



REEF AUTHORITY STATEMENT OF REASONS – Application for Marine Park Permit G47592.1

I, Sandra Garvin, Assistant Director Tourism and Commercial, Environmental Assessment and Protection (Position Number 659) of the Great Barrier Reef Marine Park Authority, provide the following reasons for my decision made on 2 May 2024 under section 111 of the *Great Barrier Reef Marine Park Regulations 2019*, on application G47592.1, to grant a permission subject to conditions as set out in Permit G24/47592.1 to Mr Luke GNOCCO and Mr Graham BRISKIE.

Relevant Terms

1. In this statement, words and phrases have the following meanings:
 - 1.1. the term '**application**' refers to Marine Parks Permit application G47592.1 submitted on 10 August 2022.
 - 1.2. the term '**applicant**' refers to Mr Luke GNOCCO and Mr Graham BRISKIE.
 - 1.3. the term '**assessment**' refers to the internal permit assessment report 24 April 2024, including the risk assessments and underlying reports contained therein, of application G47592.1 prepared by the Reef Authority's Environmental Assessment and Protection Section under the GBRMP Regulations for the purposes of assisting me to make a decision on the application.
 - 1.4. The term '**DESI**', as per the permit, refers to the Queensland Department of Environment, Science and Innovation.
 - 1.5. the term '**GBRMP Act**' refers to the *Great Barrier Reef Marine Park Act 1975*.
 - 1.6. the term '**GBRMP Regulations**' refers to the *Great Barrier Reef Marine Park Regulations 2019*.
 - 1.7. The term '**in the vicinity of**' means: for Magnetic Island – those waters and land between the high water mark on the coastline and a line every point of which is a distance of 1 kilometre seaward from that high water mark.
 - 1.8. The term '**Managing Agencies**', as per the permit, refers to the Reef Authority and DESI.
 - 1.9. the term '**Marine Park**' refers to the Great Barrier Reef Marine Park established under the GBRMP Act.
 - 1.10. the term '**motorised water sports**' has the same meaning as 'motorised water sport' in the GBRMP Regulations.
 - 1.11. the term '**permit**' means the permissions the subject of Marine Parks Permit G24/47592.1 granted to the Permit Holder pursuant to the GBRMP Regulations.
 - 1.12. the term '**permit holder**' refers to Mr Luke GNOCCO and Mr Graham BRISKIE.
 - 1.13. the term '**Reef Authority**' refers to the Great Barrier Reef Marine Park Authority established under the GBRMP Act.
 - 1.14. the term '**Zoning Plan**' refers to the *Great Barrier Reef Marine Park Zoning Plan 2003*.

Authority of the Reef Authority delegate

2. I have delegated authority pursuant to section 47 of the GBRMP Act to make this decision.
3. Specifically, I am authorised by instrument of delegation made on 22 March 2019 to make a decision to exercise the power of the Reef Authority under Part 3, Division 5 of the GBRMP Regulations, including section 111 of the GBRMP Regulations. A copy of the relevant instrument of delegation is available upon request.

Legislative framework

Great Barrier Reef Marine Park Act 1975

4. The Reef Authority is responsible for the management of the Marine Park.¹
5. The main object of the GBRMP Act is to provide for long term protection and conservation of the environment, biodiversity and heritage values of the Great Barrier Reef Region.²
6. In making the decision, I had regard to, and sought to act in a way that is consistent with:
 - 6.1. the objects of the GBRMP Act in section 2A;³
 - 6.2. the principles of ecologically sustainable use,⁴ being:
 - 6.2.1. decision-making processes should effectively integrate both long-term and short-term environmental, economic, social and equitable considerations;
 - 6.2.2. the precautionary principle;
 - 6.2.3. the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations; and
 - 6.2.4. the conservation of biodiversity and ecological integrity should be a fundamental consideration in decision-making; and
 - 6.2.5. improved valuation, pricing and incentive mechanisms should be promoted.
 - 6.3. the protection of the world heritage values of the Great Barrier Reef World Heritage Area;⁵
 - 6.4. ecosystem-based management⁶

Great Barrier Reef Marine Park Regulations 2019

7. Part 3, Division 1 of the GBRMP Regulations provides for the assessment of applications for permissions.⁷
8. Part 3, Division 4 of the GBRMP Regulations sets out the mandatory matters that I must consider in deciding whether to grant the permission the subject of the application, and whether or not to impose any conditions on the permission.
9. In making the decision I had regard to all mandatory considerations in Part 3, Division 4.

Great Barrier Reef Marine Park Zoning Plan 2003

10. The Zoning Plan stipulates that the Reef Authority's written permission is required to use or enter the Marine Park for particular purposes.
11. The activities that are the subject of the application are proposed to occur within the General Use Zone, Habitat Protection Zone, Conservation Park Zone, and Marine National Park Zone and as such would require the Reef Authority's permission.⁸

¹ Subsection 7(1B) GBRMP Act.

² Subsection 2A(1) GBRMP Act.

³ Paragraph 7(3)(a) GBRMP Act.

⁴ Paragraph 7(3)(b) GBRMP Act.

⁵ Paragraph 7(3)(c) GBRMP Act.

⁶ paragraph 2A(3)(d).

⁷ Paragraph 75(1)(b) GBRMP Regulations.

⁸ See paragraphs 2.2.4, 2.3.4, 2.4.4 and 2.7.4 of the Zoning Plan, respectively.

12. In making the decision, I considered the objectives of the above zones within which the conduct is to be undertaken.⁹

Native Title Act 1993

13. Part 2, Division 3 of the *Native Title Act 1993* provides a process for future act notifications that the Reef Authority is obliged to comply with.
14. Before making the decision, notice was given pursuant to paragraph 24HA(7)(a) of the *Native Title Act 1993* to the relevant representative Aboriginal/Torres Strait Islander bodies, registered native title bodies corporate and registered native title claimants in relation to the land or waters that will be affected by the decision and, pursuant to paragraph 24HA(7)(b), they were given an opportunity to comment.
15. In making the decision, I had regard to the notification and any subsequent responses received from the relevant parties identified above.

Background

16. On 10 August 2022, the Applicant lodged the application jointly to the Reef Authority and the Queensland Department of Environment, Science and Innovation (**DESI**). The application is for a continuation (with changes) of existing Permit G22/46069.1 which applies to certain parts of the Townsville/Whitsunday Management Area and can generally be described as authorising:

CONDUCTING A TOURIST PROGRAM AND ANY OTHER PURPOSE – being:

- a Guided Tour Operation – including the provision of transport and services to persons other than tourists and using motorised equipment with a maximum passenger capacity of less than 25 passengers across all permissions.
17. The changes sought can generally be described as changes to access areas in the vicinity of Magnetic Island for their guided jet ski tours, including daily access to specific bays and anchoring and beach access (and including access to a number of Marine National Park Zones).
18. The application the subject of this decision, and Statement of Reasons, is for permissions under the GBRMP Act to the extent that those permissions are sought to access areas of the Marine Park. Not all areas in the vicinity of Magnetic Island are within the Marine Park. A separate decision has been made by DESI under Queensland legislation to the extent that the application is for permissions to access areas within the Great Barrier Reef Coast Marine Park. As the Great Barrier Reef Coast Marine Park, established by the *Marine Parks Act 2004* (Qld), overlaps with the Marine Park boundary, the Commonwealth and Queensland governments have complementary zoning and management arrangements in place for the Marine Park, including joint permission schemes.
19. Further consideration is given to the laws of the State of Queensland and the approvals required under Queensland law in the delegate's findings on sections 103(j) and (l), respectively, below. However, the delegate's assessment of this application is on the waters in the vicinity of Magnetic Island as a whole, which includes both the Marine Park and Great Barrier Reef Coast Marine Park, rather than each delegate only assessing the application against the areas in the vicinity of Magnetic Island that apply only to the GBRMP Act or the *Marine Parks Act 2004* (Qld).
20. On 15 August 2022 the Reef Authority decided, pursuant to section 77 of the GBRMP Regulations, that the application was made in accordance with section 76 (that is, that the application was a properly made application).
21. On 15 August 2022 the Reef Authority decided, pursuant to section 91 of the GBRMPA Regulations, that assessment by public information package (**PIP**) must be used for assessing the relevant impacts of the proposed conduct.

⁹ See paragraphs 2.2.2, 2.3.2, 2.4.4 and 2.7.2 of the Zoning Plan, respectively.

22. On 22 August 2022, the applicant was provided with the terms of reference, instructions for making a submission, PIP template and advertisement template.
23. On 11 April 2023, the applicant submitted the final PIP and advertisement.
24. On 20 April 2023, the Reef Authority approved the PIP for advertisement.
25. On 22 April 2023, the PIP was advertised in the Townsville Bulletin (Saturday edition), Magnetic Island Community News, applicant's website and the Reef Authority's website.
26. On 6 June 2023, the consultation period closed. A total of 75 submissions were received.
27. On 5 December 2023, the applicant submitted a final response document to the Reef Authority addressing the submissions received. This document was made available on the applicant's website and the Reef Authority's website.
28. On 1 May 2024, the DESI delegate granted the permission with conditions.
29. On 2 May 2024, I granted the permission with conditions.

Materials relevant to the decision

30. I had regard to, and considered, the following materials in making my decision to grant the permission:
 - 30.1. The legislative framework (described above), including the mandatory considerations set out in section 103 of the GBRMP Regulations;
 - 30.2. The Reef Authority's assessment;
 - 30.3. The PIP, public submissions received in response to the PIP, and the applicant's submission response document;
 - 30.4. The following documents:
 - 30.4.1. Risk Assessment Procedure – Permission System, 2019;
 - 30.4.2. Managing Tourism Permissions to Operate in the Great Barrier Reef, Marine Park (including Allocation, Latency and Tenure), Townsville (2004);
 - 30.4.3. Great Barrier Reef Biodiversity Conservation Strategy (2013);
 - 30.4.4. Environmental Impact Management – Permission System Policy (2017);
 - 30.4.5. Guideline: Permission assessment and decision, 2019;
 - 30.4.6. Guideline: Social value assessment, 2019;
 - 30.4.7. Guideline: Traditional Owner heritage assessment, 2019;
 - 30.4.8. Guideline: Historic heritage assessment, 2019;
 - 30.4.9. Guideline: Management of Commercial Jet Ski Operations around Magnetic Island, 2004;
 - 30.4.10. The Bays of Magnetic Island Draft Management Plan (1994) (internal document);
 - 30.4.11. Great Barrier Reef Region Strategic Assessment Report (2014);
 - 30.4.12. Great Barrier Reef Outlook Report, 2019.

Considerations and findings on material facts

31. To the extent the application is for the same level of access currently permitted under Permit G24/47592.1 my findings, based on the evidence and materials considered above, are that I agree with the standard tailored assessment, which forms Attachment A to the assessment, for the reasons set out in the standard tailored assessment.
32. To the extent that the application is for new access to waters in the vicinity of Magnetic Island, I made the following findings based on the evidence and materials considered above:

Objectives of the Zone – paragraph 103(a)

- 32.1. Under paragraph 103(a) of the Regulations, I am required to consider the objectives of the Zoning Plan for the zones in which the proposed conduct will take place. The Applicant has requested access to areas in the General Use Zone, Habitat Protection Zone, Conservation Park Zone and Marine National Park Zones.
- 32.2. The objective of the General Use Zone is to provide for the conservation of the area of the Marine Park, while providing opportunities for reasonable use.¹⁰
- 32.3. The objectives of the Habitat Protection Zone are:
- 32.3.1. To provide for the conservation of areas of the Marine Park through the protection and management of sensitive habitats, generally free from potentially damaging activities; and
- 32.3.2. Subject to the objective mentioned above, to provide opportunities for reasonable use.¹¹
- 32.4. The objectives of the Conservation Park Zone are:
- 32.4.1. To provide for the conservation of areas of the Marine Park; and
- 32.4.2. Subject to the objective mentioned above, to provide opportunities for reasonable use and enjoyment, including limited extractive use.¹²
- 32.5. The objectives of the Marine National Park Zone are:
- 32.5.1. To provide for the protection of the natural integrity and values of areas of the Marine Park, generally free from extractive activities; and
- 32.5.2. Subject to the objective mentioned above, to provide opportunities for certain activities, including the presentation of the values of the Marine Park, to be undertaken in a relatively undisturbed state.¹³
- 32.6. Consideration of the above objectives for the relevant zones has been appropriately addressed in the assessment and risk assessment. The findings of the assessment conclude that the proposed conduct, if carried out in accordance with the proposed permission conditions, is generally consistent with the objectives for all proposed zones. I am satisfied with these findings and, in particular, I am satisfied that the imposition of permission conditions such as restrictions on speed, number of jet skis, number of participants, and fishing in accordance with the zoning plans balances the needs for conservation, opportunities for reasonable use and enjoyment, protection of natural integrity and values of areas of the Marine Park, and contributes overall in aligning the proposed operation with the objectives of the zones.

Other legislative instruments under the GBRMP Act– paragraph 103(b)

- 32.7. If the proposed conduct will take place in a specific area of the Marine Park to which a legislative instrument under the GBRMP Act applies (whether the GBRMP Regulations or another

¹⁰ Section 2.2.2 of the Zoning Plan.

¹¹ Section 2.3.2 of the Zoning Plan.

¹² Section 2.4.2 of the Zoning Plan.

¹³ Section 2.7.2 of the Zoning Plan.

instrument), or a provision of such a legislative instrument, applies, then, under paragraph 103(b) of the GBRMP Regulations, I am required to consider that instrument or provision.

- 32.8. The proposed conduct will take place within a Species Conservation (Dugong Protection) Special Management Area (SMA), which is subject to special management provisions relating to netting and bait netting pursuant to section 44 of the GBRMP Regulations. The proposed conduct will not involve any netting or bait netting, so I am satisfied that the relevant special management provisions for the SMA are not applicable to the proposed conduct.
- 32.9. There are no other legislative instruments under the GBRMP Act (for example, plans of management, other zoning plans, other special management provisions etc.) that prevent the proposed conduct from being permitted in the nominated locations, or that apply to the proposed conduct other than as considered and addressed elsewhere in this statement of reasons.

Suitable person – paragraph 103(c)

- 32.10. Under paragraph 103(c) of the GBRMP Regulations, I have considered whether the applicant is a suitable person to hold a permission for the proposed conduct, having regard to:
- (i) the applicant's capacity to engage in and manage the proposed conduct to the satisfaction of the Authority; and
 - (ii) the applicant's history in relation to environmental matters; and
 - (iii) if the applicant is a body corporate—the history of its executive officers in relation to environmental matters; and
 - (iv) if the applicant is a subsidiary of a holding company—the history of the holding company and its executive officers in relation to environmental matters; and
 - (v) whether the applicant owes any fee or other amount payable under the Act, this instrument or any other instrument made for the purposes of the Act; and
 - (vi) any other relevant matter.
- 32.11. The applicant is not a body corporate or a subsidiary of a holding company so I have not considered subparagraphs 103(c)(iii) or (iv) to be relevant to my decision.
- 32.12. Based on the assessment, which I agree with to the extent that it considers the above matters, I agree the applicant is a suitable person to hold a permission for the proposed conduct.

Reasonable steps to prevent and minimise harm - paragraph 103(d)

- 32.13. Under paragraph 103(d) of the GBRMP Regulations I am required to consider the requirement in section 37AA of the GBRMP Act for users of the Marine Park to take all reasonable steps to prevent or minimise harm to the environment in the Marine Park that might or will be caused by the user's use or entry.
- 32.14. Subsection 37AA(2) of the GBRMP Act defines harm to include any adverse effect; direct or indirect harm; and harm to which the person's use or entry has contributed, to any extent (whether or not other matters have contributed to the harm).
- 32.15. In determining whether all reasonable steps have been taken, subsection 37AA(3) of the GBRMP Act requires that I have regard to the following:
- 32.15.1. *The nature of the harm to the environment that might or will result from the person's use or entry;*
 - 32.15.2. *The risk of harm from the person's use or entry;*
 - 32.15.3. *The sensitivity of the environment that might or will be affected by the person's use or entry;*
 - 32.15.4. *the objectives of the zones;*
 - 32.15.5. *The practicalities, including cost, of steps that will prevent or minimise the harm;*
 - 32.15.6. *Compliance with the laws applying in the Marine Park in relation to the environment or natural resources; any relevant code of practice, standard or guideline; and any conditions of a permission.*

- 32.16. A detailed risk assessment has been undertaken as part of the assessment which considers the nature, scale and duration of expected impacts of the proposed activities. This risk assessment was relied upon in the assessment for the purposes of paragraph 103(d) of the GBRMP Regulations. I agree with the risk assessment and with the assessment to the extent it relates to paragraph 103(d) of the GBRMP Regulations and concludes that all reasonable steps will be taken by the applicant to prevent or minimise harm to the environment in the Marine Park that might or will be caused by the proposed conduct. In this regard, I have given particular weight to the following:
- 32.16.1. The nature and scale of the operation is a small-scale marine based tourism operation limited to seven jet skis, each with a maximum of two passengers. A range of standard permit conditions as well as specific conditions for this permission have been included to mitigate potential impacts and to manage the activity.
 - 32.16.2. The residual risk of harm is low because the permission is small scale, and the permit conditions appropriately limit the scale of this operation.
 - 32.16.3. Where the environment is particularly sensitive to potential harm, the Managing Agencies have a range of statutory and non-statutory planning tools in place, including the avoidance and mitigation measures included in the permit conditions. Particular sensitivities in the environment include a dugong protection area, turtle feeding sites and seagrass meadow habitats.
 - 32.16.4. The proposal has been assessed against the objectives of the relevant zones under '*Consideration A – Objects of the Zone*' in the assessment. The findings made in relation to consideration 103(a) add weight to the conclusion that all reasonable steps will be taken to prevent or minimise harm.
 - 32.16.5. All reasonable steps required to prevent or minimise potential harm associated with an activity of this scale are considered practical and affordable for both the applicant and the Managing Agencies, and within reasonable expectations of conducting a guided tour operation using jet skis. These reasonable steps to prevent or minimise harm include relevant permit conditions.
 - 32.16.6. The proposed conduct will be required to be carried out in compliance with the laws applying in the Marine Park in relation to environmental or natural resources, relevant codes of practice, standards and guidelines, and the permit conditions.

Feasible and prudent alternatives – paragraph 103(e)

- 32.17. Under paragraph 103(e) of the GBRMP Regulations I am required to consider whether there are feasible and prudent alternatives to the proposed conduct.
- 32.18. The proposed conduct is for a tourist program and any other purpose, being a guided tour operation (motorised equipment) which includes the use of jet skis. The applicants have an established business and have held an existing permission for the majority of the proposed conduct since 2 April 2022. In light of this I do not consider there to be any feasible alternatives to the applicants' current operations.
- 32.19. In addition to the conduct that is currently permitted, the applicants are seeking daily access to the waters in the vicinity of Magnetic Island to share their knowledge, experience and abilities with local, interstate and international guests during the tourism program. They wish to be able to share with participants the opportunity to explore the values of Magnetic Island. An alternative may be for the applicants to only seek access to some of the waters in the vicinity of Magnetic Island however I do not consider this to be feasible because the operation will then not deliver its intended outcome. Another alternative may be for the applicants to seek less than daily access however I do not consider this feasible because the applicants require flexibility as a result of weather conditions, time of year, tourism requirements and other variables.

Written comments received under Division 3 – paragraph 103(f)

- 32.20. Under paragraph 103(f) of the GBRMP Regulations I am required to consider any written comments received under Part 3, Division 3 of the GBRMP Regulations in connection with the application.
- 32.21. The permission was assessed via the PIP approach set out in Part 3, Division 3 of the GBRMP Regulations, which required the publishing of an advertisement inviting comments from the

public. The PIP and invitation to comment were also directly sent out to all community representative groups, including environmental groups.

- 32.22. I have considered all of the submissions received in response to the advertisement. 75 submissions were received, with 74 of these opposing the proposed conduct. A range of concerns were provided from the public regarding environment, social and personal issues relating to the applicant and the proposed operation.
- 32.23. The applicant was provided with de-identified copies of the submissions, and prepared a response document which was published on the Reef Authority's website. I have considered the response document, and I am satisfied that the applicant has sufficiently addressed the concerns raised in the submissions to the extent within their scope as the applicant.
- 32.24. I am also satisfied that all written submissions received in relation to the application were adequately considered in the assessment and have been appropriately addressed in the assessment.
- 32.25. I am satisfied that the limitations and conditions placed on the permit for the proposed operations addresses the concerns raised by the public, particularly as many of these concerns align with potential impacts identified and considered as part of the Reef Authority's assessment process. Further consideration of the options for avoiding and mitigating the relevant impacts raised in the public submissions are considered in the discussion of paragraphs 103(g) and (h) below.

Relevant impacts and options for avoiding, mitigating and offsetting those relevant impacts – Paragraphs 103 (g) and (h)

- 32.26. Under paragraph 103(g) of the GBRMP Regulations I am required to consider the relevant impacts of the proposed conduct. Under paragraph 103(h) of the GBRMP Regulations I am required to consider options for avoiding, mitigating, and offsetting those relevant impacts.
- 32.27. As part of the assessment, a detailed risk assessment has been completed that demonstrates the nature, scale and duration of expected impacts. The risk assessment identified possible activities that may be conducted as part of the permission and described whether those activities present a risk to the values of the Marine Parks and other users, including by showing that any potential effects on the environment from the proposed activity which are medium to high risk pre management are reduced to low risk post management. I consider that the risk assessment correctly describes the relevant impacts of the proposed conduct and I have considered those impacts.
- 32.28. The risk assessment considers and recommends options for avoiding and mitigating relevant impacts of the proposed conduct through compliance with all laws and permit conditions, including specific operational requirements, a limited permit term of two years and no provision to authorise other persons to conduct the activities covered by this permit. I agree that options for avoiding and mitigating the relevant impacts are appropriately considered in the assessment and are adequate, and only low residual risks will remain.
- 32.29. Additionally, I have briefly given consideration to options for offsetting the relevant impacts of the proposed conduct. Offsets are implemented when avoidance and mitigation measures are in place, but significant residual impacts are still likely to occur. As the risk assessment did not identify any significant residual impacts to the values of the Marine Parks, I agree that offset measures were not considered necessary.
- 32.30. I agree that it is appropriate to apply the options for avoiding and mitigating the relevant impacts of the proposed conduct recommended in the assessment.

Options for monitoring and managing those relevant impacts – Paragraph 103(i)

- 32.31. Under paragraph 103(i) of the GBRMP Regulations I am required to consider options for monitoring and managing the relevant impacts of the proposed conduct.
- 32.32. Compliance with permission conditions will be routinely monitored and managed through the Field Management Program, field audits or desktop compliance audits.
- 32.33. No formal environmental monitoring of individual operations will be necessary unless, in future, the Reef Authority receives information to suggest the proposed conduct is not being conducted in line with the permission conditions. I am satisfied that the proposed monitoring and management programs and permission conditions, including a condition empowering the

Managing Agencies to require the Permit Holder to produce documents and information, are sufficient for the Reef Authority to identify any relevant impacts occurring at the area in which the conduct is proposed to occur and allow for concentrated management efforts by the Reef Authority if needed.

- 32.34. Options for managing the relevant impacts are further considered in the assessment in detail under consideration of paragraphs 103(g) and (h) of the GBRMP Regulations. I have considered those options and I agree that it is appropriate to apply those options.

Laws relating to the management of the environment or to an area in the Marine Park and relevant to the proposed conduct – Paragraph 103(j)

- 32.35. Under paragraph 103(j) of the GBRMP Regulations I am required to consider a law of the Commonwealth or of Queensland as in force from time to time, or a relevant plan (as in force from time to time) made under such a law, that:

- (i) relates to the management of the environment or to an area in the Marine Park; and
- (ii) is relevant to the proposed conduct;

except so far as that law or plan is covered by paragraph 103(b).

- 32.36. The assessment was undertaken by the Reef Authority jointly with DESI, consistently with the Commonwealth and Queensland complementary approach to management of the Marine Park. As such, relevant Commonwealth and Queensland laws and plans relevant to the proposed conduct were considered in detail.
- 32.37. The Commonwealth and Queensland Governments have complementary zoning and management arrangements in place to manage the potential impacts to the Marine Parks through various types of activities. Under section 11(2) of the *Marine Parks Regulation 2017 (QLD)*, Plans of Management, and management plans and statements under the *Marine Parks Act 2004 (QLD)*, *Nature Conservation Act 1992 (QLD)* and the *Recreation Management Act 2006 (QLD)* are considered relevant instruments. I am satisfied that the conduct proposed to be permitted will be consistent with these laws.
- 32.38. The applicant is also required to comply with Maritime Services Queensland legislation, insurance requirements, and their Australian Maritime Services Authority approved Coxwains licence and certificate of operation, including their safety management system. The applicant has acknowledged the need to comply with these laws in their submission response document therefore I am satisfied that the proposed conduct will be carried out consistently with such laws.
- 32.39. Additionally, I have already determined above, in consideration of paragraph 103(d) of the GBRMP Regulations, that the proposed conduct will be carried out in compliance with the laws applying in the Marine Park in relation to the environment or natural resources.

Environment Protection and Biodiversity Conservation (EPBC) Act 1999 – Paragraph 103(k)

- 32.40. If the proposed conduct also requires an approval under the *Environment Protection and Biodiversity Conservation Act 1999*, paragraph 103(k) of the GBRMP Regulations requires me to consider:
- (i) whether the approval has been, or is likely to be, granted and, if granted, the terms and conditions of it being granted; and
 - (ii) any relevant assessment documentation (within the meaning given by subsection 133(8) of that Act) in relation to the approval;
- 32.41. An assessment against the EPBC Act's Significant Impact Criteria and an EPBC Protected Matters search was undertaken as part of the assessment. The Protected Matters search identified 48 threatened species, 55 migratory species and one listed threatened ecological community within a 1km radius of a polygon of the whole of Magnetic Island, including birds, marine mammals, sharks and turtles, as well as terrestrial species. Potential risks to marine megafauna are assessed as low.
- 32.42. I am satisfied that the proposed activity is not likely to have a significant impact on matters of national environmental significance and a referral under the EPBC Act was not required for this application.

Queensland Approvals / Permissions – Paragraph 103(l)

- 32.43. If the proposed conduct also requires an approval or a permission (however described) under a law of Queensland, paragraph 103(l) of the GBRMP Regulations requires me to consider whether the approval or permission has been, or is likely to be, granted and, if granted, the terms and conditions of it being granted.
- 32.44. The proposed conduct requires a permission under relevant Queensland Marine Park legislation to the extent that conduct will occur in State jurisdiction. The assessment and permit have been prepared jointly with DESI and in accordance with joint permitting arrangements, including the consideration of frequency of access, beach access, and anchoring restrictions. If granted, the permit will be granted jointly by the Reef Authority and DESI.
- 32.45. Noting the comments of the DESI assessor in the assessment, I am satisfied that the necessary permission has been granted by DESI and contains terms and conditions that are appropriate.

Recovery plans, wildlife conservation plans, threat abatement plans and approved conservation advices – Paragraph 103(m)

- 32.46. Under paragraph 103(m) of the GBRMP Regulations I am required to consider any recovery plan, wildlife conservation plan, threat abatement plan or approved conservation advice, that is relevant to the proposed conduct.
- 32.47. The impacts from the activities allowed under tourism permissions are well understood and well-managed through existing management arrangements, the permission assessment process and the permit conditions.
- 32.48. The Recovery Plan for Marine Turtles identifies vessel strike as an issue in Queensland waters that is a real threat posed by permitting tourism operations in the Marine Parks. I have taken this into account and exclusions have been implemented in the permission conditions to protect areas of known turtle habitat (e.g. no anchoring or beach access at Huntingfield, Joyce, Norris and Maud Bays where there are potential turtle nesting sites).
- 32.49. The *Nature Conservation (Estuarine Crocodile) Conservation Plan 2017* provides for the safety of the public as well as the conservation of estuarine crocodiles and their habitat. I am satisfied that the granting of permissions under this assessment is not expected to interfere with this or any other relevant recovery or wildlife recovery plan.
- 32.50. The *Threat Abatement Plan for the impacts of marine debris on vertebrate marine life* identifies potential impacts including entanglement in, and ingestion of, certain debris leading to injury, amputation and potentially death. It identifies a range of high-level actions that government agencies can implement to minimise the impacts from marine debris, which are beyond the scope of the permission system. I assume the applicant will implement appropriate disposal practices to minimise impacts from marine debris. Incidental and accidental disposal of manufactured material is unavoidable. I consider the risk from such incidents to be low.
- 32.51. The introduction of exotic pests is a risk posed to islands and island national parks. I have considered the objectives of the *Threat Abatement Plan to reduce the impacts of exotic rodents on biodiversity on Australian offshore islands* in permitting access and transportation of goods to islands. The permit is not for the transportation and delivery of goods therefore I am satisfied that the threat abatement plan does not apply.
- 32.52. I do not consider there to be any other recovery plan, wildlife conservation plan, threat abatement plan or approved conservation advice that is relevant to the proposed conduct.

International agreements and agreements between the Commonwealth and a State or Territory – Paragraph 103(n)

- 32.53. Under paragraph 103(n) of the GBRMP Regulations I am required to consider any international agreement to which Australia is a party, or any agreement between the Commonwealth and a State or Territory, that is relevant to the proposed conduct.
- 32.54. Australia is party to numerous environmental conventions and agreements, including the World Heritage Convention, as well as the agreements with Japan, China and South Korea for international protection of migratory seabirds (JAMBA, CAMBA and ROKAMBA, respectively), and the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention). I consider the assessment has been conducted in a manner that contributes

towards meeting the requirements of such conventions and agreements by assessing the impacts of proposals to the values of the Marine Parks, within the Great Barrier Reef Marine World Heritage Area and recommending permission conditions to appropriately manage these values.

- 32.55. The Great Barrier Reef Intergovernmental Agreement 2015 (IGA) provides a framework for the Commonwealth and Queensland Governments to work together to protect and manage the Great Barrier Reef World Heritage Area, including the Marine Parks and island national parks. The IGA affirms the governments' commitment to maintain complementary Commonwealth and Queensland management arrangements, in particular, Marine Parks legislation and associated regulations, zoning plans and plans of management; planning and development arrangements, and environmental assessment and permit requirements (through the joint permission system). I am satisfied that the proposed conduct is consistent with the IGA because it has been assessed jointly with DESI and requisite permissions have been granted jointly.
- 32.56. I am satisfied that the proposed conduct would not be in contravention of any international agreement to which Australia is a party, or any agreement between the Commonwealth and a State or Territory, that is relevant to the proposed conduct.

Reef Authority and DCCEEW Policies – Paragraph 103(o), and any other matters relevant to the proposed conduct and either achieving the objects of the GBRMP Act or orderly and proper management of the Marine Park – Section 103(p)

- 32.57. Under paragraph 103(o) of the GBRMP Regulations I am required to consider any policies that are relevant to the proposed conduct and the management of the Marine Park or of its environment, biodiversity or heritage values and are:
- (i) published by the Authority under paragraph 7(4)(a) of the GBRMP Act; or
 - (ii) adopted by the Department administered by the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999*;
- 32.58. Under paragraph 103(p) of the GBRMP Regulations I am required to consider any other matters relevant to the proposed conduct and either:
- (i) achieving the objects of the Act; or
 - (ii) orderly and proper management of the Marine Park.
- 32.59. I have considered relevant documents as listed under Materials Relevant to the Decision above (paragraph 30). I am satisfied that the proposed conduct will be consistent with such documents. I consider that the Guidelines for commercial jet ski operations around Magnetic Island are relevant to the proposed conduct, to achieving the objects of the GBRMP Act and to the orderly and proper management of the Marine Park because the Guidelines address the need to ensure a sustainable balance between protection, use and the enjoyment of visitors. The Guidelines have informed the proposed permission conditions relating to motorised water sport exclusions, which I agree are appropriate.
- 32.60. The draft Bays of Magnetic Island Draft Management Plan (1994) was prepared for the purposes of discussion and comment and includes a disclaimer that the plan does not necessarily represent settled Government policy and that nothing in the plan is intended to prevent the Reef Authority or DESI from allowing an activity that is consistent with the objectives of the Marine Park Zones. The draft Plan was not finalised and is not a legislative instrument; however I consider the draft Plan is relevant to the proposed conduct, achieving the objects of the GBRMP Act and the orderly and proper management of the Marine Park, because, in the absence of a legislative instrument or other document containing similar information, the draft Plan includes information regarding the local area and strategies to protect the natural, cultural and heritage values. As such, I considered the draft Plan in making my decision. The draft Plan splits the bays of Magnetic Island into four management areas and suggests different use intensity levels for each management area.
- 32.61. I have considered the Strategic Assessment and Outlook Report as relevant to the proposed conduct and to orderly and proper management of the Marine Park because the Strategic Assessment and Outlook Report identify that tourism is a major economic contributor to the Region and part of the contribution (EMC) goes towards the orderly and proper management of

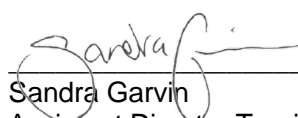
the Marine Park. I consider this decision is consistent with the Strategic Assessment and Outlook Report.

- 32.62. The proposed conduct will be granted in accordance with the outcome of the assessment. With the proposed permission conditions and measures in place, the impacts to the Marine Park values have been assessed as adequately managed. For these reasons, I am satisfied that the orderly and proper management of the Marine Park will be maintained through this decision.

Decision: Grant with conditions – Conducting a Tourist Program and Any other purpose – being a Guided Tour Operation (motorised).

33. Pursuant to section 111 of the GBRMP Regulations, I have made a decision on application G47592.1 to grant a permission subject to conditions as set out in Permit G24/47592.1.

- 33.1. In reaching my decision, I had regard to the matters referred to above and was satisfied of the findings set out above for the reasons provided above.
- 33.2. I am satisfied that the permission is of a kind that can be applied for and granted pursuant to the GBRMP Act.
- 33.3. Under section 115 of the GBRMP Regulations I have specified in the Permit that the permission remains in force for a period of two years. This permit term is consistent with the options recommended in the assessment for avoiding and mitigating relevant impacts of the proposed conduct, which I have adopted for the reasons set out in paragraph 32.27. The term does not have the effect of significantly altering the proposed conduct in respect of which the permission application was made.
- 33.4. In reaching the decision, I have given greater weight to the considerations and findings on material facts under paragraphs 103(a), (f), (g) and (h) of the GBRMP Regulations. In particular:
- 33.4.1. I am satisfied the proposed activities fit the objectives of the zones where they will be conducted, and the residual associated risks of relevant impacts are low.
- 33.4.2. With regard to the written comments received, I am satisfied that the relevant concerns have been addressed in the applicant's response document and in the assessment.
- 33.4.3. I consider the limitations and conditions placed on the permit including a two year permit term and no provision to authorise other persons to conduct the activities covered by this permit are important to my decision.



Sandra Garvin
Assistant Director Tourism and Commercial
Environmental Assessment and Protection
Position Number 659
DELEGATE

Date: 2 May 2024