

Thank you for providing the discussion paper on consideration around Australia's accession to the *Nairobi International Convention on the Removal of Wrecks 2007*. MAST has considered the paper and makes the following comments in relation to the questions raised in the paper.

Exclusive economic zone

Current State responsibilities that relate to wreck removal do not extend beyond 3nm from the Baseline. Therefore application of the WRC within the EEZ has no direct effect on our current responsibilities as this falls within Commonwealth waters

Territorial sea

Applying the WRC framework to the territorial sea makes logical sense. However, how this is managed through the intricacies of state and commonwealth jurisdictional responsibilities may be complex.

Domestic Commercial and recreational vessels

The application of the WRC to Domestic Commercial Vessels (DCVs) and recreational vessels is an area where the relationship between state and commonwealth responsibilities is complex. Currently section 6 of the *Marine and Safety (Domestic Commercial Vessel) National Law Act 2012* identifies the separation of State and Commonwealth responsibilities in terms of waterways management. This indicates that 'removing obstructions (including abandoned, sinking and derelict vessels) from navigational waters' as well as 'wrecks and salvage' are a state responsibility in relation to DCVs. The management of recreational vessels is the responsibility of the States.

It is identified that the WRC would be implemented through the Navigation Act and would involve expanding the wreck removal requirements to include coverage of DCVs and Recreational vessels. However, application of the WRC specifically applies to vessels that are greater than 300GT. Careful consideration should also be given to how vessels under 300 GT are managed, and how that process aligns with the general regulatory oversight applicable to individual vessels.

Definition of wreck

MAST considers that the broader coverage of the definition of wreck contained in the WRC would create a greater ability to ensure hazardous objects are removed from the marine environment.

The WRCs determination that removal can only be pursued after the affected state has determined it poses a hazard seems a fair and logical approach, with the definitions of 'Hazard' and 'related Interests' allowing for an appropriately broad coverage to the requirement.

Wreck reporting requirements

If it would be logical for reporting requirements to reflect the agency that is responsible for wreck removal. However, any changes to the division of regulatory responsibilities between state and commonwealth would need to ensure that there is no duplication or overlap between jurisdiction in these regulatory responsibilities.

Liability for wreck removal

MAST does not see any issue with the 'registered owner of a ship' being liable for the costs of locating, marking and removing the associated wreck. This generally aligns with the current approach taken under Tasmanian legislation.

Currently Tasmanian legislation has no requirement for compulsory wreck insurance for DCVs or Recreational vessels in Tasmanian Waters. However, it is noted that Part 9 of the Queensland *Transport Operations (Marine Pollution) Regulations 2018* includes requirements for compulsory wreck removal insurance for vessels greater than 15m. Therefore the implementation of such requirements does already occur in some parts of the country for DCVs and recreational vessels.

Time limit for cost recovery

Currently, Tasmanian legislation relating to the removal of unseaworthy, sunken or abandoned vessels has no time limits on cost recovery. Therefore implementation of the WRC would differ from the current arrangements.

Salvage

Under Tasmanian legislation, initial responsibility for salvage is placed upon the vessel owner. A vessel owner is issued a Notice to Relocate/Remove and given a reasonable period of time to comply with the notice. During this time it is their responsibility to determine who they will engage to remove the vessel. If the owner does not comply with the Notice to Relocate/Remove and MAST determines that the wreck needs to be moved then application can be made through the courts for MAST to seize and dispose of the vessel. If the courts grant permission to MAST to seize and dispose of the vessel, then MAST can determine who they will engage to remove the vessel on their behalf. The legislation also gives MAST the ability to seek compensation from the owner, through civil proceedings, for costs incurred in the removal of the vessel.

It would therefore seem logical that the determination of who is engaged for salvage operations aligns with who has legal responsibility of the vessel at the time of the salvage.