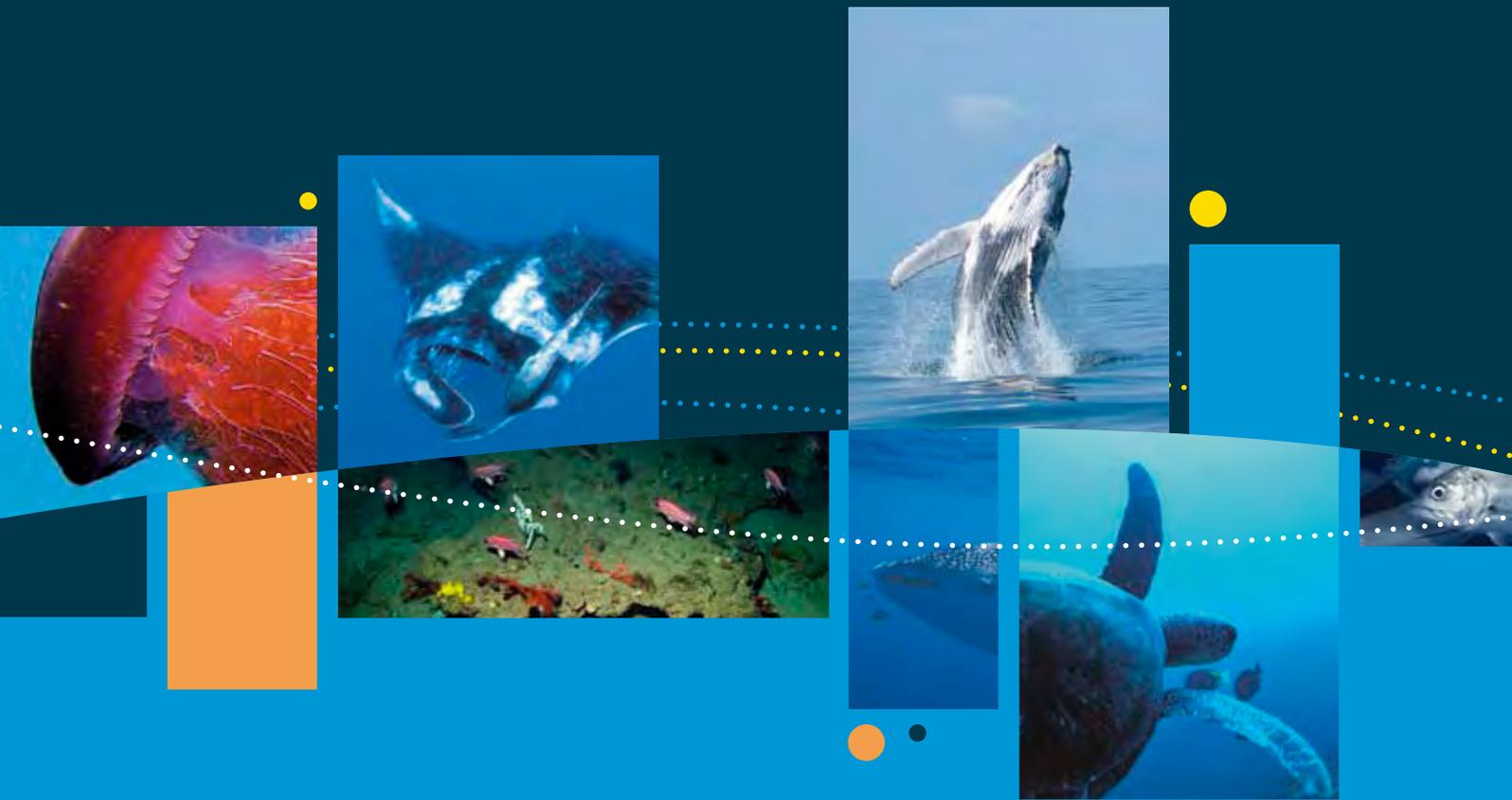




Australian Government
**Department of the Environment,
Water, Heritage and the Arts**
Director of National Parks



NINGALOO MARINE PARK (COMMONWEALTH WATERS)

Information for visitors

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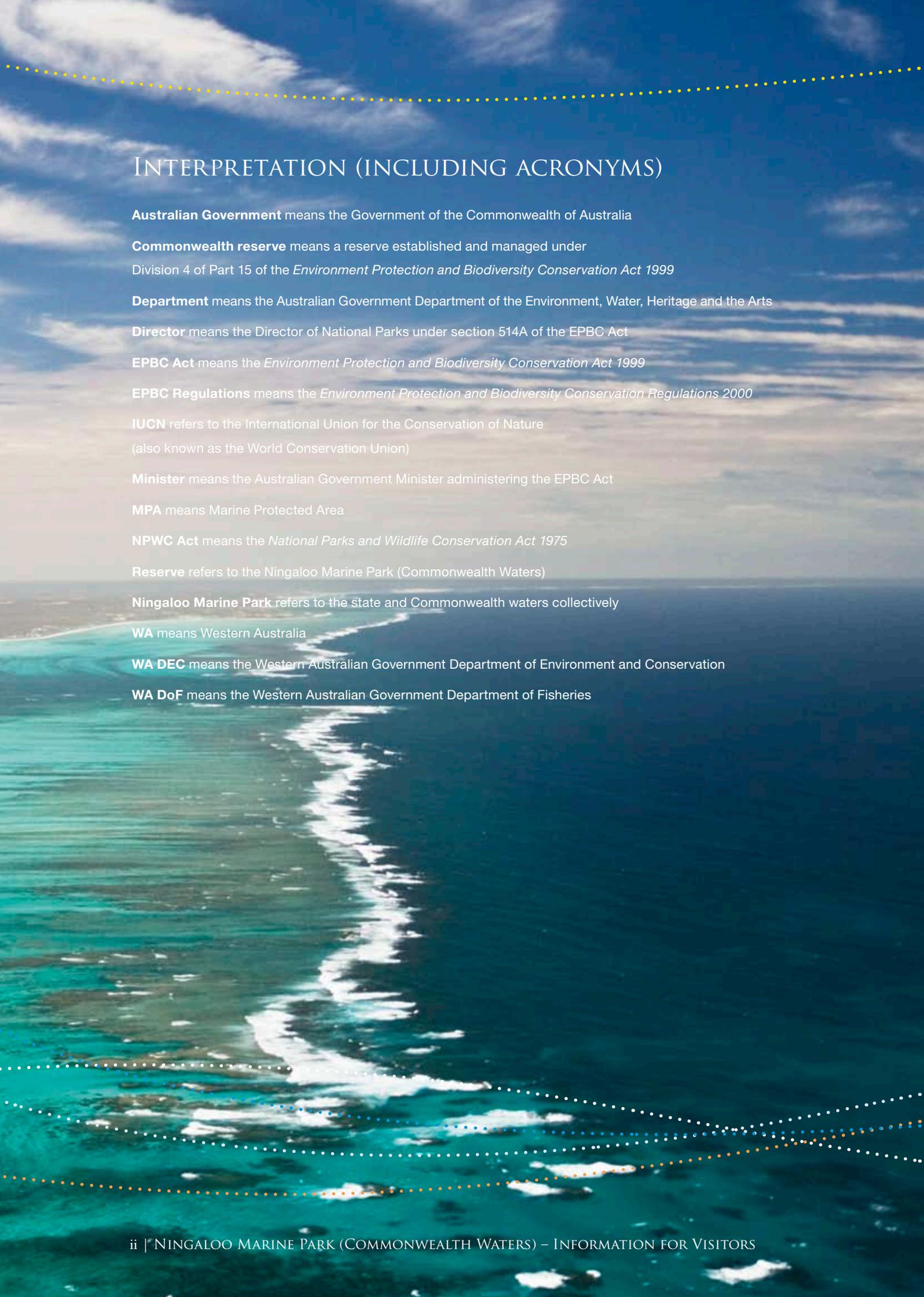
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INTERPRETATION (INCLUDING ACRONYMS)

Australian Government means the Government of the Commonwealth of Australia

Commonwealth reserve means a reserve established and managed under Division 4 of Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999*

Department means the Australian Government Department of the Environment, Water, Heritage and the Arts

Director means the Director of National Parks under section 514A of the EPBC Act

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999*

EPBC Regulations means the *Environment Protection and Biodiversity Conservation Regulations 2000*

IUCN refers to the International Union for the Conservation of Nature (also known as the World Conservation Union)

Minister means the Australian Government Minister administering the EPBC Act

MPA means Marine Protected Area

NPWC Act means the *National Parks and Wildlife Conservation Act 1975*

Reserve refers to the Ningaloo Marine Park (Commonwealth Waters)

Ningaloo Marine Park refers to the state and Commonwealth waters collectively

WA means Western Australia

WA DEC means the Western Australian Government Department of Environment and Conservation

WA DoF means the Western Australian Government Department of Fisheries

1 ABOUT THIS DOCUMENT

This document is not a legal instrument and is [for information only](#). It describes the management arrangements for Ningaloo Marine Park (Commonwealth Waters) (the reserve) and provides advice on how visitors, and other users of the reserve, should meet their obligations under the reserve's management arrangements. Visitors to the reserve will require authorisation from the Director of National Parks for certain activities. The arrangements arise from the *Environment Protection and Biodiversity Conservation Act 1999* and its regulations and are consistent with the second management plan for the reserve (expiry date: 2 July 2009). The arrangements outlined in this document will remain in place until the development of a new management plan at the conclusion of the marine bioregional planning process for the north-west region. Stakeholders will be consulted in the development of the new management plan.

Ningaloo Marine Park (Commonwealth Waters) (the reserve) was declared by the Australian Government on 7 May 1987 by proclamation under the *National Parks and Wildlife Conservation Act 1975* (NPWC Act) for the purposes of conservation, protection of marine wildlife and habitats, recreation, education, scientific research and to create a buffer zone for the state component of Ningaloo Marine Park. The reserve has since been extended twice (in July 1992 and April 2004), to include two areas that were formerly the subject of petroleum exploration permits. The state component of Ningaloo Marine Park was also extended in 2004 to include the whole of Ningaloo Reef. The reserve is now managed as a Commonwealth reserve under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Interim management arrangements commenced on 3 July 2009 and will conclude when the new management plan for the representative marine reserve system in the north-west region is finalised. These arrangements provide for the management of some activities using authorisations (approvals or permits) issued by the Director of National Parks under the EPBC Act or EPBC Regulations. Authorisation allows identified activities to occur that would otherwise be prohibited in the reserve. These include commercial activities and those affecting native species. Information on the authorisation process is included in Part 4 – Information for visitors and reserve users. This document describes the values of the reserve, the management arrangements and how the reserve's values will continue to be protected.

An underwater photograph of a sea turtle swimming towards the left. The turtle's head, front flipper, and part of its shell are visible. In the background, several small fish are swimming. The water is clear and blue. A yellow dotted line runs across the top of the page, and a white dotted line runs across the bottom. The text is positioned on the left side of the image.

The development of a new management plan is being scheduled to coincide with other Australian Government processes requiring extensive stakeholder consultation. The Australian Government is undertaking marine bioregional planning around Australia (see Part 6.2 – Marine bioregional planning), a process that involves the identification of new Commonwealth reserves in each region, including the north-west marine region in which the reserve is located. Development of the next management plan for the reserve will be prepared in line with the declaration of all Commonwealth reserves in the north-west region to minimise impositions on stakeholders, maximise efficiencies and ensure consistency in management of the new network of reserves. Stakeholders will be sought during the marine bioregional planning process and in development of the next management plan for the reserve. Information on these processes is available at: www.environment.gov.au/coasts.

2 NINGALOO MARINE PARK (COMMONWEALTH WATERS) DESCRIPTION AND VALUES

2.1 LOCATION AND CHARACTERISTICS

Ningaloo Marine Park (Commonwealth Waters) (the reserve) stretches approximately 300km along the west coast of the Cape Range Peninsula near Exmouth, Western Australia (WA) approximately 1200km north of Perth (see map). The total area of the reserve is 2435km². Ningaloo Reef, the longest fringing barrier reef in Australia, and the only example in the world of extensive fringing coral reef on the west coast of a continent, is adjacent to the reserve and is protected by the Ningaloo Marine Park (state waters) which lies between the reserve and the WA coast. Ningaloo Marine Park (Commonwealth and state waters) covers a total area of 5070km².

The reserve's water depths range from a relatively shallow 30m to oceanic waters over 500m deep. A key feature of the reserve is the rapid increases in depth, particularly in the reserve's northern area. The reserve is located in a transition zone between tropical and temperate waters and sustains tropical and temperate plants and animals,

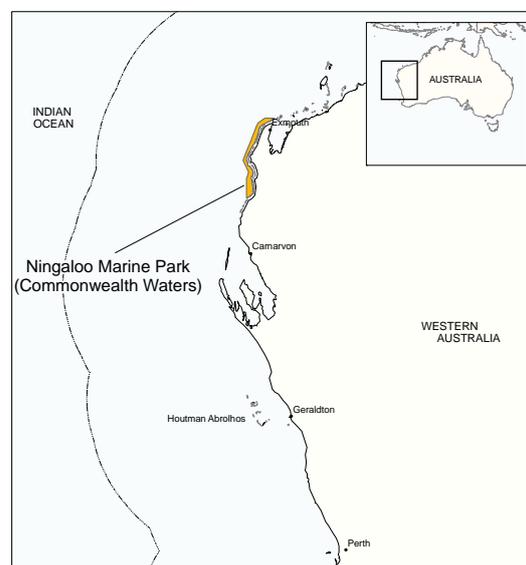
with many species at the limit of their distribution. Ningaloo Marine Park includes many elements of this important bio-geographic boundary.

The map overleaf shows the location and boundaries of both the Commonwealth and state components of Ningaloo Marine Park.

Further information can be found at:

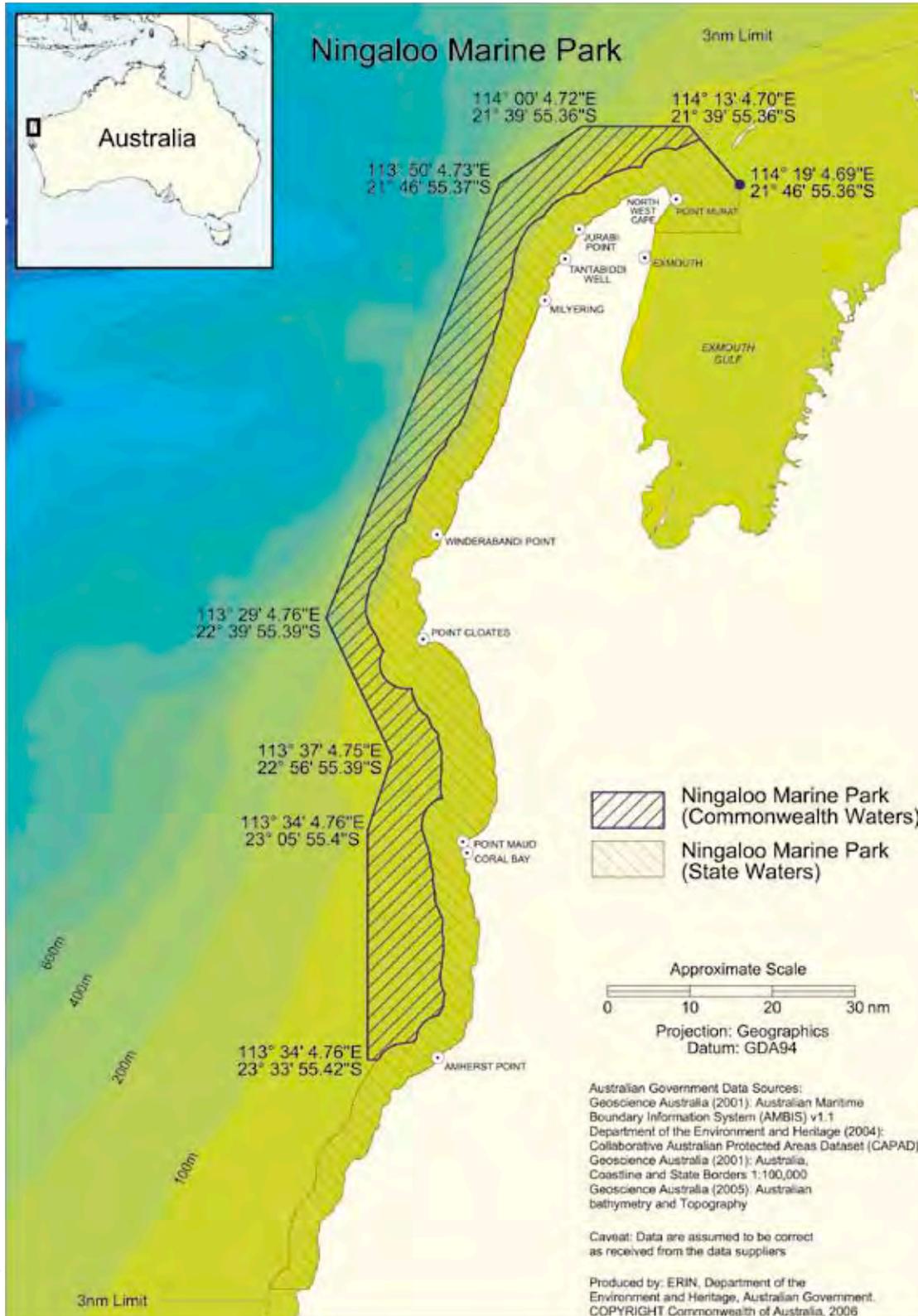
www.environment.gov.au/coasts/mpa/ningaloo/index.html.

Regional map



Location of Ningaloo Marine Park (Commonwealth Waters)

Location and boundaries of Ningaloo Marine Park



2.2 ENVIRONMENTAL VALUES

The reserve has international and national significance due to its diverse range of marine species and unique geomorphic features. While Ningaloo Reef occurs in the state waters of Ningaloo Marine Park, the reserve provides essential biological and ecological links that sustain the reef and its biodiversity, including the supply of nutrients to reef communities from deeper waters further offshore.

The reserve's environmental values are its biodiversity, the marine habitats on which this biodiversity depends, and the high water quality which is a key feature of Ningaloo Marine Park's marine ecosystem.

Marine biodiversity

A diverse range of sea creatures is found in the reserve, from microscopic plankton to large pelagic species, for which the reserve is particularly well known. Four marine turtle species have been recorded in the reserve including the hawksbill, flatback, green and loggerhead turtles (of which the green turtle is most common). Large predators including the oceanic white-tip shark, tiger shark, blue shark and grey reef shark also occur in deeper waters. The area is part of the migratory route of many transequatorial shorebirds and waders and also provides valuable feeding grounds for many migratory seabirds.

The reserve is recognised internationally for its annual aggregations of whale sharks. It is thought that between 300 and 500 whale sharks visit each year. Aggregations generally occur between March and June, coinciding with mass coral spawning events and seasonal localised increases in productivity. Manta rays are also known to aggregate in the area during autumn and winter.



The open ocean supports large numbers of pelagic fish including trevally, tuna, mackerel, marlin and sailfish, many of which are found much closer to shore at the reserve than in other parts of the world because of the narrow continental shelf. Demersal species such as snappers, seaperches, emperors, lizard and goat fish have also been recorded. Research has indicated that the reserve may also be an important area for tuna migration and in particular for juvenile southern bluefin tuna.



Whales are a major feature of the reserve.

Humpback whales migrate through twice a year on their annual migration between their calving grounds off the Kimberley and their feeding grounds in Antarctica. Blue and sperm whales have been observed in the offshore regions of the reserve as have minke, Bryde's, southern right and killer whales. Dolphins are also relatively common in the reserve. The most common is the bottlenose dolphin however the Indo-Pacific humpback, common, spinner, spotted and Risso's dolphins have also been observed.

Recent research has revealed a wide variety of bottom dwelling species in the reserve, including many previously unrecorded in Australia. The deeper water communities are dominated by sponges with soft corals and algae found living among them. The high numbers of species and unusual forms found in the diverse sponge garden habitats add to the reserve's importance.



Water quality

Ningaloo Marine Park is adjacent to an arid hinterland. Low levels of runoff and land-based pollution give rise to high water quality in the reserve and ecological processes that are almost entirely dependent on the marine environment for nutrient input. The primary influences on the water quality are oceanographic currents, cyclones and the impacts of human visitation.

The Leeuwin and Ningaloo currents and the Leeuwin undercurrent are the dominant oceanographic features of the area. The waters adjacent to the Cape Range Peninsula are a regional hotspot for primary production as a result of the upwelling generated by the interplay between these waterbodies, particularly during summer when the Leeuwin Current is weaker and the Ningaloo Current develops. The interaction between these currents facilitates vertical mixing of water layers and is primarily responsible for the enhanced but sporadic bursts in biological productivity in the area. These seasonal 'pulses' of biological productivity are thought to be linked to the aggregations of species such as whale sharks and manta rays. The currents affecting Ningaloo Marine Park are depicted on page 7. Tropical cyclones occur most frequently in February and March but have been recorded in the region as early as December and as late as May. The region generally experiences a cyclone around every two years with a severe cyclone likely every 25 years.

Tides in the northern area of the reserve are best described as semi-diurnal (two highs and two lows per day). The tidal range decreases southwards becoming mixed, that is diurnal and semi-diurnal,

in the southern area of the reserve. In 120 years there have been reports of four major tsunamis on the WA coast, due to undersea earthquakes south of Java, and it is expected that a tsunami could travel through the reserve every 10 to 20 years.

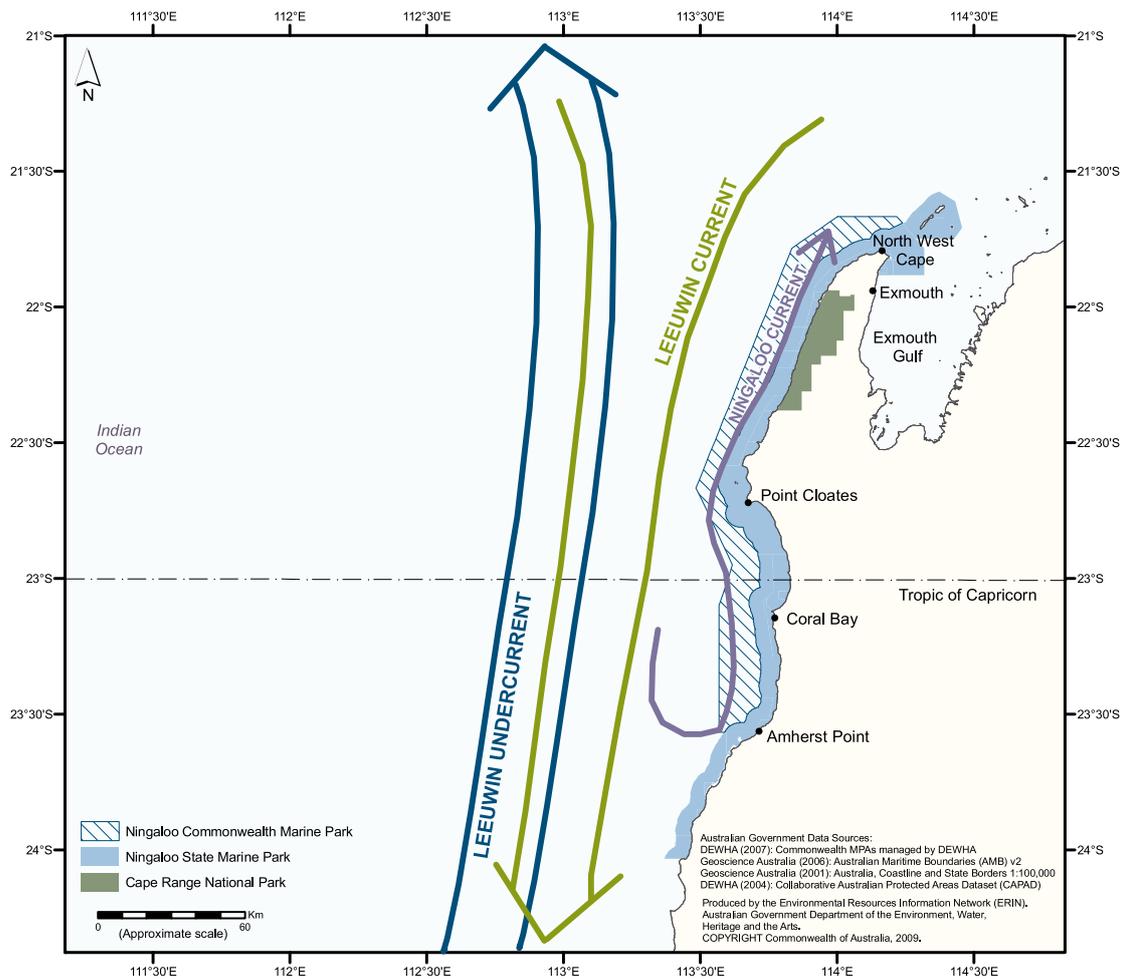
Sea surface temperatures in the reserve range from 26–31°C in summer and 19–24°C in winter.

Research on the effects of climate change has listed changes to water quality (including acidification) and circulation, changes to sea levels and storm intensity, loss of biodiversity and increased rates of extinction as possible threats to the reserve.

Marine habitats

The reserve incorporates a diversity of habitats including open ocean, the continental slope and the continental shelf, as well as pelagic habitats bordering the open ocean. The seabed of the continental slope and shelf supports demersal and benthic plants and animals including fish, molluscs, algae, sponges and soft corals.

Currents affecting Ningaloo Marine Park

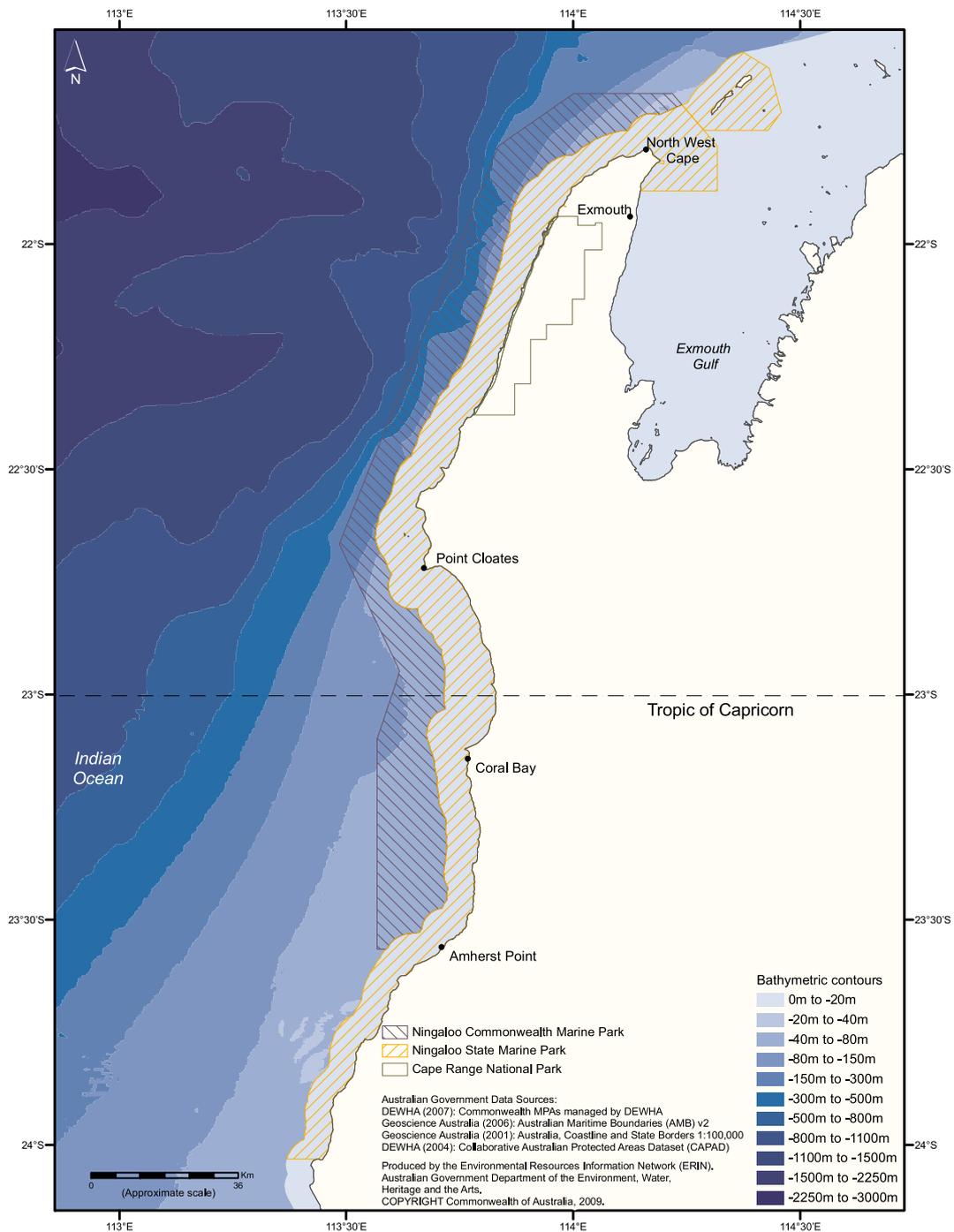


One of the reserve's major features is the rapid drop-off in bottom depth in the northern part of the reserve. The result is a narrow continental shelf in the area bringing the shelf break unusually close to the shore. In some areas depths of 100m occur within 6km of the shore and depths of 500m occur within 15km. In contrast, in the southern end of the

reserve, the continental shelf extends more than 30km from the coastline.

Coral reef and intertidal systems such as rocky shores, sandy beaches and mangroves are found in the state component of Ningaloo Marine Park.

Bathymetry in and around Ningaloo Marine Park



2.3 CULTURAL HERITAGE VALUES

The Ningaloo region has a strong cultural heritage, including an Indigenous heritage associated with a long Aboriginal occupation and a maritime heritage associated with the early European explorers of the WA coastline. The coastal environments contain evidence of a long association with and use of the resources of the marine environment by Indigenous people for over 30,000 years. The historic relationship between Indigenous people and the area of the reserve, however, is largely unknown.

The word 'Ningaloo' is an Aboriginal word that means a 'promontory' of high land jutting into the sea.

While there are many historic shipwrecks in the state component of Ningaloo Marine Park, there are no known historic shipwrecks or listed historic or cultural features in the reserve.

2.4 ECONOMIC VALUES

The region offers ideal conditions for nature-based tourism including whale shark, manta ray and whale watching, diving and snorkelling, and charter fishing. The Ningaloo region is visited by more than 200,000 people a year.

To cater for the large tourism interest in the region, an increasing number of operators, offering a range of nature-based tourism experiences, have established themselves in population centres associated with Ningaloo Marine Park and are increasingly important to the regional economy.

2.5 SOCIAL VALUES

The area offers a wealth of nature appreciation, recreation and nature-based tourism opportunities. The reserve offers unique marine environments and large marine animals in a natural setting. The region holds intrinsic aesthetic and spiritual importance for some visitors.

Recreational fishing is a major activity in the reserve with a high level of tag and release fishing for certain species.

2.6 NINGALOO REEF

Ningaloo Reef is one of the longest fringing barrier reefs in the world and is the only extensive fringing barrier reef that occurs on the western side of a continent. The reef contains a high diversity of corals (over 200 species), reef fish (over 460 species), molluscs, crustaceans and other reef plants and animals. Marine turtles, dugongs and dolphins frequently visit the lagoon and aggregations of whale sharks and manta rays are found on the outer reef. The olive seasnake is commonly observed on the outer reef. The area also provides valuable feeding grounds and resting places for many migratory shorebirds, waders and seabirds.

Further information about Ningaloo Reef and the state component of Ningaloo Marine Park can be found in the management plan for the Ningaloo Marine Park and Murion Islands Marine Management Area 2005-2015 (Management Plan No 52) which is available from: www.dec.wa.gov.au/marine/marine-conservation/approved-management-plans.html.

3 HOW IS NINGALOO MARINE PARK (COMMONWEALTH WATERS) MANAGED?

Management responsibility for Ningaloo Marine Park (Commonwealth Waters) (the reserve) rests with the Australian Government through the Director of National Parks (the Director). The Director has delegated authority under the EPBC Act and EPBC Regulations to specific members of the Marine Division of the Department of the Environment, Water, Heritage and the Arts (the department).

The department has a close working relationship with the WA Government. Under business agreements with the department, the WA Department of Environment and Conservation (WA DEC) and WA Department of Fisheries (WA DoF) implement several management actions for the reserve on behalf of the Director. As such, the reserve is managed cooperatively by the department, WA DEC and WA DoF.

Other agencies assist in the management of the reserve, including the Australian Customs and Border Protection Service. The WA Department for Planning and Infrastructure is responsible for regulations relating to boating safety.

The Director requires that any risks to the values and effective management of the reserve be assessed periodically to ensure adaptive and responsive management. Effective risk management may require adjustment to management priorities and the re-allocation of resources for management activities to respond to new or increasing risks.



3.1 STRATEGIC OBJECTIVES

The strategic objectives for managing the reserve are in line with the reserve's IUCN category "National Park" (see Part 3.2.2 – IUCN category) and the relevant management principles set out in Schedule 8 of the EPBC Regulations. These objectives direct management effort in achieving the goals for which the reserve was declared (see Part 3.2.1 – Proclamation of the reserve).

The reserve is protected and managed to preserve its natural condition according to the following objectives:

- provide for the preservation of the marine environment and key ecological processes of the reserve
- manage scientific, educational, recreational and tourism activities to maintain the natural state of the reserve
- promote education, nature appreciation and scientific research on the biological, geophysical and cultural values of the reserve, and
- encourage and regulate the appropriate use of the reserve.

3.2 LEGISLATIVE CONTEXT

3.2.1 Proclamation of the reserve

The reserve was declared by the Australian Government on 7 May 1987 by proclamation under the *National Parks and Wildlife Conservation Act 1975* (replaced by the EPBC Act in 1999) for the purposes of conservation, protection of marine wildlife and habitats, recreation, education, scientific research and to create a buffer zone for the state component of Ningaloo Marine Park.

3.2.2 IUCN category

The reserve is assigned the IUCN category II "National Park" which means that it is a protected area managed mainly for ecosystem conservation and recreation, and is managed in accordance with the management principles set down in Schedule 8 of the EPBC Regulations.

3.2.3 EPBC Act and Regulations

The reserve is protected and managed as a Commonwealth reserve under the EPBC Act and the EPBC Regulations. For more information on this legislation see: www.environment.gov.au/epbc.

3.2.4 Director of National Parks

The functions of the Director of National Parks (the Director) include the administration, management and control of Commonwealth reserves. The Director has a number of specified powers under the EPBC Act and EPBC Regulations allowing these functions to be carried on. The functions include the power to prohibit or control some activities and to issue authorisation for activities that are otherwise prohibited in Commonwealth reserves.

3.3 PROTECTING THE RESERVE'S VALUES

This section describes what the Director intends to do to protect the values of the reserve. More information on the values of the reserve can be found in Part 2 – Ningaloo Marine Park (Commonwealth Waters) description and values.

Environmental values

The Director intends to ensure the protection of the reserve's environmental values through the following activities.

Marine biodiversity

It is important to minimise human impacts to protect the marine biodiversity in the reserve. This is particularly important in the face of threats such as climate change and invasive species. To protect the marine life in the reserve, the Director intends to:

- manage activities in the reserve to ensure minimal human impact on the reserve's values
- assess applications for mining and associated activities near the reserve to ensure that these activities do not adversely affect the habitats, plants and animals in the reserve, and
- encourage and facilitate research and monitoring projects directly related to understanding the status and trends over time of species while ensuring minimal human impact to the reserve.

Water quality

It is essential to minimise human-induced disturbances in the reserve and surrounding areas to maintain the area's high water quality. To do this, the Director intends to:

- liaise with appropriate authorities to respond to incidents of pollution spills
- conduct education and information programs for reserve users regarding pollution, and
- monitor sea surface temperature trends over time to inform decision making relating to temperature related events.

Marine habitats

It is important to monitor ecosystem processes and minimise the influence of human impacts. To protect the varied habitats, the Director intends to:

- encourage and facilitate research and monitoring projects directly related to understanding the status and trends of habitats over time while ensuring minimal human impacts to the reserve
- assess applications for installations in the reserve with consideration of the potential impacts on the marine habitats, and
- assess applications for mining and associated activities near the reserve so that these activities do not adversely impact the marine habitats in the reserve.

Economic values

To protect the economic values of the reserve, the Director intends to:

- manage the human impacts of tourism so that they can be sustained at a level that does not damage the environmental values of the reserve that the tourism industry is built upon, and
- maintain ongoing scientific research and regulation of activities, which are essential elements in the maintenance of viable ecosystems.

Social values

To protect the social values of the reserve, the Director intends to:

- liaise with WA DoF to manage recreational fishing so that it remains at a sustainable level, while protecting the environmental values of the reserve
- where possible, seek to maintain consistency with rules that apply to recreational fishing in the state component of Ningaloo Marine Park, while managing in line with the reserve's IUCN category, and
- encourage compliance with codes of conduct and guidelines for interactions with large marine fauna.

4 INFORMATION FOR VISITORS AND RESERVE USERS

All persons/visitors wishing to undertake **commercial activities** in the reserve should contact the Ningaloo Marine Park (Commonwealth Waters) reserve manager prior to visiting the reserve.

Phone: (02) 6274 1111 **Email:** mpa@environment.gov.au

All people wishing to undertake **recreational activities** in the reserve should use this document to familiarise themselves with the rules that apply in the reserve prior to visiting.

For more information visit www.environment.gov.au/coasts/mpa/ningaloo/index.html or contact the Ningaloo Marine Park (Commonwealth Waters) reserve manager.

To enable access to the reserve by visitors in a way that does not pose unacceptable risks to visitor safety and to the values of the reserve, there are a number of rules that apply to visitors. Some of these rules apply to all visitors. Others apply to particular activities. They are consistent with the reserve's "National Park" category, the EPBC Act and EPBC Regulations, and the reserve's second management plan.

4.1 GENERAL INFORMATION FOR EVERYONE VISITING THE RESERVE

All visitors should conduct regular inspections and cleaning of their vessels to minimise the risk of introducing marine pests into the reserve.

Within the reserve:

- all forms of commercial fishing and commercial collecting are prohibited
- discharging sewage, including treated sewage, solid wastes or noxious offensive or polluting substances within the reserve is prohibited, and
- visitors should follow the guidelines for interactions with large marine fauna, including whales, whale sharks, manta rays and dugong, while in the reserve to protect these species. The guidelines can be found on the following pages.

Whale shark interaction code

Exclusive Contact Zone

- an exclusive contact zone of a 250 metre radius applies around any whale shark
- only one vessel at a time may operate within the zone for a maximum time of 90 minutes and at a speed of eight knots or less, and
- the first vessel within that zone is deemed to be 'in contact'. The second vessel to arrive must keep a distance of 250 metres from the shark, and any other vessels must be 400 metres from the shark.

Vessel operators in the Exclusive Contact Zone:

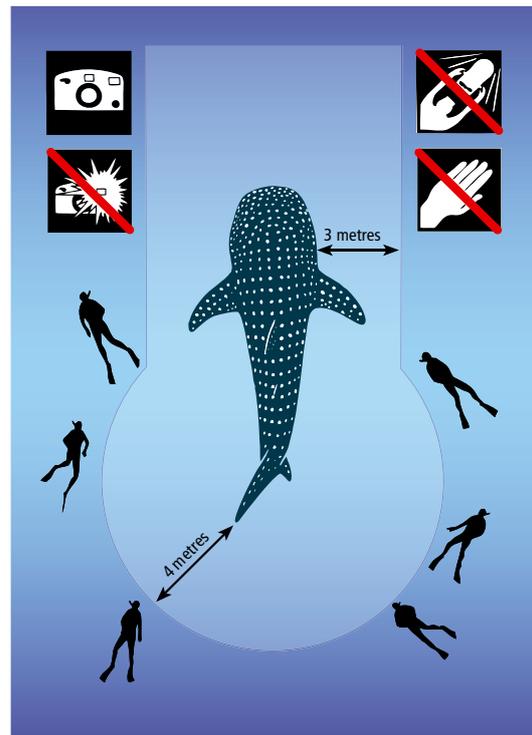
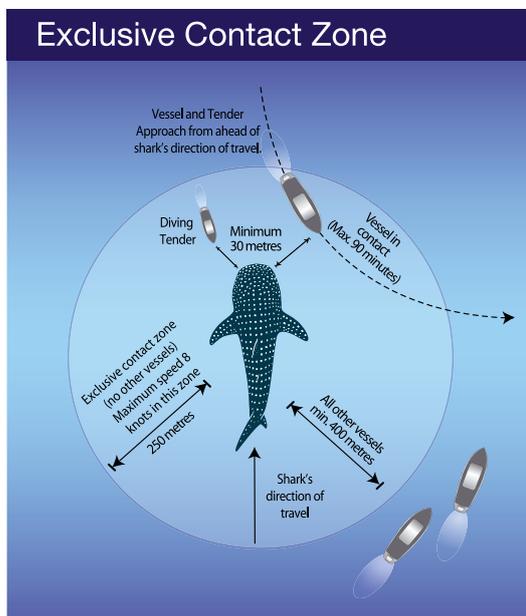
- must not approach closer than 30 metres to a shark
- should approach from ahead of the shark's direction of travel when dropping swimmers into the water, and

- must display both whale shark (commercial vessels only) and dive flags when swimmers are in the water.

Swimmers in the Exclusive Contact Zone

MUST NOT:

- attempt to touch or ride on a whale shark
- restrict the normal movement or behaviour of the shark
- approach closer than 3 metres from the head or body and 4 metres from the tail
- undertake flash photography
- use motorised propulsion aids, or
- exceed 10 people in the water at any one time.



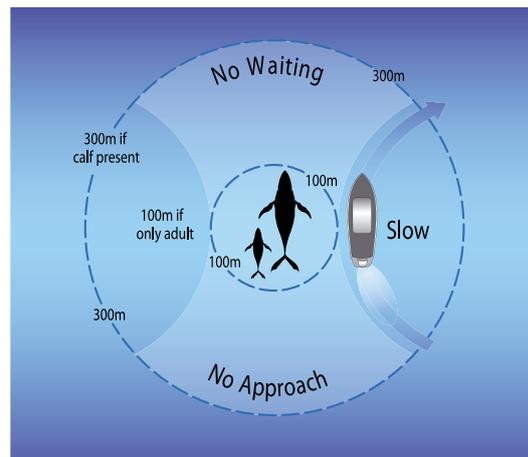
Guidelines for whale watching

Vessels:

- be alert and watch for whales at all times
- a vessel must not approach an adult whale within a distance of 100 metres
- a vessel must not approach a whale calf within a distance of 300 metres
- when within 300 metres of adult whales, a vessel must operate quietly at a constant speed of less than 5 knots and not approach the whales from within an arc of 60 degrees in front or behind their direction of travel
- a vessel must not block the direction of travel of a whale or cause it to alter its direction or speed of travel
- a vessel must not disperse or separate a group of whales
- vessels must move to a distance of 300 metres, if whales are visibly disturbed (such as extended diving or evading vessels), and
- where a whale approaches a vessel to a distance of less than 100 metres, the vessel master must place its motor/s in neutral or move the vessel at less than 5 knots away from the whale until the vessel is outside the no approach zone.

Swimming:

- swimming with, feeding or touching whales is not permitted. Such actions may cause stress to the whale and are dangerous to people, and
- if you are in the water and a whale approaches, you must maintain a minimum of 30 metres distance between yourself and the whale.



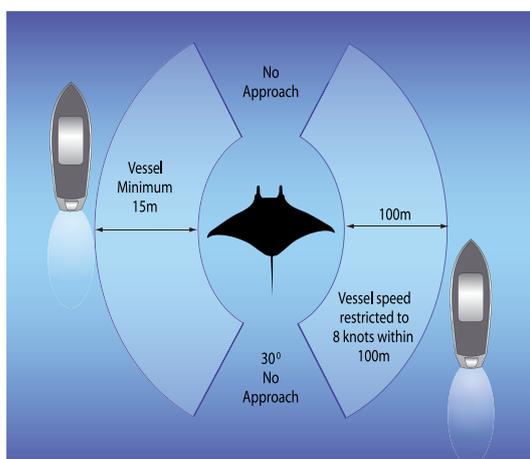
Guidelines for interacting with manta rays

Swimmers and divers should at all times:

- maintain a distance of more than 2 metres from a manta ray
- minimise movement while in close proximity to a manta ray
- not approach a manta ray head-on
- not block the path of an approaching manta ray, and
- not touch or attempt to touch a manta ray.

Fishing in close proximity to manta rays:

- Anglers that are aware of manta rays within their close proximity should take all care to avoid snagging them. This includes retrieving lines, lure fishing and spear fishing. Manta rays are a protected species in Ningaloo Marine Park.

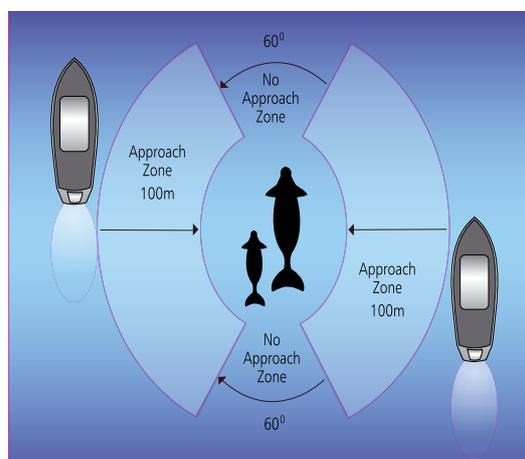


Guidelines for interacting with dugong

If you encounter a dugong:

- watch from at least 100 metres away, keep your speed at or below 10 knots and never separate a mother and calf
- disengage the propeller, remain quiet and avoid making sudden movements or noises
- observe from the boat. Never disturb the natural behaviours of dugong by attempting to swim or dive toward, touch, grab, feed, chase or harass them, and
- if you have finished watching the dugong, they change their behaviour or move toward the boat, move away slowly at a speed of less than 5 knots.

For further rules that apply to all visitors to the reserve please refer to Part 5.1 – Rules and Regulations.



4.2 RECREATIONAL FISHERS

Please also read Part 4.1 – General information for everyone visiting the reserve

Recreational (or non-commercial) fishing is a major activity in the reserve. Recreational fishers are authorised to fish in the reserve in a sustainable and responsible manner. In order to achieve this, recreational fishing must be undertaken in accordance with the current authorisation and conditions for recreational fishing. These conditions are consistent with the rules that apply in the state component of Ningaloo Marine Park.

To ensure recreational fishing rules in both the state and Commonwealth components of Ningaloo

Marine Park remain consistent, the recreational fishing authorisation and conditions in the reserve will be reviewed approximately every six months. When updated, the authorisation and conditions will be advertised in local newspapers and through local distributors and will be made available on the department's website: www.environment.gov.au/coasts/mpa/ningaloo/index.html. Where possible, stakeholders will be informed directly. To obtain a copy of the current authorisation and conditions for recreational fishing in the reserve visit the department's website (address above) or contact the Ningaloo Marine Park (Commonwealth Waters) reserve manager (see Part 7 – Contacts and further information).

As an example, the recreational fishing authorisation and conditions that is valid from 3 July 2009 to 31 January 2010 is overleaf.



Australian Government

Department of the Environment, Water, Heritage and the Arts

Director of National Parks

Environment Protection and Biodiversity Conservation Act 1999

Section 359B

**APPROVAL OF NON-COMMERCIAL FISHING IN NINGALOO MARINE PARK
(COMMONWEALTH WATERS)**

Approved area/s	Ningaloo Marine Park (Commonwealth Waters)
Approved person/s	All persons taking part in non-commercial fishing in Ningaloo Marine Park (Commonwealth Waters)
Approved action/s	Non-commercial fishing
Conditions of approval	Comply with all applicable Commonwealth and state laws, including: a. hold all relevant licenses and permits required; b. comply with the legal lengths, catch limits, permitted gear and other requirements that apply to marine recreational fishing under the <i>WA Fish Resources Management Act 1994</i> and relevant regulations, policies, plans, notices and orders made under that Act, subject to compliance with: i. any determinations made by the Director of National Parks under regulation 12.35 of the <i>Environment Protection and Biodiversity Conservation Regulations 2000</i> ; and ii. other notices, information, guidelines and codes of conduct or protocols issued by, or under the authority of, the Director of National Parks.

Failure to adhere to the conditions of approval may result in variation or revocation of this approval. This approval remains in effect until 31 January 2010 unless it is revoked sooner.

Director
Tropical West Marine Conservation
Department of the Environment, Water, Heritage and the Arts
Delegate of the Director of National Parks

4.3 COMMERCIAL TOURISM OPERATORS

Please also read Part 4.1 – General information for everyone visiting the reserve

Ningaloo Marine Park (Commonwealth Waters) is managed to enable visitors to the reserve to appreciate, enjoy and understand the values of the reserve in a way that maintains its conservation significance. In order to achieve this, a number of conditions apply to commercial tourism operators wishing to visit the reserve.

Commercial tourism operators must hold a current authorisation from the Director of National Parks in order to visit the reserve. A set of conditions apply to all authorisations. In applying for authorisation, commercial tourism operators are required to indicate the activities offered or planned to be undertaken by their businesses. The department will use this information to assess applications and determine the conditions (if any) that may accompany the authorisation.

Commercial tourism operators may use images and video captured at the reserve for promotional purposes. Any other use of images or video requires authorisation from the Director (see Part 4.4 – Commercial Photographers / Filmmakers).

An example of a commercial tourism authorisation and accompanying conditions is overleaf. Contact the Ningaloo Marine Park (Commonwealth Waters) reserve manager if you wish to apply for authorisation (see Part 7 – Contacts and further information).





Australian Government

**Department of the Environment, Water, Heritage and the Arts
Director of National Parks**

Environment Protection and Biodiversity Conservation Act 1999

Section 359B

**APPROVAL OF COMMERCIAL TOURISM OPERATIONS IN NINGALOO MARINE PARK
(COMMONWEALTH WATERS)**

Approved area	Ningaloo Marine Park (Commonwealth Waters)
Approved person/s	<i>[Insert name/s of approved person/s or business]</i>
Approved vessel/s	<i>[Insert vessel details]</i>
Approved action/s	Commercial tourism operations – <i>[insert specific activities]</i> .
Conditions of Approval	As specified in: “ <i>Conditions of Approval for Commercial Tourism Operations in Ningaloo Marine Park (Commonwealth Waters)</i> ” – Conditions relevant to the activities specified on the application may be added.

Failure to adhere to the conditions of approval may result in revocation of this approval.

This approval remains in effect until *[Date]* for Ningaloo Marine Park (Commonwealth Waters), unless it is revoked sooner.

*Director
Tropical West Marine Conservation
Department of the Environment, Water, Heritage and the Arts
Delegate of the Director of National Parks*

CONDITIONS OF APPROVAL

To conduct Commercial Tourism Operations in Ningaloo Marine Park (Commonwealth Waters)

Interpretation

In these conditions, unless the contrary intention appears

Act means the *Environment Protection and Biodiversity Conservation Act 1999*, and includes any Act which amends or replaces it.

Approval Holder means the person or persons (individuals and companies) specified as an Approved person in the Approval, and, where applicable, includes staff of the Approved person.

Approved Activity means the activity or activities authorised by this Approval.

Department means the Department of the Environment, Water, Heritage and the Arts.

Director means the Director of National Parks, and includes any statutory successor to the Director and the Director's servants and agents.

Nominated Vessel means the vessel nominated on the Approval as the vessel to be used by the Approval Holder to carry out the Approved Activity, or the vessel changed in accordance with these conditions of approval.

Regulations means the *Environment Protection and Biodiversity Conservation Regulations 2000* and includes any Regulations that amend or replace it.

Reserve means the Ningaloo Marine Park (Commonwealth Waters).

Staff means the Approval Holder's employees, contractors and other agents who take part in the Approved Activity.

General Conditions

1. The Approval Holder must not undertake the Approved Activity before the commencement of the Approval.
2. If the Approval Holder is a company or other incorporated body, the Approval Holder must not have as a director or office holder a person who has been convicted of an offence against the Act or the Regulations within the previous five years. This prohibition applies to the period of five years from the date of conviction, not the period of five years prior to the issue of the Approval.
3. The Approval Holder must not use directly in the conduct of the Approved Activity the services of any person who has within the previous five years been convicted of an offence against the Act or the Regulations. This prohibition applies to the period of five years from the date of conviction, not the period of five years prior to the issue of the Approval.



4. The Approval cannot be sold or transferred (including transfer of the benefit of the Approval, whether by lease, hire or otherwise) to another person, body or organisation.
5. A copy of the Approval and these conditions must be kept on board each Nominated Vessel and must be produced for inspection on request by an authorised officer.

Note: It is an offence against regulation 14.01 of the Regulations to fail to produce an Approval for inspection on request by a ranger, warden or inspector. The Approval conditions (or a copy) may be kept in the Nominated Vessel provided that it can be produced for inspection when requested.

6. The Approval Holder must notify the department of any changes to the information included in the Approval Holder's application for this Approval (eg the Nominated Vessel changes) within 14 days of this change becoming known.
7. For the purpose of evaluating the Approved Activity, the Approval Holder must, subject to availability of space and the provision of reasonable notice, allow a department staff member to accompany trips from time to time at no cost to the department.
8. All staff of the Approval Holder and other persons involved in the Approved Activity must be fully informed of the Reserve, its management arrangements and these conditions before taking part in the conduct of the Approved Activity.
9. The Approval Holder must take all reasonable steps to ensure that the Approval Holder's staff have appropriate training, qualifications (including relevant first aid) and experience to competently perform their functions and duties in relation to the Approved Activity.

Complying with Legislation

10. The Approved Activity must be conducted in accordance with the Act and Regulations, all other applicable Commonwealth and state laws, these conditions and other notices, information, guidelines and codes of conduct or protocols issued by, or under the authority of, the Director of National Parks.
11. The Approval Holder must allow any ranger, warden or inspector unrestricted access to the Nominated Vessel at any time for the purpose of performing functions and exercising powers under the Act.
12. The Approval Holder must—and must take all reasonable steps to ensure that the Approval Holder's staff—abide by all lawful directions given by a ranger, warden or inspector while in the Reserve.

Insurance Related Conditions

13. The Approval Holder must not conduct the Approved Activity unless the Approval Holder holds a current public liability policy of insurance with an insurer approved by the Director. The public liability policy of insurance must be for an amount of not less than \$10 million in respect of any single claim and must be sufficient to cover any liability the Approval Holder may have to third parties, or to the Director under the Release and Indemnity.
14. The Approval Holder must provide a certificate of currency for the policy of insurance evidencing that the policy covers all activities in the Reserve of the Approval Holder, their staff and clients. The certificate must be provided:
 - a). on each occasion when the policy is renewed or when a new policy is taken out, and
 - b). at any other time upon request by the Director.

ACTIVITY AND RESERVE CONDITIONS

Occupational Health and Safety

15. The Approval Holder is responsible for the safety and well being of the Approval Holder's staff and all other persons taking part in the Approved Activity, while undertaking the Approved Activity in the reserve. The Approval Holder must take all reasonable steps to ensure that the Approval Holder's staff and all other persons taking part in the Approved Activity are not exposed to risks to their health or safety, and are fully informed of the potential hazards that they may encounter, while undertaking the Approved Activity in the Reserve.

16. The Approval Holder must ensure that procedures are in place to minimise the risk of potential hazards to the Approval Holder's staff and all other persons taking part in the Approved Activity.

Note: These procedures may include, but are not limited to: pre-trip briefings; a communication plan that includes periodic check-in with someone on the mainland; guidance on the use of safety equipment and head counts.

17. If any of the Approval Holder's staff, or any other person taking part in the Approved Activity is seriously injured, becomes seriously ill or goes missing while in the Reserve, the Approval Holder must:

- a). notify the relevant authority as soon as possible
- b). comply with any requests or directions from those authorities in relation to the safety of that person or any other person, and
- c). notify the Department as soon as possible by ringing 0419 293 465¹.

Reporting Requirements

18. The Approval Holder must assist and cooperate with the Director in gathering and providing any data in relation to the Reserve that may be reasonably required for research and management purposes.

19. All reports, notices and other documents required to be provided by the Approval Holder under these conditions must be sent to the Ningaloo Marine Park (Commonwealth Waters) Reserve Manager at the Department, GPO Box 787, Canberra ACT 2601, or by fax to 02 6274 1771 or email mpa@environment.gov.au

20. The Approval Holder must report all gear, equipment and other articles lost in the Reserve that is likely to cause significant environmental harm, to the Department as soon as possible and within 10 days in any event, after the loss occurs. The report must include a description of what was lost, the location at which they were lost or believed to have been lost and the date and time at which they were lost.

¹ Note: The Department is not an emergency response agency and all relevant emergency response agencies and authorities should be contacted prior to informing the Department of any incident.



Vessel Operating Conditions

21. The Approval Holder must ensure that the Nominated Vessel is registered, is suitable for the conduct of the Approved Activity, has appropriate safety equipment on board at all times, and is operated and maintained in accordance with all relevant and applicable Commonwealth, state and Territory laws. The Approval Holder must, if requested by the Director, provide copies of all relevant certificates and other documents evidencing compliance with this condition.
22. The Approval Holder must ensure that a person qualified to operate the Nominated Vessel remains on board at all times to monitor and assure secure anchorage.
23. The Approval Holder must ensure that:
 - a). minimal damage is caused to the marine environment as a result of anchoring in the Reserve, and
 - b). equipment and vessels (including tender vessels) must not be left at the Reserve unattended.

Conditions for SCUBA Diving at the Reserve

24. Where the Approved Activity includes SCUBA diving or snorkelling, the Approval Holder must ensure that:
 - a). all staff, students or any other person involved in the conduct of the diving operations hold an appropriate and current SCUBA diving qualification
 - b). the dive supervisor holds an appropriate first aid qualification (at a minimum St Johns Advanced Resuscitation Certificate or equivalent), and
 - c). there is in place an emergency response plan that provides for prompt evacuation of divers suffering dive related illness.

Reserve Specific Conditions

25. The Approval Holder must take all reasonable steps to minimise the impact on the environment of the Approved Activity.
26. All staff and any other persons taking part in the Approved Activity must not:
 - a). construct any structure, or
 - b). leave any litter or other refuse, discharge or substances.
27. The Approval Holder must not, and must take all reasonable steps to ensure that the Approval Holder's staff and all other persons involved in the Approved Activity do not feed any animal while diving or snorkelling.
28. The Approval Holder must hold a current Western Australian Fisheries Fishing Tour Licence.
29. The Approval Holder and the Approval Holder's staff must ensure recreational fishing is conducted in accordance with the current Approval of Non-Commercial Fishing in Ningaloo Marine Park (Commonwealth Waters).
30. If the Approved Activity includes Whale Shark watching, the Approval Holder must hold a current Class 'E' Whale Shark Interaction Tour Licence, issued by the Western Australian Department of Environment and Conservation.

31. The Approval Holder must not advertise the location of whale sharks within seven days of obtaining such information.
32. The Approval Holder shall comply with the provisions of the Wildlife Conservation (Close Season for Whale Sharks) Notice 1996 declared under the Western Australian Wildlife Conservation Act 1950.
33. The Approval Holder must—and must take all reasonable steps to ensure that the Approval Holder's staff and all other persons taking part in the Approved Activity—comply with the Codes of Conduct for interacting with Whale Sharks attached to this Approval.
34. The Approval Holder must not—and must take all reasonable steps to ensure that all other persons involved in the Approved Activity do not—damage, interfere with, dispose of or remove any part of a shipwreck.

Tourism Specific Conditions

35. The Approval Holder must ensure that the Approval Holder's staff and the Approval Holder's clients are provided with accurate information about the Reserve.
36. The Approval Holder must provide the Department with a report after each trip detailing the number of days on which native species were taken, the species taken, the number of individuals taken and the location at which they were taken.

Note that additional conditions, termed 'special conditions', may be added to your Approval upon assessment of your application.



4.4 COMMERCIAL PHOTOGRAPHERS/ FILMMAKERS

Please also read Part 4.1 – General information for everyone visiting the reserve

Capturing images (still or video) for commercial purposes requires authorisation from the Director of National Parks. Professional film crews or photographers travelling to Ningaloo Marine Park (Commonwealth Waters) on commercial tour operators' vessels require separate authorisation from the Director, i.e. in addition to any authorisation already granted by the Director to the commercial tour operator.

An example of a commercial media operations authorisation and conditions follows.

Contact the Ningaloo Marine Park (Commonwealth Waters) reserve manager if you wish to apply for authorisation (see Part 7 – Contacts and further information).





Australian Government

Department of the Environment, Water, Heritage and the Arts

Director of National Parks

Environment Protection and Biodiversity Conservation Act 1999

Section 359B

APPROVAL OF MEDIA OPERATIONS IN NINGALOO MARINE PARK (COMMONWEALTH WATERS)

Approved area	Ningaloo Marine Park (Commonwealth Waters)
Approved person/s	<i>[Insert name/s of approved person/s or business]</i>
Approved vessel/s	<i>[Insert vessel details]</i>
Approved action/s	Media operations – <i>[insert specific activities]</i> .
Conditions of Approval	As specified in: “ <i>Conditions of Approval for Media Operations in Ningaloo Marine Park (Commonwealth Waters)</i> ” – Conditions relevant to the activities specified on the application may be added.

Failure to adhere to the conditions of approval may result in revocation of this approval.

This approval remains in effect until *[Date]* for Ningaloo Marine Park (Commonwealth Waters), unless it is revoked sooner.

*Director
Tropical West Marine Conservation
Department of the Environment, Water, Heritage and the Arts
Delegate of the Director of National Parks*



CONDITIONS OF APPROVAL for Media Operations in Ningaloo Marine Park (Commonwealth Waters)

Interpretation

In these conditions, unless the contrary intention appears

Act means the *Environment Protection and Biodiversity Conservation Act 1999*, and includes any Act which amends or replaces it.

Approval Holder means the person or persons (individuals and companies) specified as an Approved person in the Approval, and, where applicable, includes staff of the Approved person.

Approved Activity means the activity or activities authorised by this Approval.

Department means the Department of the Environment, Water, Heritage and the Arts.

Director means the Director of National Parks, and includes any statutory successor to the Director and the Director's servants and agents.

Nominated Vessel means the vessel nominated on the Approval as the vessel to be used by the Approval Holder to carry out the Approved Activity, or the vessel changed in accordance with these conditions of approval.

Regulations means the *Environment Protection and Biodiversity Conservation Regulations 2000* and includes any Regulations that amend or replace it.

Reserve means the Ningaloo Marine Park (Commonwealth Waters).

Staff means the Approval Holder's employees, contractors and other agents who take part in the Approved Activity.

General Conditions

1. The Approval Holder must not undertake the Approved Activity before the commencement of the Approval.
2. If the Approval Holder is a company or other incorporated body, the Approval Holder must not have as a director or office holder a person who has been convicted of an offence against the Act or the Regulations within the previous five years. This prohibition applies to the period of five years from the date of conviction, not the period of five years prior to the issue of the Approval.
3. The Approval Holder must not use directly in the conduct of the Approved Activity the services of any person who has within the previous five years been convicted of an offence against the Act or the Regulations. This prohibition applies to the period of five years from the date of conviction, not the period of five years prior to the issue of the Approval.
4. The Approval cannot be sold or transferred (including transfer of the benefit of the Approval, whether by lease, hire or otherwise) to another person, body or organisation.

5. A copy of the Approval and these conditions must be kept on board each Nominated Vessel and must be produced for inspection on request by an authorised officer.

Note: It is an offence against regulation 14.01 of the Regulations to fail to produce an Approval for inspection on request by a ranger, warden or inspector. The Approval conditions (or a copy) may be kept in the Nominated Vessel provided that it can be produced for inspection when requested.

6. The Approval Holder must notify the Department of any changes to the information included in the Approval Holder's application for this Approval (eg the Nominated Vessel changes) within 14 days of this change becoming known.
7. For the purpose of evaluating the Approved Activity, the Approval Holder must, subject to availability of space and the provision of reasonable notice, allow a Department staff member to accompany trips from time to time at no cost to the Department.
8. All staff of the Approval Holder and other persons involved in the Approved Activity must be fully informed of the Reserve, its management arrangements and these conditions before taking part in the conduct of the Approved Activity.
9. The Approval Holder must take all reasonable steps to ensure that the Approval Holder's staff have appropriate training, qualifications (including relevant first aid) and experience to competently perform their functions and duties in relation to the Approved Activity.
10. The Approval Holder must take all reasonable steps to minimise the impact on the environment of the Approved Activity.

Complying with Legislation

11. The Approved Activity must be conducted in accordance with the Act and Regulations, all other applicable Commonwealth and state laws, these conditions and other notices, information, guidelines and codes of conduct or protocols issued by, or under the authority of, the Director of National Parks.
12. The Approval Holder must allow any ranger, warden or inspector unrestricted access to the Nominated Vessel at any time for the purpose of performing functions and exercising powers under the Act.
13. The Approval Holder must—and must take all reasonable steps to ensure that the Approval Holder's staff—abide by all lawful directions given by a ranger, warden or inspector while in the Reserve.

Insurance Related Conditions

14. The Approval Holder must not conduct the Approved Activity unless the Approval Holder holds a current public liability policy of insurance with an insurer approved by the Director. The public liability policy of insurance must be for an amount of not less than \$10 million in respect of any single claim and must be sufficient to cover any liability the Approval Holder may have to third parties, or to the Director under the Release and Indemnity.
15. The Approval Holder must provide a certificate of currency for the policy of insurance evidencing that the policy covers all activities in the Reserve of the Approval Holder, their staff and clients. The certificate must be provided:
 - a). on each occasion when the policy is renewed or when a new policy is taken out, and
 - b). at any other time upon request by the Director.



ACTIVITY AND RESERVE CONDITIONS

Occupational Health and Safety

16. The Approval Holder is responsible for the safety and well being of the Approval Holder's staff and all other persons taking part in the Approved Activity.
17. The Approval Holder must take all reasonable steps to ensure that the Approval Holder's staff and all other persons taking part in the Approved Activity are not exposed to risks to their health or safety, and are fully informed of the potential hazards that they may encounter, while undertaking the Approved Activity in the Reserve.
18. The Approval Holder must ensure that procedures are in place to minimise the risk of potential hazards to the Approval Holder's staff and all other persons taking part in the Approved Activity.

Note: These procedures may include, but are not limited to: pre-trip briefings; a communication plan that includes periodic check-in with someone on the mainland; guidance on the use of safety equipment and head counts.

19. If any of the Approval Holder's staff, or any other person taking part in the Approved Activity is seriously injured, becomes seriously ill or goes missing while in the Reserve, the Approval Holder must:
 - a). notify the relevant authority as soon as possible
 - b). comply with any requests or directions from those authorities in relation to the safety of that person or any other person, and
 - c). notify the Department as soon as possible by ringing 0419 293 465¹.

Reporting Requirements

20. The Approval Holder must assist and cooperate with the Director in gathering and providing any data in relation to the Reserve that may be reasonably required for research and management purposes.
21. All reports, notices and other documents required to be provided by the Approval Holder under these conditions must be sent to the Ningaloo Marine Park (Commonwealth Waters) Reserve Manager at the Department, GPO Box 787, Canberra ACT 2601, or by fax to 02 6274 1771 or email mpa@environment.gov.au
22. At least two weeks prior to entering the Reserve to carry out the Approved Activity the Approval Holder must provide the Director with the following information:
 - a). date(s) of the proposed visit(s) to the Reserve, and
 - b). whether additional accommodation on board the Nominated Vessel is available.
23. The Approval Holder must report all gear, equipment and other articles lost in the Reserve that is likely to cause significant environmental harm, to the Department as soon as possible and within 10 days in any event, after the loss occurs. The report must include a description of what was lost, the location at which they were lost or believed to have been lost and the date and time at which they were lost.

¹ Note: the Department is not an emergency response agency and all relevant emergency response agencies and authorities should be contacted prior to informing the Department of any incident.

Vessel Operating Conditions

24. The Approval Holder must ensure that the Nominated Vessel is registered, is suitable for the conduct of the Approved Activity, has appropriate safety equipment on board at all times, and is operated and maintained in accordance with all relevant and applicable Commonwealth, state and territory laws. The Approval Holder must, if requested by the Director, provide copies of all relevant certificates and other documents evidencing compliance with this condition.
25. The Approval Holder must ensure that a person qualified to operate the Nominated Vessel remains on board at all times to monitor and assure secure anchorage.
26. The Approval Holder must ensure that:
 - a). minimal damage is caused to the marine environment as a result of anchoring in the Reserve, and
 - b). equipment and vessels (including tender vessels) must not be left at the Reserve unattended.

Conditions for SCUBA Diving at the Reserve

27. Where the Approved Activity includes SCUBA diving or snorkelling, the Approval Holder must ensure that:
 - a). all staff, students or any other person involved in the conduct of the diving operations hold an appropriate and current SCUBA diving qualification
 - b). the dive supervisor holds an appropriate first aid qualification (at a minimum St Johns Advanced Resuscitation Certificate or equivalent), and
 - c). there is in place an emergency response plan that provides for prompt evacuation of divers suffering dive related illness.

Reserve Specific Conditions

28. All staff and any other persons taking part in the Approved Activity must not:
 - a). construct any structure, or
 - b). leave any litter or other refuse, discharge or substances.
29. The Approval Holder must not—and must take all reasonable steps to ensure that the Approval Holder's staff and all other persons involved in the Approved Activity do not—feed any animal while diving or snorkelling.
30. The Approval Holder and the Approval Holder's staff must ensure recreational fishing is conducted in accordance with the Approval of Non-Commercial Fishing in Ningaloo Marine Park (Commonwealth Waters).
31. If the Approved Activity includes Whale Shark watching, the Approval Holder must hold a current Class 'E' Whale Shark Interaction Tour Licence, issued by the Western Australian Department of Environment and Conservation.
32. The Approval Holder must not advertise the location of whale sharks within seven days of obtaining such information.
33. The Approval Holder shall comply with the provisions of the Wildlife Conservation (Close Season for Whale Sharks) Notice 1996 declared under the Western Australian Wildlife Conservation Act 1950.



34. The Approval Holder must—and must take all reasonable steps to ensure that the Approval Holder's staff and all other persons taking part in the Approved Activity—comply with the Codes of Conduct for interacting with Whale Sharks attached to this Approval.

35. The Approval Holder must not—and must take all reasonable steps to ensure that all other persons involved in the Approved Activity do not—damage, interfere with, dispose of or remove any part of a shipwreck.

Media Specific Conditions

36. The Approval Holder must make such acknowledgements or disclaimers as are reasonably required by the Director in relation to the use of any media (including but not limited to photography, sound recordings, video) captured under this Approval.

Note that additional conditions, termed 'special conditions', may be added to your Approval upon assessment of your application.

4.5 SCIENTIFIC RESEARCHERS

Please also read Part 4.1 – General information for everyone visiting the reserve

Ningaloo Marine Park (Commonwealth Waters) is a protected area managed mainly for ecosystem conservation and recreation (see Part 3.2.2 – IUCN category). Scientific research is undertaken to increase understanding of the reserve's values and risks to them, while minimising the impacts of research activities to those values.

Authorisation from the Director of National Parks is required to undertake any scientific research in the reserve. Scientific research involving the removal of wildlife, or part thereof, will be considered. Under the EPBC Act, research involving taking native species requires authorisation in the form of an approval. For all other scientific research, authorisation is made via the issuing of a permit under the EPBC Regulations. Depending on the type of research, additional authorisations may be required. Please contact the Ningaloo Marine Park (Commonwealth Waters) reserve manager for further information (see Part 7 – Contacts and further information).

An example of a scientific research approval and conditions is overleaf.





Australian Government

**Department of the Environment, Water, Heritage and the Arts
Director of National Parks**

Environment Protection and Biodiversity Conservation Act 1999

Section 359B

**APPROVAL OF TAKING NATIVE SPECIES FOR SCIENTIFIC RESEARCH IN NINGALOO MARINE PARK
(COMMONWEALTH WATERS)**

Approved area	Ningaloo Marine Park (Commonwealth Waters)
Approved person/s	<i>[Insert name/s of approved person/s or business]</i>
Approved vessel/s	<i>[Insert vessel details]</i>
Approved action/s	Taking native species for scientific research – <i>[insert specific activities]</i> .
Conditions of Approval	As specified in: “ <i>Conditions of Approval to take native species for scientific research in Ningaloo Marine Park (Commonwealth Waters)</i> ” – Conditions relevant to the activities specified on the application may be added.

Failure to adhere to the conditions of approval may result in revocation of this approval.

This approval remains in effect until *[Date]* for the Ningaloo Marine Park (Commonwealth Waters), unless it is revoked sooner.

*Director
Tropical West Marine Conservation
Department of the Environment, Water, Heritage and the Arts
Delegate of the Director of National Parks*

CONDITIONS OF APPROVAL

To take native species for scientific research in Ningaloo Marine Park (Commonwealth Waters)

Interpretation

In these conditions, unless the contrary intention appears

Act means the *Environment Protection and Biodiversity Conservation Act 1999*, and includes any Act which amends or replaces it.

Approval Holder means the person or persons (individuals and companies) specified as an Approved person in the Approval, and, where applicable, includes staff of the Approved person.

Approved Activity means the activity or activities authorised by this Approval.

Department means the Department of the Environment, Water, Heritage and the Arts.

Director means the Director of National Parks, and includes any statutory successor to the Director and the Director's servants and agents.

Nominated Vessel means the vessel nominated on the Approval as the vessel to be used by the Approval Holder to carry out the Approved Activity, or the vessel changed in accordance with these conditions of approval.

Regulations means the *Environment Protection and Biodiversity Conservation Regulations 2000* and includes any Regulations that amend or replace it.

Reserve means the Ningaloo Marine Park (Commonwealth Waters).

Staff means the Approval Holder's employees, contractors and other agents who take part in the Approved Activity.

General Conditions

1. The Approval Holder must not undertake the Approved Activity before the commencement of the Approval.
2. If the Approval Holder is a company or other incorporated body, the Approval Holder must not have, as a director or office holder, a person who has been convicted of an offence against the Act or the Regulations within the previous five years. This prohibition applies to the period of five years from the date of conviction, not the period of five years prior to the issue of the Approval.
3. The Approval Holder must not use directly in the conduct of the Approved Activity the services of any person who has within the previous five years been convicted of an offence against the Act or the Regulations. This prohibition applies to the period of five years from the date of conviction, not the period of five years prior to the issue of the Approval.
4. The Approval cannot be sold or transferred (including transfer of the benefit of the Approval, whether by lease, hire or otherwise) to another person, body or organisation.



5. A copy of the Approval and these conditions must be kept on board each Nominated Vessel and must be produced for inspection on request by an authorised officer.

Note: It is an offence against regulation 14.01 of the Regulations to fail to produce an Approval for inspection on request by a ranger, warden or inspector. The Approval conditions (or a copy) may be kept in the Nominated Vessel provided that it can be produced for inspection when requested.

6. The Approval Holder must notify the Department of any changes to the information included in the Approval Holder's application for this Approval (eg the Nominated Vessel changes) within 14 days of this change becoming known.
7. For the purpose of evaluating the Approved Activity, the Approval Holder must, subject to availability of space and the provision of reasonable notice, allow a Department staff member to accompany trips from time to time at no cost to the Department.
8. All staff and students of the Approval Holder involved in the conduct of the Approved Activity must be fully informed of the Reserve, its management arrangements and these conditions before taking part in the conduct of the Approved Activity.
9. The Approval Holder must take all reasonable steps to ensure that the Approval Holder's staff have appropriate training, qualifications (including relevant first aid) and experience to competently perform their functions and duties in relation to the Approved Activity.

Complying with Legislation

10. The Approved Activity must be conducted in accordance with the Act and Regulations, all other applicable Commonwealth and state laws, these conditions and other notices, information, guidelines and codes of conduct or protocols issued by, or under the authority of, the Director of National Parks.
11. The Approval Holder must allow any ranger, warden or inspector unrestricted access to the Nominated Vessel at any time for the purpose of performing functions and exercising powers under the Act.
12. The Approval Holder must—and must take all reasonable steps to ensure that the Approval Holder's staff—abide by all lawful directions given by a ranger, warden or inspector while in the Reserve.

ACTIVITY AND RESERVE CONDITIONS

Occupational Health and Safety

13. The Approval Holder is responsible for the safety and well being of the Approval Holder's staff and all other persons taking part in the Approved Activity, while undertaking the Approved Activity in the Reserve. The Approval Holder must take all reasonable steps to ensure that the Approval Holder's staff and all other persons taking part in the Approved Activity are not exposed to risks to their health or safety, and are fully informed of the potential hazards that they may encounter, while undertaking the Approved Activity in the Reserve.
14. The Approval Holder must ensure that procedures are in place to minimise the risk of potential hazards to the Approval Holder's staff and all other persons taking part in the Approved Activity.
Note: These procedures may include, but are not limited to: pre-trip briefings; a communication plan that includes periodic check-in with someone on the mainland; guidance on the use of safety equipment and head counts.
15. If any of the Approval Holder's staff, or any other person taking part in the Approved Activity is seriously injured, becomes seriously ill or goes missing while in the Reserve, the Approval Holder must:
 - a). notify the relevant authority as soon as possible;
 - b). comply with any requests or directions from those authorities in relation to the safety of that person or any other person, and
 - c). notify the Department as soon as possible by ringing 0419 293 465¹.

Reporting Requirements

16. The Approval Holder must assist and cooperate with the Director in gathering and providing any data in relation to the Reserve that may be reasonably required for research and management purposes.
17. All reports, notices and other documents required to be provided by the Approval Holder under these conditions must be sent to the Ningaloo Marine Park (Commonwealth Waters) Reserve Manager at the Department, GPO Box 787, Canberra ACT 2601, or by fax to 02 6274 1771 or email mpa@environment.gov.au
18. At least two weeks prior to entering the Reserve to carry out the Approved Activity the Approval Holder must provide the Director with the following information:
 - a). date(s) of the proposed visit(s) to the Reserve, and
 - b). whether additional accommodation on board the Nominated Vessel is available.
19. The Approval Holder must report all gear, equipment and other articles lost in the Reserve that is likely to cause significant environmental harm, to the Department as soon as possible and within 10 days in any event, after the loss occurs. The report must include a description of what was lost, the location at which they were lost or believed to have been lost and the date and time at which they were lost.

¹ Note: The Department is not an emergency response agency and all relevant emergency response agencies and authorities should be contacted prior to informing the Department of any incident.



Vessel Operating Conditions

20. The Approval Holder must ensure that the Nominated Vessel is registered, is suitable for the conduct of the Approved Activity, has appropriate safety equipment on board at all times, and is operated and maintained in accordance with all relevant and applicable Commonwealth, state and Territory laws. The Approval Holder must, if requested by the Director, provide copies of all relevant certificates and other documents evidencing compliance with this condition.
21. The Approval Holder must ensure that a person qualified to operate the Nominated Vessel remains on board at all times to monitor and assure secure anchorage.
22. The Approval Holder must ensure that minimal damage is caused to the marine environment as a result of anchoring in the Reserve.

Conditions for SCUBA Diving at the Reserve

23. Where the Approved Activity includes SCUBA diving or snorkelling, the Approval Holder must ensure that:
 - a). all staff, students or any other person involved in the conduct of the diving operations hold an appropriate and current SCUBA diving qualification
 - b). the dive supervisor holds an appropriate first aid qualification (at a minimum St Johns Advanced Resuscitation Certificate or equivalent), and
 - c). there is in place an emergency response plan that provides for prompt evacuation of divers suffering dive related illness.

Scientific Research Specific Conditions

24. Taking of native species must only be done for the purposes described in this Approval.
25. The Approval Holder must provide the Department with a report after each trip detailing the number of days on which native species were taken, the species taken, the number of individuals taken and the location at which they were taken.

Reserve Specific Conditions

26. The Approval Holder must take all reasonable steps to minimise the impact on the environment of the Approved Activity.
27. All staff, students or any other person taking part in the Approved Activity must not:
 - a). construct any structure, or
 - b). leave any litter or other refuse, discharge or substances.
28. The Approval Holder must not—and must take all reasonable steps to ensure that the Approval Holder's staff and all other persons involved in the Approved Activity do not—feed any animal while diving or snorkelling.
29. The Approval Holder must not advertise the location of whale sharks and operations by any means within seven days of obtaining such information.
30. The Approval Holder shall comply with the provisions of the Wildlife Conservation (Close Season for Whale Sharks) Notice 1996 declared under the Western Australian Wildlife Conservation Act 1950.
31. The Approval Holder must—and must take all reasonable steps to ensure that the Approval Holder's staff and all other persons taking part in the Approved Activity—comply with the Codes of Conduct for interacting with whale sharks attached to this Approval.
32. The Approval Holder must not—and must take all reasonable steps to ensure that all other persons involved in the Approved Activity do not—damage, interfere with, dispose of or remove any part of a shipwreck.

Note that additional conditions, termed 'special conditions', may be added to your Approval upon assessment of your application.



5 COMPLIANCE AND ENFORCEMENT

5.1 RULES AND REGULATIONS

The rules that apply to activities in Commonwealth reserves are set out in the EPBC Act and EPBC Regulations. Part 15, Division 4 of the EPBC Act prescribes how Commonwealth reserves will be proclaimed and managed. The EPBC Act (section 354 and 354A) prohibits certain acts in a Commonwealth reserve except in accordance with an approval (section 359B) from the Director when a management plan is not in operation including, but not limited to, commercial activities and the killing, injuring or taking of native species. Part 12 of the EPBC Regulations prohibits, or allows the Director to prohibit or regulate, a range of other activities in Commonwealth reserves unless undertaken in accordance with a permit issued by the Director under the EPBC Regulations.

Note:

- *Commercial activities are prohibited within the reserve, including within airspace up to 3000m above sea level, in the absence of an authorisation from the Director.*
- *The EPBC Regulations also prohibit people from causing commercial activities to be carried out within a reserve, whether or not they are within a reserve when they do so. An example of this could be where an unlicensed person employs a commercial fishing operator to fish within a Commonwealth reserve. In this case the unlicensed person is also guilty of an offence under EPBC Regulation 12.36.*

Summary of the EPBC Regulations that apply in Commonwealth reserves

This is a summary of the rules that apply in all Commonwealth reserves as prescribed in Part 12 of the EPBC Regulations. It is intended to provide a general overview of the types of activities that are prohibited in a Commonwealth reserve without authorisation from the Director. It should not be relied upon as a complete or exact list. To view Part 12 of the EPBC Regulations in full see www.comlaw.gov.au. Note: other rules set out in the conditions of authorisation also apply.

1. A person must not carry out scientific research without authorisation from the Director.
2. A person must not carry out any commercial activities without authorisation from the Director. Note commercial activities include, but are not limited to, commercial tourism and journalism.
3. A person must not use a captured image of a reserve to derive commercial gain except with authorisation from the Director.
4. A person must not damage, deface, obstruct, remove or interfere with a natural feature, object, sign or structure.
5. A person must not damage, deface, move, possess or interfere with heritage.
6. A person must not discharge or leave wastes or noxious, offensive or polluting substances (including solid, liquid and gaseous materials).
7. A person must not leave any litter.
8. A person must not use a pesticide, herbicide or other poisonous substance.
9. A person must not carry on an excavation, erect a structure or carry out works.
10. A person must not introduce, disturb (including fossicking) or remove minerals, clay, sand, stone or other earth materials.
11. A person must not use a firearm, trap, metal detector, fireworks or chainsaw in a reserve. A person may only possess these items if they are on a vessel in passage through a reserve.
12. A person may only bring an animal they own, or are in charge of, into a reserve if they are confined to the vessel and the vessel is on passage through a reserve. The animal must not be left in a reserve.
13. A person must not bring plants into a reserve.
14. A person must comply with the directions of an authorised officer under the EPBC Act.
15. A person must not behave in a way that causes public nuisance.
16. A person must not display or erect a sign, flag, banner, promotional device or image in a reserve unless with authorisation from the Director.

Aircraft

17. A person must not taxi an aircraft or land or take off in an aircraft unless in a landing area specified by the Director under a determination.
18. A person must not jump, parachute or disembark an aircraft when the aircraft is above a reserve or the person is likely to land in a reserve.
19. A person must not use an aircraft to drop anything in a reserve.

Please see the EPBC Act and EPBC Regulations, available through www.comlaw.gov.au, for a full list of the rules and regulations relating to Commonwealth reserves.

The Director may make determinations specific to a reserve that applies additional rules to activities described in the EPBC Regulations.

5.2 PRINCIPLES OF COMPLIANCE AND ENFORCEMENT

The guiding principles of the compliance and enforcement program for Ningaloo Marine Park (Commonwealth Waters) are to:

- provide a comprehensive education and awareness program regarding the values of the reserve, the location of the reserve and the rules that apply, with a view to maximising voluntary compliance
- continue to develop and foster collaborative arrangements with WA state agencies and appropriate Australian Government agencies to increase the efficiency and reduce the cost of compliance and enforcement arrangements
- continue to implement a targeted surveillance and enforcement program based on good intelligence and risk assessment
- ensure consistent and appropriate responses are employed when compliance action is required, using a measured combination of administrative, civil and criminal sanctions
- minimise where possible the administrative burden and costs to users of the reserve
- provide a mechanism by which suspected breaches can be reported and recorded, and
- protect commercially sensitive information.

5.3 WHAT ARE THE PENALTIES FOR NON-COMPLIANCE?

Where the department identifies a suspected breach of authorisation (identification of breaches may be from a variety of sources including aerial surveillance, at sea surveillance or intelligence) the holder of the authorisation will be notified of the suspected breach and be given an opportunity to provide an explanation within 14 days of receiving notification of the breach.

Where a satisfactory explanation is provided:

- the authorisation holder will be advised by registered mail, and
- the incident will be recorded and may be taken into account in relation to future incidents involving the authorisation holder.

Where no explanation is provided within 14 days or a satisfactory explanation is not provided:

- where the form of authorisation is an approval under the EPBC Act (such as for commercial activities or actions affecting native species) the approval may be revoked or varied. Where this course of action is taken the approval holder will be informed of the action by registered mail, and
- where the form of authorisation is a permit under the EPBC Regulations the permit may be suspended or cancelled or the permit conditions amended. Where this course of action is taken the permit holder will be informed of the action by registered mail.

The holder of an approval under the EPBC Act who is aggrieved by a decision to revoke their approval will have review rights as provided by the *Administrative Decisions (Judicial Review) Act 1977*. The holder of a permit under the EPBC Regulations who is aggrieved by a decision in relation to their permit may request a review by the Director and, if dissatisfied with the review, subject to the *Administrative Appeals Tribunal Act 1975*, appeal to the Administrative Appeal Tribunal for review.

Conducting activities that require approval under the EPBC Act without a current approval or in contravention of approval is an offence (section 354A of the EPBC Act). The maximum penalty on conviction is up to two years imprisonment or 1000 penalty units or both. Alternatively, the Federal Court may impose a civil penalty of up to 500 penalty units for an individual or 5000 penalty units for a corporation (section 354 of the EPBC Act). Conducting activities that require a permit under the EPBC Regulations is an offence for which penalties up to 50 penalty units may be imposed. Conducting an activity in contravention of a permit condition is also an offence, for which the maximum penalty on conviction is up to 50 penalty units. One penalty unit equals \$110.

Penalties may also apply for breaches of the *Western Australian Fish Resources Management Act 1994*, in relation to non-commercial fishing in Ningaloo Marine Park (Commonwealth Waters).

5.4 HOW DO I RECOGNISE A COMPLIANCE OFFICER?

An EPBC Act compliance officer is a person who has been trained and appointed as a warden under the EPBC Act and will hold official identification.

The department has arrangements with state and Commonwealth compliance agencies. Officers conducting compliance activities under these arrangements will identify themselves as a warden under the EPBC Act or as an officer from the Australian Customs and Border Protection Service or the Australian Federal Police.



6 FUTURE MANAGEMENT AND REPORTING

6.1 PERFORMANCE ASSESSMENT AND REPORTING

A performance assessment framework has been developed to facilitate monitoring and reporting on progress and achievements. Progress against objectives will be reported in the Director of National Parks annual report.

Results from ongoing performance assessment will be used to review both the reserve's second management plan and the period in which interim management arrangements are in effect. The results of this review will be used in the development of the next management plan for the reserve.

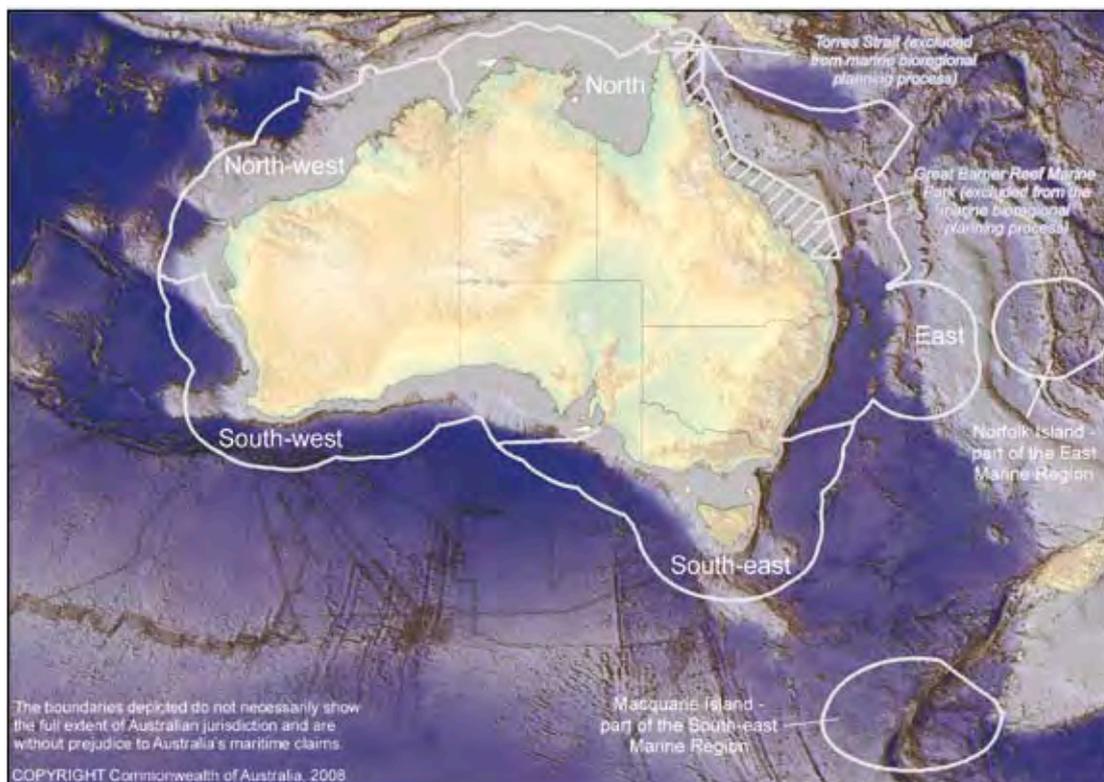
6.2 MARINE BIOREGIONAL PLANNING

Marine bioregional planning is the Australian Government's approach to protecting the varied environments found in Commonwealth waters. Five marine regions, south-west, north-west, north, east and south-east have been identified as shown opposite. The north-west marine region, in which the reserve is located, covers Commonwealth waters from Kalbarri, south of Shark Bay, to the Western Australia/Northern Territory border. It includes approximately 1.07 million square kilometres of ocean. The first step of the planning process, the regional profile of the north-west marine region, was released in November 2008 and can be found at:

www.environment.gov.au/coasts/mbp/north-west.

The outcome of the planning process is a marine bioregional plan developed under Section 176 of the EPBC Act. It will include descriptions of the region, describe conservation values and priorities, strategies and actions to address these priorities and mechanisms for monitoring and reviewing the plan. It is also intended that through the planning process, areas will be identified for inclusion in the National Representative System of Marine Protected Areas (NRSMPA). More information on the NRSMPA can be found at: www.environment.gov.au/coasts/mpa/nrsmpa/index.html.

Australia's marine regions



6.3 DEVELOPING THE NEXT MANAGEMENT PLAN

The timing of the next management plan for the reserve is reliant on the bioregional planning process in the north-west.

A new management plan for Ningaloo Marine Park (Commonwealth Waters) will be developed at the completion of the bioregional planning process, when any new Commonwealth reserves in the north-west region have been declared. Developing a management plan for the reserve at this time

will provide greater efficiency and effectiveness in the management planning process, particularly in regard to stakeholder consultation. Following the declaration of the new Commonwealth reserves, stakeholders will be invited to comment on the development of the management plan for the region, which will include the reserve.



7 CONTACTS AND FURTHER INFORMATION

To apply for authorisation or to obtain additional information:

Contact the Ningaloo Marine Park (Commonwealth Waters) reserve manager

Phone: (02) 6274 1111

Email: mpa@environment.gov.au

Or go to:

Ningaloo Marine Park (Commonwealth Waters): www.environment.gov.au/coasts/mpa/ningaloo/index.html

Marine Bioregional Planning: www.environment.gov.au/coasts/mbp

For further information about the state component of Ningaloo Marine Park (including the recreational fishing rules that apply):

Contact the WA Department of Fisheries

Phone: (08) 9949 2755

Or

Contact the WA Department of Environment and Conservation

Phone: (08) 08 9947 8000

Documents referred to in this document include:

The Ningaloo Marine Park (Commonwealth Waters) Management Plan 2002-2009, available at:

www.environment.gov.au/coasts/mpa/publications/ningaloo-plan.html

The EPBC Act and EPBC Regulations, both available via the search page on: www.comlaw.gov.au

The Management Plan for the Ningaloo Marine Park and Muiron Islands Marine Management Area 2005-2015

Management Plan No 52, available at: www.dec.wa.gov.au/marine/marine-conservation/approved-management-plans.html

Reference list

The Ningaloo Marine Park (Commonwealth Waters) website:

www.environment.gov.au/coasts/mpa/ningaloo/index.html

The Ningaloo Marine Park (Commonwealth Waters) Management Plan 2002-2009, available at:

www.environment.gov.au/coasts/mpa/publications/ningaloo-plan.html

The Management Plan for the Ningaloo Marine Park and Muiron Islands Marine Management Area 2005-

2015 Management Plan No 52, available at:

www.dec.wa.gov.au/marine/marine-conservation/approved-management-plans.html

The North-west Marine Bioregional Plan, Bioregional Profile available at:

www.environment.gov.au/coasts/mbp/north-west/index.html





FRONT COVER IMAGES

Red bell jellyfish, Ningaloo Marine Park, Jamie Campbell
Manta ray, Ningaloo Marine Park, Tourism, Western Australia
Red Squirrelfish, sponges and sea fans on low outcropping and undercut reef in 100m water depth off Ningaloo, CSIRO
Humpback whale breaching in Ningaloo Marine Park, Amanda Campbell
Whale shark, Ningaloo Marine Park, Tourism, Western Australia
Green turtle, Ningaloo Marine Park, Tourism, Western Australia
Bigeye trevally, Photolibary.com

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4 *Location and boundaries of Ningaloo Marine Park, Department of the Environment, Water, Heritage and the Arts*
5 *Whale shark, Ningaloo Marine Park, Tourism, Western Australia*
5 *Bigeye trevally, Photolibary.com*
6 *Red Squirrelfish, sponges and sea fans on low outcropping and undercut reef in 100m water depth off Ningaloo, CSIRO*
7 *Currents affecting Ningaloo Marine Park, Department of the Environment, Water, Heritage and the Arts*
8 *Bathymetry in and around Ningaloo Marine Park, Department of the Environment, Water, Heritage and the Arts*
10 *Humpback whale breaching in Ningaloo Marine Park, Amanda Campbell*
15 *Whale shark interaction code, courtesy of the Western Australian Department of Environment and Conservation*
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BACK COVER IMAGES

School of Jack fish, Department of the Environment, Water, Heritage and the Arts and Robert Thorn
Red Squirrelfish, sponges and sea fans on low outcropping and undercut reef in 100m water depth off Ningaloo, CSIRO
Striped marlin, www.boyceimage.com
Aerial view of Ningaloo Marine Park, Ben Knapinski – bjk.com.au
Fishing boat at sunset, Ningaloo Marine Park, Tourism, Western Australia

