



GREAT BARRIER REEF MARINE PARK PROTECTION: LEGISLATIVE CHANGES

Frequently asked questions

Why does the Great Barrier Reef Marine Park need protection?

A world and national heritage-listed area, the Great Barrier Reef is one of Australia's most significant environmental assets. It is one of the most diverse and remarkable ecosystems in the world, supporting an outstanding array of plants and animals.

Covering more than 344,000 square kilometres, the Great Barrier Reef Marine Park is one of the largest and best protected marine areas in the world.

The Great Barrier Reef is greatly valued by Australians, as well as visitors who come from all over the world to see it. It provides significant economic benefits for the region and for Australia, but its use depends on healthy and resilient ecosystems.

While the Great Barrier Reef remains one of the healthiest coral reef ecosystems in the world, its condition has declined since European settlement, and it faces many threats.

Protecting it to ensure that future generations can enjoy this natural wonder is crucial.

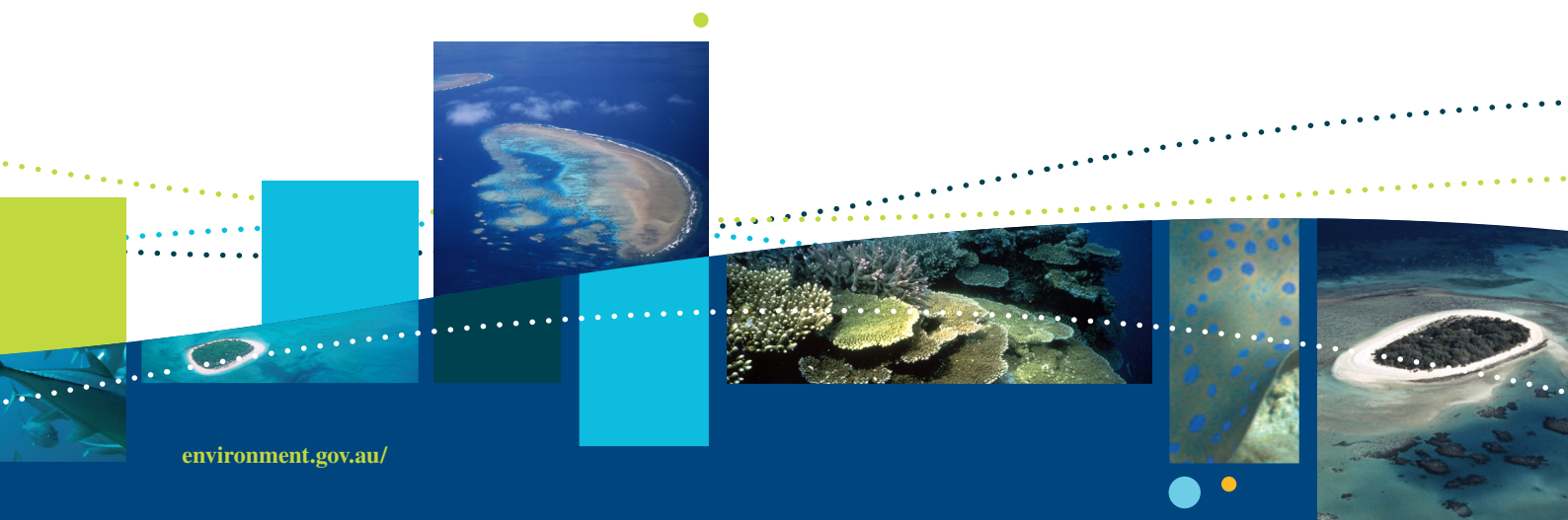
What are the legislative changes?


Legislative changes (which came into effect on 25 November 2009) strengthen the long-term protection of the marine park, while reducing red tape.

The changes better integrate the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act) and Great Barrier Reef Marine Park Regulations 1983 with the national environment law—the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), so that a single environmental impact assessment system applies to the marine park.

The changes also establish the marine park as a trigger (called a 'matter of national environmental significance') of the EPBC Act.

This means that, as well as the permit requirements of the GBRMP Act and Regulations, activities inside the marine park that are likely to have a significant impact on the environment, and those outside the marine park that are likely to have a significant impact on the environment of the marine park or other nationally protected matters must be assessed and approved with the same robust processes used under the EPBC Act.





The changes simplify, streamline and consolidate permission requirements, so that the approval process under the GBRMP Act and the EPBC Act is handled consistently. No changes have been made to the Great Barrier Reef Marine Park Zoning Plan 2003.

How will this change the compliance and enforcement approach?

Activities in the marine park were already tightly controlled, and these changes make the more comprehensive investigation powers of the EPBC Act also available for the purposes of the GBRMP Act, providing more flexible compliance and enforcement tools that can be tailored to different circumstances.

Under the new rules, marine park users have a duty to take reasonable steps to prevent or minimise environmental harm.

Inspectors can issue fines for a broader range of minor breaches. Civil rather than criminal penalties can be sought, although seeking criminal penalties is still an option.

Penalties have been adjusted, so that small offences carry lower penalties, while serious offences carry higher maximum penalties.

Where there is a risk to the marine park environment, the Great Barrier Reef Marine Park Authority will be empowered to order the activity be stopped to avoid, reduce or eliminate the risk.

Being unaware of the marine park, of its zones, of location within the marine park, and of the restrictions on marine park uses is not an excuse under the law, unless it is an honest and reasonable mistake.

What does becoming a trigger for the EPBC Act mean?

The EPBC Act protects matters of national environmental significance. They are:

- world heritage properties
- national heritage places
- wetlands of international importance (Ramsar wetlands)
- listed threatened species and ecological communities
- migratory species
- Commonwealth marine areas
- the Great Barrier Reef Marine Park, and
- nuclear actions.

These are all 'triggers' for the EPBC Act. This means that an activity likely to have a significant impact on any of these matters may need approval under the EPBC Act before it can go ahead.

How will this better protect the Great Barrier Reef Marine Park?

While the Great Barrier Reef Marine Park is still protected under the GBRMP Act and Regulations, which oversee activities in the marine park, the changes will strengthen its protection under the EPBC Act.

The marine park was already protected under the EPBC Act because of its status as a world heritage and national heritage-listed area, which already are matters of national environmental significance.

Now, in addition to the existing permit requirements under the GBRMP Act, activities in the marine park that are likely to have a significant impact on the environment, and activities outside the marine park that are likely to have a significant impact on the environment of the marine park or other nationally protected matters will need approval from the federal environment minister.

These changes have tackled gaps in protection, while simplifying regulation, and removing duplication.



What is a significant impact?

An activity is likely to have a significant impact on the environment of the Great Barrier Reef Marine Park if it:

- modifies, destroys, fragments, isolates or disturbs an important area of habitat or ecosystem
- has a substantial adverse effect on a population of a species
- results in a substantial change in air quality or water quality
- results in pest species being introduced in the marine park
- results in persistent or potentially harmful substances accumulating in the marine environment, and
- has a substantial adverse impact on heritage values of the marine park.

For more detailed information, see the *Significant impact guidelines* at www.environment.gov.au/epbc/publications/nes-guidelines.html

What's the difference between the two pieces of legislation?

The GBRMP Act regulates activities in the marine park to ensure its protection, ecologically sustainable use, and orderly management. The EPBC Act focuses on regulating activities having significant impacts on the environment and nationally protected matters.

Both levels of regulation are needed to ensure the long-term protection of the Great Barrier Reef Marine Park.

Will I need to apply for a GBRMP Act and an EPBC Act approval separately?

No. The changes have streamlined the process, so that just one form is needed for both applications. So, while an EPBC Act approval does not remove the need to obtain permission under the GBRMP Act for activities in the marine park, a referral made to the federal environment department under the EPBC Act is deemed to also be an application for permission under the GBRMP Act.

Note that either the federal environment department or the Great Barrier Reef Marine Park Authority may ask you to provide additional information in support of your application.

Also, note that your project may also need separate approval under state legislation or another Australian Government law, such as the *Environment Protection (Sea Dumping) Act 1981*.

What do I need to do if I already had a GBRMP Act permit before the changes took effect?

Nothing. If your activity was granted a permit before 25 November 2009, the changes do not affect you, and your activity can continue in accordance with existing permissions.

When do I need a permit under the GBRMP Act?

Before any activity begins in the marine park, check the Great Barrier Reef Marine Park Zoning Plan 2003 at www.gbrmpa.gov.au/corp_site/management/zoning to see if your activity is allowed and whether it requires a marine parks permit.

As a general guide, activities requiring a marine parks permit are:

- most commercial activities, including tourist operations
- installing, operating, or repairing structures, such as jetties, marinas, pontoons
- aquaculture facilities
- dredging and dumping of spoil
- waste discharge from a fixed structure
- placing and operating moorings
- anchoring or mooring for an extended period
- research, except for limited impact research
- educational programs, and
- traditional hunting.

Most recreational activities do not require a permit under the GBRMP Act.

If you are unsure or need any clarification about whether your project needs a permit under the GBRMP Act, call 07 4750 0700.



When do I need approval under the EPBC Act?

Most activities in the marine park will only need permission under the GBRMP Act.

Your activity will only need EPBC Act approval if it is likely to have a significant impact on:

- the environment, if it is within the marine park, and
- the environment of the Great Barrier Reef Marine Park or other nationally protected matters if it is outside the marine park.

Activities that may have a significant impact on the environment of the Great Barrier Reef Marine Park include:

- major new pontoons, jetties and port developments in or next to the marine park
- aquaculture facilities
- tourism developments, including marinas and floating hotels
- coastal large-scale subdivisions with potential runoff affecting the marine park
- major coast infill or spoil dumping, and
- new industry with significant marine discharges.

If you believe your project may need approval under the EPBC Act, email the federal environment department at epbc.referrals@environment.gov.au or call 1800 803 772 in the first instance for advice on whether you need to submit a referral.

For more detailed information, see the *Significant impact guidelines* at www.environment.gov.au/epbc/publications/nes-guidelines.html

How do I refer my project for EPBC Act approval?

If you are planning an activity that is likely to have a significant impact on the Great Barrier Reef Marine Park or any other nationally protected matter, it is your responsibility to refer it to the federal environment department for assessment.

If you are unsure whether your project is likely to have a significant impact, email the federal environment department at epbc.referrals@environment.gov.au or call 1800 803 772 for advice.

A referral under the EPBC Act does not necessarily mean it will need approval under the Act. Based on the referral submitted, the federal environment minister will determine whether further assessment on the proposed activity is needed.

If the minister determines no further assessment is needed under the EPBC Act, your project may only need permission under the GBRMP Act. This will be determined by the Great Barrier Reef Marine Park Authority in accordance with the GBRMP Act and Regulations.

If assessment and approval under the EPBC Act is needed, several methods can be used, from assessment based on the referral information to an environmental impact statement or public inquiry.

Following the assessment of your proposed activity, the federal environment minister will decide whether to approve it, approve it subject to constraints (that is, will place conditions on it), or not approve it.

The assessment process is a transparent one that places statutory timeframes on decision-makers, and provides opportunity for public input.

To refer your activity, complete and lodge a *Referral of a proposed action* form, available at www.environment.gov.au/epbc/assessments/referral-form.html

What happens if I don't refer my project?

If your project is likely to have a significant impact on the Great Barrier Reef Marine Park or any other nationally protected matter, and you don't refer it under the EPBC Act, you could be prosecuted.

You could be liable for a civil penalty of up to \$550,000 for an individual and \$5.5 million for a body corporate, or for a criminal penalty of seven years imprisonment and/or a penalty of \$46,200.

You could also be made to repair any damage to the environment your project may have caused.

So, if you are unsure whether your project is likely to have a significant impact, email the federal environment department at epbc.referrals@environment.gov.au or call 1800 803 772 for advice.



Will I be charged a fee?

No fee will be charged for assessments under the EPBC Act.

Permit applications for commercial activity within the marine park under the GBRMP Act may be charged an assessment fee. The fee is based on the type of operation, and will vary depending on its size and potential for environmental impacts. More information is at

www.gbrmpa.gov.au/corp_site/permits/permit_application_assessment_fee_paaf

If you refer an activity under the EPBC Act, a fee may still apply for the GBRMP Act permit.

Will there be changes to previous convictions for illegal fishing in the marine park?

Under the changes, some convictions for illegal fishing in the marine park that were handed down between 1 July 2004 and 16 December 2006 will be treated as “spent” under the Spent Conviction Scheme. This means that Australian Government authorities are prohibited from taking into account or disclosing any prior convictions, without the consent of the individual.

Will mining still be banned in the Great Barrier Reef region?

Yes. The longstanding prohibition on mining in the Great Barrier Reef region has been incorporated into the *Great Barrier Reef Marine Park Act 1975*, capturing this protection in one piece of legislation, and making it possible to repeal the previous regulation (the *Great Barrier Reef (prohibition of mining) Regulation 1999*).

Where can I get more information?

For more information on these legislative changes, or on EPBC Act environmental impact assessments, and approval requirements and processes, go to www.environment.gov.au/epbc/index.html

Fact sheets on the EPBC Act are also available by calling 1800 803 772 or emailing ciu@environment.gov.au.

For more information on the GBRMP Act and its permit requirements, go to www.gbrmpa.gov.au

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