



Australian Government

Great Barrier Reef
Marine Park Authority

Managing Tourism Permissions to Operate in the Great Barrier Reef Marine Park

(Including Allocation, Latency and Tenure)

13 August 2003

Amended 29 July 2004



our great barrier reef
let's keep it great



***MANAGING TOURISM PERMISSIONS
TO OPERATE IN
THE GREAT BARRIER REEF MARINE PARK***

(INCLUDING ALLOCATION, LATENCY AND TENURE)

***13 August 2003
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TABLE OF CONTENTS

<i>POLICY.....</i>	<i>3</i>
<i>BACKGROUND.....</i>	<i>7</i>
<i>ATTACHMENT A: Justification.....</i>	<i>9</i>
<i>ATTACHMENT B: Ecologically Sustainable Development</i>	<i>22</i>

The Great Barrier Reef Marine Park Authority (“GBRMPA”) has prepared this document in collaboration with the Queensland Government, following extensive stakeholder consultation. This policy will guide management of tourism permissions in the Great Barrier Reef Marine Park.

The GBRMPA will continue to liaise with tourism permission holders and other key stakeholders to ensure the efficient application and implementation of this policy.

Although this policy deals explicitly with the Great Barrier Reef Marine Park, the Queensland Parks and Wildlife Service (“QPWS”) has collaborated in its development. It is anticipated that QPWS will adopt a complementary policy for the Queensland Marine Parks adjacent to the Great Barrier Reef Marine Park, to maintain consistent joint Marine Parks permitting arrangements.

Disclaimers

- *This Policy should be read in conjunction with, and subject to, the Great Barrier Reef Marine Park Act 1975 (Cth) and, to the extent relevant, all instruments made there under.*
- *Full implementation of this policy will require legislative amendment.*
- *A tourism permission operates only for the term specified in that permission unless earlier surrendered, suspended or revoked. There is no guarantee (express or implied) of a further tourism permission being granted beyond the operation of the existing tourism permission.*

POLICY

TITLE

Managing tourism permissions to operate in the Great Barrier Reef Marine Park.

SUMMARY

This policy aims to manage tourism permissions to operate in the Great Barrier Reef Marine Park in an equitable, efficient and commercially realistic manner, consistent with maintenance of World Heritage values and principles of ecologically sustainable development.

PART A – GENERAL

Requirement for tourism permissions

1. Tourism permissions are required to conduct tourist programs in the Great Barrier Reef Marine Park, unless otherwise stated.
2. Special tourism permissions will be required where the opportunity to conduct a particular tourism activity (in a particular area or site) is limited.
 - 2.1. Limits will be determined in consultation with key stakeholders, to ensure the environmental, social and cultural sustainability of the particular tourism activity (in the particular area or site).
 - 2.2. Limits will be set in a manner that does not unnecessarily restrict tourist programs that are unlikely to affect sustainability.

Applications for tourism permissions

3. Applications for tourism permissions (other than for special tourism permissions) will be considered on a first come, first served basis. Applications for special tourism permissions will be considered in accordance with Part C of this policy.
4. Notwithstanding clause 3, permission holders will have the first option on further tourism permissions if their applications are received prior to the expiry of their existing tourism permissions. Where the first option is foregone, applications will be considered in accordance with clause 3.
 - 4.1. In the case of special tourism permissions, permission holders will have first option only on those components of their existing tourism permissions that satisfy the latency management provisions (Part B refers).

Applications for variations and transfers

5. Permission holders may apply for variations or transfers of their tourism permissions at any time prior to the expiry of their tourism permissions.
 - 5.1. Variations and transfers of tourism permissions will not affect the expiry date of those tourism permissions.

Fees associated with applications

6. A fee will be payable in conjunction with applications for tourism permissions, variations and transfers, unless otherwise stated.

- 6.1. Fees will vary depending on the nature and scale of the tourist program and the level of assessment and administration required.
- 6.2. Fees are linked to the Consumer Price Index (CPI) Brisbane and are adjusted annually.
- 6.3. Fee arrangements may be reviewed from time to time.

Term of tourism permissions

- 7. In most cases, tourism permissions will have a six-year term. Tourism permissions may have a 15-year term where tourist programs are appropriately certified.
 - 7.1. Tourist programs may become appropriately certified once external certification schemes are approved and operational.

Conditions of tourism permissions

- 8. Permission holders will be required, as a condition of their tourism permissions, to comply with minimum standards and to enter into a deed of agreement. Permission holders with special tourism permissions will also be required to honour any commitments given during the application process.
 - 8.1. Minimum standards will address environmental, social and cultural sustainability and may be reviewed from time to time in line with best-available information.
 - 8.2. The deed of agreement will address insurance, indemnity and other similar matters, and will apply for a stated period beyond the expiry of tourism permissions.
- 9. Conditions of tourism permissions may be varied where permission holders are in agreement with the proposed variation, or where permission holders are consulted about the proposed variation and reasonable notice is given.

Penalties for non-compliance with conditions

- 10. A graded penalty system will be introduced to manage non-compliance with conditions of tourism permissions.
 - 10.1. All breaches will be recorded and may be prosecuted.
 - 10.2. Serious or repeated breaches may result in suspension or revocation of tourism permissions.

Surrendered, revoked or expired tourism permissions

- 11. If tourism permissions are surrendered or revoked, or if further tourism permissions are not sought, new applications will be considered in the normal manner, and for a corresponding level of activity (unless there are compelling reasons not to do so).

Agent agreements for tourism permissions

- 12. Permission holders may enter into agent agreements.
 - 12.1. Notwithstanding an agent agreement being in place, permission holders remain responsible at all times for ensuring compliance with their tourism permissions (e.g. minimum standards, deed of agreement, appropriate certification).

Record of tourism permissions

13. Details of applications for tourism permissions, variations and transfers, as well as copies of all valid tourism permissions, will be maintained as part of a Register of permissions and other related information.
 - 13.1. The Register will be made publicly available via the GBRMPA website or office, and will be updated on a regular basis.

PART B – LATENCY MANAGEMENT PROVISIONS

General latency management

14. Permission holders will be required to commence operations under their tourism permissions within the first two years of permission.
 - 14.1. Written requests for extensions of the two-year timeframe will be considered on a case-by-case basis.
 - 14.2. Tourism permissions that are not used within the agreed timeframe may be revoked.
 - 14.3. In some circumstances, a period shorter than two years, but not less than 120 days, may be specified in the tourism permission.

Review of actual use for special tourism permissions

15. When considering applications for further tourism permissions, demonstrated use of the existing tourism permissions will be reviewed. Permission holders must provide all the necessary information to demonstrate the extent of use of their existing tourism permissions as part of their application (e.g. through reference to EMC logbook data).
 - 15.1. For tourism permissions that have been transferred since their commencement, if use information is not available for the period prior to the transfer date, or if the level of use has increased substantially since the transfer date, then the permission holder may request that only information on use relating back to the transfer date be taken into consideration (on a pro rata basis).
 - 15.2. For tourism permissions that commenced prior to the commencement of this policy, if use information is not available for the period prior to the commencement date, or if the level of use has increased substantially since the commencement date, then the permission holder may request that only information on use relating back to the commencement date be taken into consideration (on a pro rata basis).

Reasonable level of use for special tourism permissions

16. Determinations will be made, based on the information provided, whether or not existing tourism permissions have been used to a reasonable level during the review period.
 - 16.1. The reasonable level of use will be an average of 50 days/year during the review period, unless otherwise specified in the tourism permission.
 - 16.2. In most cases, a separate determination will be made for each vessel or aircraft listed on an existing tourism permission.

Transition arrangements (permission holders only)

17. Latency management provisions will not apply to those tourism permissions that are due to expire within the first 12 months of the commencement of this policy, unless otherwise requested by permission holders.

PART C – APPLICATION PROCESS FOR SPECIAL TOURISM PERMISSIONS

Inviting applications

18. Applications for special tourism permissions will be invited at an appropriate time.
 - 18.1. Invitations for applications will be made public.
 - 18.2. Reasonable time will be allowed for lodging applications.
 - 18.3. The following details will be provided at the time of inviting applications:
 - (a) The particular tourism activity (in a particular area or site) that is limited and the opportunity available; and
 - (b) The relevant selection criteria; and
 - (c) The address and closing date for lodging applications.

Lodging applications

19. Interested persons may lodge applications up until the stated closing date.
 - 19.1. Applications lodged after the closing date, or not addressing the stated selection criteria, will not be eligible.

Ranking applications

20. Eligible applications will be ranked taking into consideration responses to the stated selection criteria.
 - 20.1. A ballot may be conducted where two or more applications have equal ranking.

Considering applications

21. Once ranking has been completed, eligible applications will be considered in order of that ranking.
 - 21.1. Permission holders who make eligible applications will be allowed to continue operating in accordance with their existing tourism permissions while those applications are being considered.

BACKGROUND

TITLE

Managing tourism permissions to operate in the Great Barrier Reef Marine Park.

PREFACE

Relevant parts of the Great Barrier Reef Marine Park Act 1975

Section 3: contains interpretation, including that “this Act” includes the regulations.

Section 5: states the object of this Act, which is to make provision for and in relation to the establishment, control, care and development of a marine park in the Great Barrier Reef Region in accordance with the provisions of this Act.

Section 7: states the functions of the Authority and provides that the Authority is responsible for the management of the Marine Park.

Section 8: empowers the Authority to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Section 38B: prohibits a person from using or entering a zone for a purpose requiring the Authority’s permission unless authorised by such a permission.

Section 38C: prohibits contravention of permission conditions.

Section 61: empowers the Authority to delegate any of its powers under this Act, other than this power of delegation.

Relevant parts of the Great Barrier Reef Marine Park Regulations 1983

Regulation 74(5): states what the Authority must consider in applications for permission to use or enter into a zone in the Marine Park.

Regulation 106: states when and how a permission may be transferred.

Regulation 110: states that the Authority may suspend a permission if it appears to the Authority that the permission holder is failing to comply with a condition of that permission.

Regulation 112: states that the Authority may revoke a permission if, 60 days after suspension of the permission, the permission holder continues to fail to comply with the condition.

New MPA decision

MPA 189/7 - 13 August 2003

MPA 192 – 29 July 2004 (in relation to Clause 16.1)

Date of Effect

13 August 2003

Past MPA decisions

TBC

Editor’s note

TBC

Head notes

TBC

PURPOSE

To provide an equitable, efficient and commercially realistic approach to managing tourism permissions to operate in the Great Barrier Reef Marine Park, consistent with maintenance of World Heritage values and principles of ecologically sustainable development.

JUSTIFICATION

The justification for this policy is provided at Attachment A.

DEFINITIONS

<i>Agent agreement</i>	An agreement between a permission holder and another person that authorises that other person to act as an agent of the permission holder's tourist program pursuant to a tourism permission granted by the GBRMPA for that program
<i>Appropriately certified</i>	Having a valid certification from a certification scheme approved by the GBRMPA
<i>Ecologically sustainable development</i>	See Attachment B
<i>Further tourism permission</i>	A new tourism permission for the continuation of an existing tourist program (in place of an existing tourism permission for that same tourist program)
<i>Special tourism permission</i>	A tourism permission that is endorsed specifically to conduct a particular tourism activity (in a particular area or site) that is limited, or more than one such activity
<i>Tourism permission</i>	A permission to conduct a tourist program
<i>Tourist program</i>	An activity that is in the course of carrying on a business and is or includes the provision of transport, accommodation or services to tourists or for persons who include tourists

CONSULTATION

The GBRMPA has been working in collaboration with the Queensland Government (through the Queensland Inter-departmental Committee for the Great Barrier Reef) and Association of Marine Park Tourism Operators (AMPTO) to develop this overarching policy on tourism permission management. Tourism permission holders and other key stakeholders have been closely consulted throughout the policy development process.

REVIEW

It is intended that this policy be reviewed as required.

ATTACHMENT A: Justification

Table of Contents

PART A - GENERAL.....	10
Requirement for tourism permissions.....	10
Applications for tourism permissions.....	11
Applications for variations and transfers	12
Fees associated with applications	12
Term of tourism permissions.....	13
Conditions of tourism permissions	13
Penalties for non-compliance with conditions.....	14
Surrendered, revoked or expired tourism permissions.....	15
Agent agreements for tourism permissions	15
Record of tourism permissions.....	15
PART B - LATENCY MANAGEMENT PROVISIONS	16
General latency management	16
Review of actual use for special tourism permissions.....	17
Reasonable level of use for special tourism permissions	17
Transition arrangements (permission holders only).....	18
PART C - APPLICATION PROCESS FOR SPECIAL TOURISM PERMISSIONS	19
Inviting applications	19
Lodging applications	20
Ranking applications	20
Considering applications	20

PART A – GENERAL

Requirement for tourism permissions

1. Tourism permissions are required to conduct tourist programs in the Great Barrier Reef Marine Park, unless otherwise stated.

Section 38B of the Great Barrier Reef Marine Park Act 1975 mandates that permissions requirements must be observed in zoned areas. At present, tourist programs are a permissible activity in all zones (other than Scientific Research and Preservation Zones) under all zoning plans. Tourism permissions are not required in unzoned areas of the Great Barrier Reef Marine Park.

All tourism permissions are considered in accordance with application and assessment requirements addressed in the Great Barrier Reef Marine Park Regulations 1983. Regulations 74 list the matters that the GBRMPA must have regard to in considering applications for relevant permissions. Regulation 117 states that assessment of impact of activities in the Great Barrier Reef Marine Park must be made before granting a permission.

Most applications received by the GBRMPA for the conduct of tourist programs are for the use of a single vessel or aircraft, however applications are also received for craftless operations as well as multiple vessel or aircraft operations. In most cases, the GBRMPA will consider granting a tourism permission to cover the entire tourist program. However, applicants may request a separate tourism permission for each of the vessels or aircraft listed in the application.

2. Special tourism permissions will be required where the opportunity to conduct a particular tourism activity (in a particular area or site) is limited.

- 2.1. Limits will be determined in consultation with key stakeholders, to ensure the environmental, social and cultural sustainability of the particular tourism activity (in the particular area or site).

- 2.2. Limits will be set in a manner that does not unnecessarily restrict tourist programs that are unlikely to affect sustainability.

As tourism develops on the Great Barrier Reef, there will be occasions when the opportunity to conduct a particular tourism activity (in a particular area or site) will need to be actively managed by the GBRMPA to reduce the risk of environmental damage or conflict of use. In these circumstances, the GBRMPA will consult with relevant stakeholders, and will use best available information and judgement, to determine an appropriate limit of the opportunity to conduct the particular tourism activity (in the particular area or site).

In order to implement the special tourism permission arrangements, it will be necessary for the GBRMPA to restrict or limit (through Regulation or Plan of Management) the opportunity to conduct a particular tourism activity (in a particular area or site) other than with a special tourism permission.

Without the application of special tourism permissions, there is a real possibility that increasing the opportunity to conduct particular tourism activities (in particular areas or sites) would likely exceed sustainable levels, be it in terms of environmental, social and/or cultural sustainability.

Applications for tourism permissions

3. Applications for tourism permissions (other than for special tourism permissions) will be considered on a first come, first served basis. Applications for special tourism permissions will be considered in accordance with Part C of this policy.

Considering applications for tourism permissions on a “first come, first serve” basis is the normal approach and is currently used for the majority of tourist programs operating in the Great Barrier Reef Marine Park.

The “first come, first served” system is not considered appropriate for allocating special tourism permissions. Rather it is intended to allocate such permissions through an expression of interest process or similar (Part C refers), an approach that is equitable and is used throughout the business sector. There have been instances when the GBRMPA has allocated tourism permissions on this basis (e.g. the allocation of 106 mooring permissions in the Cairns Area in 2001 through a system of preferences; and the allocation of up to ten tourism permissions for swimming with dwarf minke whales in the Ribbon Reef Sector through assessment against specific selection criteria).

4. Notwithstanding clause 3, permission holders will have the first option on further tourism permissions if their applications are received prior to the expiry of their existing tourism permissions. Where the first option is foregone, applications will be considered in accordance with clause 3.

- 4.1. In the case of special tourism permissions, permission holders will have first option only on those components of their existing tourism permissions that satisfy the latency management provisions (Part B refers).

During the term of tourism permissions, operators often develop a level of ‘stewardship’ in building-up their particular operation. Consequently, as tourism permissions near expiry, permission holders need continued predictability and certainty for their businesses when seeking a further term.

While the GBRMPA does not “renew” tourism permissions (i.e. each tourism permission is a “new” tourism permission), the GBRMPA recognises the needs of permission holders and intends to allow permission holders first option on a further tourism permission, subject to normal assessment processes. To achieve this, permission holders may lodge an application to continue their operation at any time prior to the expiry of their existing tourism permissions.

Permission holders may forego first option if they do not apply for further tourism permissions prior to the expiry of their existing tourism permissions, or if they have failed to use their existing tourism permissions (or parts thereof) to a reasonable level. Where the GBRMPA determines that an existing tourism permission has not been used to a reasonable level during the review period, and that existing tourism permissions involves only a single vessel or aircraft, then the GBRMPA will consider other applications. In the case of an existing tourism permission that involved multiple vessels or aircraft, the GBRMPA will only consider other applications for those vessels or aircraft determined not to have achieved a reasonable level of use during the review period.

Where the first option is foregone, applications will be considered in the normal manner. In the case of special tourism permissions, the normal manner for considering applications

would be through an invitation at an appropriate time. All other applications for tourism permissions would be considered on a first come, first served basis.

Applications for variations and transfers

5. Permission holders may apply for variations or transfers of their tourism permissions at any time prior to the expiry of their tourism permissions.
 - 5.1. Variations and transfers of tourism permissions will not affect the expiry date of those tourism permissions.

The Regulations currently enable the GBRMPA to vary conditions or transfer tourism permissions upon application, and in all cases applications for variation or transfer involve an entire permission (regardless of the number of vessels or aircraft it contains).

There may be circumstances where the GBRMPA may not allow transfer or variation if it involves splitting activities or components of the tourism permission so that they can be conducted by more than one operator, for example, if a permission provides for a vessel to operate to a mooring, it may not be appropriate to allow the permission in relation to the vessel and the mooring to be split between two operators.

The GBRMPA will continue to manage variations and transfers of tourism permissions in accordance with the Regulations. For example, Regulation 77 deals with variation of permissions. Regulation 87 deals with variation of authorisations. Regulation 106 deals with transfers of permissions. Regulation 107 deals with transfers of authorisations.

Fees associated with applications

6. A fee will be payable in conjunction with applications for tourism permissions, variations and transfers, unless otherwise stated.
 - 6.1. Fees will vary depending on the nature and scale of the tourist program and the level of assessment and administration required.
 - 6.2. Fees are linked to the Consumer Price Index (CPI) Brisbane and are adjusted annually.
 - 6.3. Fee arrangements may be reviewed from time to time.

The GBRMPA will continue to manage fees in accordance with the Regulations. For example, Regulations 128, and 129 and 130 and Table 128 of the Regulations deal with fees for assessment in respect of application for permission.

The GBRMPA intends that any application fees be linked to the CPI to ensure that ongoing adjustments are made at the appropriate time. The GBRMPA may review fees from time to time to ensure equity or to achieve cost recovery. Key stakeholders will be consulted during the review process.

Term of tourism permissions

7. In most cases, tourism permissions will have a six-year term. Tourism permissions may have a 15-year term where tourist programs are appropriately certified.

- 7.1. Tourist programs may become appropriately certified once external certification schemes are approved and operational.

Tourism permissions have historically been granted (subject to appropriate conditions) for a period between one year and six years, depending on the nature of the operation. For a number of years the tourism industry has been seeking longer-term permissions, which better reflects business and financial realities. For example, the Sturgess Report (1997) recommended permissions of up to 15 years, subject to development of strategies to address revocation and renewal.

The GBRMPA intends to introduce a 15-year permission term to recognise those permission holders who consistently demonstrate high environmental performance and provide quality presentation of the Great Barrier Reef and its World Heritage values. The performance of an operation will be judged by reference to external certification schemes.

The GBRMPA intends to approve certification schemes that can provide a best practice scheme (based on the GBRMPA's requirements), a system of assessing tourism operations on a regular basis (against that best practice scheme), and a system of certification for tourism operations. A list of approved certification schemes will be made public on the GBRMPA website.

The GBRMPA will monitor maintenance of appropriate certification (for permission holders with a 15-year permission term) through reference to the annual certification issued by the approved certification schemes.

[Note: As at July 2003, the GBRMPA had not approved any certification schemes and a 15-year permission term was not available.]

Conditions of tourism permissions

8. Permission holders will be required, as a condition of their tourism permissions, to comply with minimum standards and to enter into a deed of agreement. Permission holders with special tourism permissions will also be required to honour any commitments given during the application process.

- 8.1. Minimum standards will address environmental, social and cultural sustainability and may be reviewed from time to time in line with best-available information.

- 8.2. The deed of agreement will address insurance, indemnity and other similar matters, and will apply for a stated period beyond the expiry of tourism permissions.

The GBRMPA intends that there be a set of minimum standards (mandatory) that could be updated from time to time in consultation with relevant stakeholders. This will be far simpler to enforce than the existing system of individually crafted conditions. Historically, minimum standards have been applied in permissions as conditions or as provisions of the Regulations or plans of management.

The GBRMPA recognises, however, that any review of minimum standards may take time to bring into effect (i.e. sufficient for permission holders to make any necessary adjustments to their operations and put reporting processes in place, as well as allowing the GBRMPA time to develop any administrative systems required).

The deed of agreement is used to reflect agreements between the GBRMPA and the permission holder that fall outside of the minimum standards. The deed of agreement will also extend the effect of some conditions beyond the expiry of the permission.

In the case of special tourism permissions, the conditions or deed of agreement may also include any undertakings or commitments given by applicants when addressing the relevant selection criteria. This type of commitment is not a minimum standard for all operators, but a unique arrangement for the particular applicant and will therefore need to be reflected in the conditions or deed of agreement.

9. Conditions of tourism permissions may be varied where permission holders are in agreement with the proposed variation, or where permission holders are consulted about the proposed variation and reasonable notice is given.

The GBRMPA intends to develop conditions of tourism permissions that are effective and operationally realistic. However, it may become necessary over the permission term, particularly 15-year permissions, to vary conditions to reflect changes to minimum standards or other management requirements (e.g. as a result of changing environmental conditions or unforeseen impacts). Permission holders will be consulted about proposed variations to their conditions. If a variation requires a significant change to tourism operations, then reasonable notice may be required.

Penalties for non-compliance with conditions

10. A graded penalty system will be introduced to manage non-compliance with conditions of tourism permissions.
 - 10.1. All breaches will be recorded and may be prosecuted.
 - 10.2. Serious or repeated breaches may result in suspension or revocation of tourism permissions.

Breaches of legislation, including conditions, are dealt with through the Courts as appropriate. However, where particularly serious or repeated breaches occur, the GBRMPA must also consider suspending or revoking a tourism permission. A graded penalty system will provide for equity and transparency to these decisions.

Until a graded penalty system is introduced, the GBRMPA will continue to manage non-compliance with conditions in accordance with the Act and Regulations. For example, Section 38C of the Act deals with contravening conditions of permissions (zoned area), and Regulation 112 deals with revocation of permissions.

Surrendered, revoked or expired tourism permissions

11. If tourism permissions are surrendered or revoked, or if further tourism permissions are not sought, new applications will be considered in the normal manner, and for a corresponding level of activity (unless there are compelling reasons not to do so).

There may be occasions when further tourism permissions are not sought, or tourism permissions are surrendered to the GBRMPA, or the GBRMPA takes necessary action to revoke tourism permissions. In this eventuality, the GBRMPA intends to respond by considering new applications in the normal manner, and for a corresponding level of activity (unless there are compelling reasons not to do so). For example, the level of activity may be adjusted as a result of changing environmental conditions or unforeseen impacts. In the case of special tourism permissions, the normal manner for considering applications would be through an invitation at an appropriate time. All other applications for tourism permissions would be considered on a first come, first served basis.

Agent agreements for tourism permissions

12. Permission holders may enter into agent agreements.

- 12.1. Notwithstanding an agent agreement being in place, permission holders remain responsible at all times for ensuring compliance with their tourism permissions (e.g. minimum standards, deed of agreement, appropriate certification).

An agent agreement is a legally recognised arrangement, where the agent conducts the permitted activities on behalf of the permission holder, although the permission holder remains responsible at all times. This may not be the same as “leasing” permissions and permission holders are advised to contact the GBRMPA before considering “leasing” permissions.

Record of tourism permissions

13. Details of applications for tourism permissions, variations and transfers, as well as copies of all valid tourism permissions, will be maintained as part of a Register of permissions and other related information.

- 13.1. The Register will be made publicly available via the GBRMPA website or office, and will be updated on a regular basis.

The GBRMPA will continue to manage public access to its decisions and valid tourism permissions in accordance with the Regulations. For example, Regulations 114, 115 and 116 deal with the Register of permissions and related information.

PART B - LATENCY MANAGEMENT PROVISIONS

Refer subclause 4.1

Latency refers to the gap between what tourism use actually occurs and what tourism use is permitted to occur. The main concern with latency involves those tourism activities (in particular areas or sites) where the opportunity is limited and special tourism permissions are required. There is a growing occurrence of people hoarding or speculating on these special tourism permissions, thereby manipulating the market by limiting competition and new business opportunities.

There is also a concern about the high level of latency in tourism permissions in general. An audit of tourism permissions conducted by the GBRMPA indicated that during 2000, approximately 40% of tourism permissions were never used.

Over recent years, the Association of Marine Park Tourism Operators (AMPTO) has raised concern at increasing "latency", particularly in the Cairns and Whitsunday Planning Areas. The AMPTO Board has recommended to the GBRMPA that a "use it or lose it" approach should be adopted, to manage latency in a way that is fair, simple to understand and commercially realistic.

General latency management

14. Permission holders will be required to commence operations under their tourism permissions within the first two years of permission.
 - 14.1. Written requests for extensions of the two-year timeframe will be considered on a case-by-case basis.
 - 14.2. Tourism permissions that are not used within the agreed timeframe may be revoked.
 - 14.3. In some circumstances, a period shorter than two years, but not less than 120 days, may be specified in the tourism permission.

Subclause 112(4) of the Regulations stipulates that, "if the holder of a permission...does not begin to carry on the permitted activities within 120 days after the date on which the permission was granted or transferred...to the holder, the Authority may revoke the permission". The GBRMPA has not sought to use this provision to date to manage latent tourism permissions.

There may be valid reasons why a permission holder is unable to commence operation under their tourism permission within the first 120 days. For example, a permission holder may have a vessel or tourist facility under construction or refit/repair for service under the tourism permission. The GBRMPA intends to provide for such special consideration in the first two years of permission. Permission holders should be on notice that after this period, unless otherwise agreed with the GBRMPA, latent tourism permissions will be revoked.

In some circumstances, the provision relating to commencement within 120 days may still need to be applied. For example, where there is a limited number of tourism permissions in place and where rapid commencement is necessary to meet a high demand.

Review of actual use for special tourism permissions

15. When considering applications for further tourism permissions, demonstrated use of the existing tourism permissions will be reviewed. Permission holders must provide all the necessary information to demonstrate the extent of use of their existing tourism permissions as part of their application (e.g. through reference to EMC logbook data).
 - 15.1. For tourism permissions that have been transferred since their commencement, if use information is not available for the period prior to the transfer date, or if the level of use has increased substantially since the transfer date, then the permission holder may request that only information on use relating back to the transfer date be taken into consideration (on a pro rata basis).
 - 15.2. For tourism permissions that commenced prior to the commencement of this policy, if use information is not available for the period prior to the commencement date, or if the level of use has increased substantially since the commencement date, then the permission holder may request that only information on use relating back to the commencement date be taken into consideration (on a pro rata basis).

In order to report on use made of tourism permissions, AMPTO has proposed that the GBRMPA assess EMC returns. In this way, operators will not need to provide any further information than is currently required or held by the GBRMPA. In some circumstances, however, use of a particular tourism permission may not be recorded in EMC returns and the GBRMPA may require that those permission holders provide alternate evidence of operation (e.g. vessel logbooks, booking sheets, Statutory Declaration).

Use of tourism permissions accrues to those permissions and not to the permission holders themselves. Consequently, any accrued use (or lack thereof) is carried forward at transfer to the tourism permissions held by the transfer recipient.

Reasonable level of use for special tourism permissions

16. Determinations will be made, based on the information provided, whether or not existing tourism permissions have been used to a reasonable level during the review period.
 - 16.1. The reasonable level of use will be an average of 50 days/year during the review period, unless otherwise specified in the tourism permission.
 - 16.2. In most cases, a separate determination will be made for each vessel or aircraft listed on an existing tourism permission.

For example, the reasonable level of use for a permission holder who has held an all-year tourism permission for five years would be 50 days x five years = 250 days for each vessel or aircraft. In the case of an all-year tourism permission only transferred two and a half years prior, the reasonable level of use would be 50 days x two and a half years = 125 days for each vessel or aircraft.

In most cases, tourism permissions list the individual vessels or aircraft of a particular tourist program and a separate determination will be made on this basis. Where tourism permissions list individual Vessel/Bareboat Identification Numbers (VINs or BINs), in place of named vessels, and a separate determination will be made on this basis.

There may be circumstances, however, where only a single determination is required for tourism permissions involving multiple vessels or aircraft, for instance, where those vessels or aircraft are operated in convoy or as a flotilla, or where the tourist program relates to beach hire equipment (paddleboards, surf skis, kayaks etc.).

Transition arrangements (permission holders only)

17. Latency management provisions will not apply to those tourism permissions that are due to expire within the first 12 months of the commencement of this policy, unless otherwise requested by permission holders.

The GBRMPA intends that latency management provisions would be introduced approximately 12 months after the commencement of this policy, perhaps to coincide with and EMC quarter. After the 12-month grace period, existing tourism permissions would be assessed for latency as applications for further tourism permissions are received.

This 12-month grace period should minimise the impact on permission holders with tourism permissions that are close to expiry, and provide reasonable time for other permission holders to make any necessary adjustments to their operations or permission arrangements. It will also allow the GBRMPA time to develop any administrative systems required.

PART C - APPLICATION PROCESS FOR SPECIAL TOURISM PERMISSIONS

Refer clause 3 and Diagram 1 (attached)

Note: This part does not apply to permission holders applying for further tourism permissions.

Inviting applications

18. Applications for special tourism permissions will be invited at an appropriate time.
 - 18.1. Invitations for applications will be made public.
 - 18.2. Reasonable time will be allowed for lodging applications.
 - 18.3. The following details will be provided at the time of inviting applications:
 - (a) The particular tourism activity (in a particular area or site) that is limited and the opportunity available; and
 - (b) The relevant selection criteria; and
 - (c) The address and closing date for lodging applications.

The GBRMPA intends to implement its decisions in a timely and efficient manner. In the case of special tourism permissions, the GBRMPA will need to invite applications from interested persons at an appropriate time.

When the opportunity to conduct a particular tourism activity (in a particular area or site) is limited for the first time, the invitation should be made as soon as practicable to minimise any uncertainty for existing permission holders. For allocating special tourism permissions that are available, perhaps as a result of surrendered or revoked tourism permissions, the GBRMPA may consider, for example, an annual invitation for applications.

The GBRMPA intends to invite applications in the public arena, perhaps through a newsletter, media release or advertisement in local newspapers, as well as providing information on the GBRMPA website. Whatever the method of inviting applications, the GBRMPA intends to allow reasonable time (e.g. 30 days) during which interested persons may lodge an application addressing the stated selection criteria.

A definitive set of selection criteria is necessary to ensure that everyone is treated equally and that the process is clear to all prospective applicants. These criteria will be determined before inviting applications and everyone applying will be required to address them.

The GBRMPA recognises that the selection criteria will need to be tailored to the particular nature of the special tourism permissions available, consistent with maintaining World Heritage values and the principles of ecologically sustainable development. Some examples of selection criteria that have been suggested include relevant expertise in the particular activity; a valid business plan and environmental management plan; ability to meet an emerging market need; investment in appropriate certification and "green" technologies; active participation in, or financial contribution to, park management activities (compliance, research, education, site management etc.).

In the case of the Cairns mooring allocations in 2001, the GBRMPA gave selection preference to operators that were lawfully anchoring at prospective mooring sites on a regular basis.

Lodging applications

19. Interested persons may lodge applications up until the stated closing date.
 - 19.1. Applications lodged after the closing date, or not addressing the stated selection criteria, will not be eligible.

To ensure that any application process is managed in a timely and efficient manner, the GBRMPA does not intend to accept late applications (i.e. those lodged after the application period) or applications not addressing the selection criteria.

Ranking applications

20. Eligible applications will be ranked taking into consideration responses to the stated selection criteria.
 - 20.1. A ballot may be conducted where two or more applications have equal ranking.

It is expected that there will be greater demand for special tourism permissions than there is the opportunity available, and this will require the GBRMPA to rank any application lodged. The GBRMPA intends to assess applications against the stated selection criteria, as a transparent and equitable means of ranking applications. The GBRMPA will need a fallback mechanism in the event that two or more applications have an equal ranking. The GBRMPA intends to do this by conducting a ballot.

Considering applications

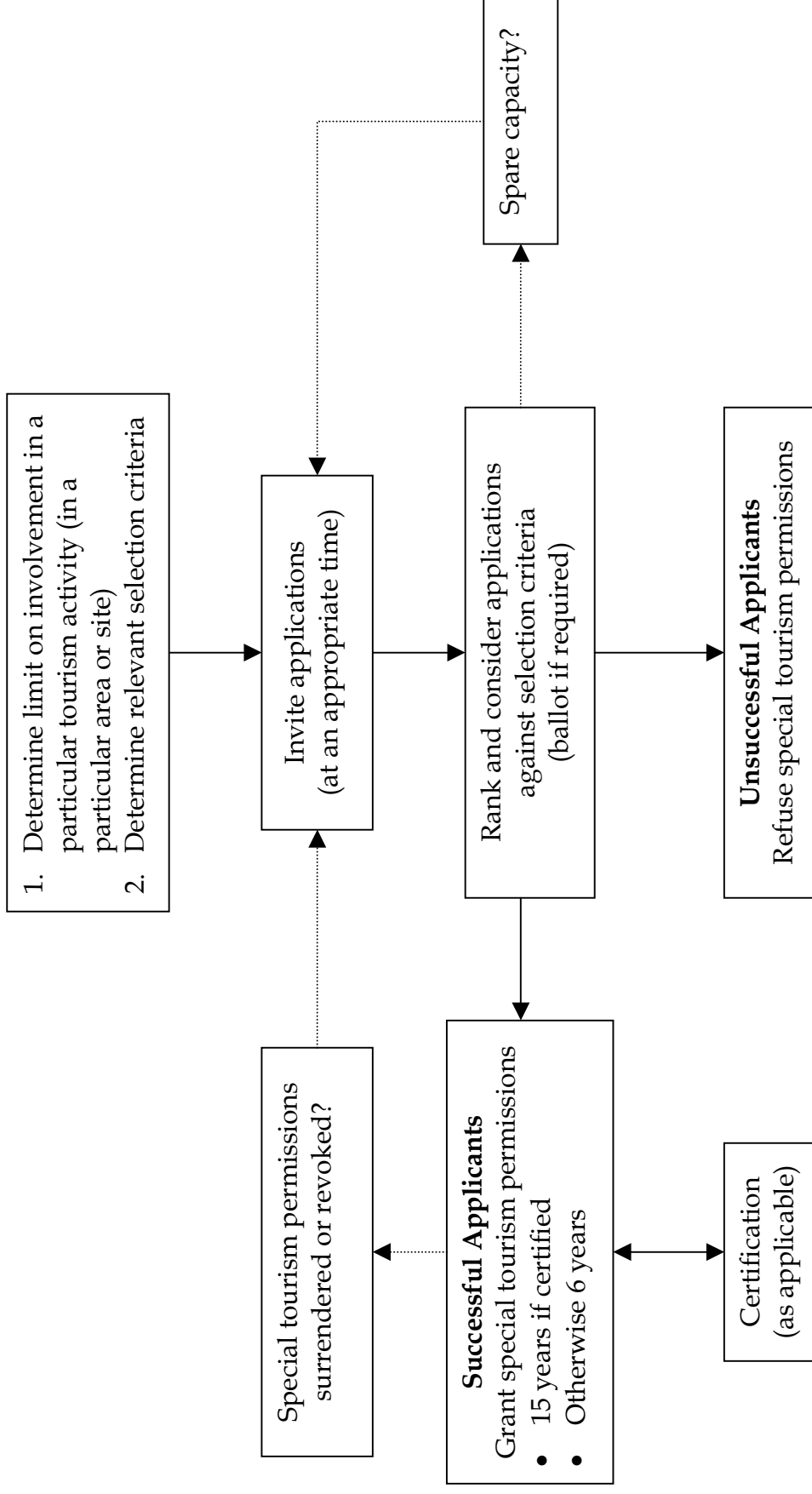
21. Once ranking has been completed, eligible applications will be considered in order of that ranking.
 - 21.1. Permission holders who make eligible applications will be allowed to continue operating in accordance with their existing tourism permissions while those applications are being considered.

The ranking provides the order upon which decisions to grant or refuse special tourism permissions can be made, subject to formal assessment under the Regulations.

It is likely that there will exist tourism operators already participating in the particular tourism activity (in the particular area or site) and the GBRMPA expects these operators to make application for special tourism permissions. While applications are being considered, permission holders should be able to continue operating in accordance with their existing tourism permissions.

Diagram 1: Application process for special tourism permissions

Note: This diagram does not apply to permission holders applying for further tourism permissions.



ATTACHMENT B: Ecologically Sustainable Development

ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

- SECT 3A Principles of ecologically sustainable development

The following principles are *principles of ecologically sustainable development*:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted.