other related service where possible is covered under a Marine Park permission	yes – if it may result in changes to use of an area, such as those activities involving pilot project/proof-of-concept projects, research projects, restoration and rehabilitation projects, capital works projects, and the installation of facilities	yes - best practice is to ask first to identify potential impacts to their cultural heritage values. Identified avoidance and mitigation measures endorsed and implemented where relevant, Traditional Owners are invited to have representation on the advisory panel Traditional Owners involvement are acknowledged and Intellectual Property is recognised in outputs such as reports and presentations	other relevant Queensland or other Commonwealth legislation may apply requiring respective permission/s prior to undertaking the section 5.4 authorised activity
incident response support	partners or key stakeholders with a current Marine Parks permission (such as tourism operators or researchers)	section 5.4 consideration specifying the timeframe of the response effort and noting that it is an optional activity.	activities may include in-water or aerial surveys, re-securing coral following a cyclone, or removing sediment from coral following a flood event	risk assessment limit to stakeholders with existing Marine Park permissions, as they have relevant insurance cover when undertaking the activity, if they choose; and their permit covers access vessels or aircraft.	unlikely – monitoring and survey techniques unlikely – quick response timeframe for action	Traditional Owner involvement where possible	

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