



# **Great Barrier Reef Marine Park Regulations 2019**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 February 2019

Peter Cosgrove  
Governor-General

By His Excellency's Command

Melissa Price  
Minister for the Environment

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## Part 1—Preliminary

### Division 1—Preliminary

#### 1 Name

This instrument is the *Great Barrier Reef Marine Park Regulations 2019*.

#### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the day after this instrument is registered; and (b) 1 April 2019.	1 April 2019 (paragraph (b) applies)

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

#### 3 Authority

This instrument is made under the *Great Barrier Reef Marine Park Act 1975*.

#### 4 Schedule 7

Each instrument that is specified in Schedule 7 to this instrument is amended or repealed as set out in the applicable items in that Schedule, and any other item in that Schedule has effect according to its terms.

## Division 2—Interpretation of this instrument

### 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, or in the Zoning Plan, including:

- (a) Authority;
- (b) dory;
- (c) Marine Park;
- (d) prohibited;
- (e) trapping;
- (f) vessel;
- (g) zone.

(1) In this instrument:

**1 kilometre line** has the same meaning as in the Zoning Plan.

**1 nautical mile line** means the line every point of which is at a distance of 1 nautical mile seaward from the nearest point of the coastline at high water.

**100 metre line** has the same meaning as in the Zoning Plan.

**500 metre line** has the same meaning as in the Zoning Plan.

**accredited TUMRA** means a TUMRA that is accredited under Part 4.

**Act** means the *Great Barrier Reef Marine Park Act 1975*.

**Amalgamated Great Barrier Reef Section** means the area to which that name is assigned by the *Great Barrier Reef (Declaration of Amalgamated Marine Park Area) Proclamation 2004*.

**application** for a permission means an application that has not been withdrawn or lapsed.

**authority:**

- (a) (except in section 44 (Species Conservation (Dugong Protection) SMAs)) means an authority given under section 118 or 150; or
- (b) in section 44—has the meaning given by the Queensland fisheries legislation.

**bait netting** has the meaning given by the Zoning Plan.

Note: **Bait netting** means netting using a net declared in this instrument, and in accordance with any limitations prescribed in this instrument. See also section 15.

**bank** includes, but is not limited to, a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.

**bareboat** means a vessel that:

- (a) is a hire and drive vessel within the meaning of the Marine Safety (Domestic Commercial Vessel) National Law; and
- (b) has an overall length of at least 6 metres; and
- (c) is made available for use without master or crew.

Note: Examples of bareboats are cruisers, houseboats and yachts.

**bareboat operation** means making available a bareboat under a commercial arrangement (including a hiring, timeshare or similar arrangement) for recreational use.

**beach equipment** includes:

- (a) sailing boats (except boats that have an overall length of at least 6 metres); and
- (b) windsurfing craft; and
- (c) canoes and kayaks; and
- (d) pedal craft.

**Buffer Zone** means the zone described in the Zoning Plan as the Buffer Zone.

**business day** has the meaning given by section 2B of the *Acts Interpretation Act 1901*.

**Cairns Planning Area** has the meaning given by the *Cairns Area Plan of Management 1998*.

**calf** of a cetacean of a particular species means an animal not more than half the length of an adult of the species.

**capital dredge spoil material**:

- (a) means material excavated as a result of dredging:
  - (i) to create new channels, basins, ports, berths or other areas; or
  - (ii) to enlarge or deepen existing channels, basins, ports, berths or other areas; or
  - (iii) to remove material unsuitable for foundations; or
  - (iv) to create trenches for pipes, cables or tubes; or
  - (v) for any other purpose incidental to creating a void; and
- (b) does not include material excavated as a result of dredging carried out for the sole purpose of:
  - (i) maintaining an existing channel, basin, port, berth or other area for its intended use; or
  - (ii) protecting human life or property.

**caution zone** for a cetacean means an area around the cetacean with a radius of:

- (a) for a dolphin—150 metres; and
- (b) for a whale—300 metres.

**cetacean** means an animal of the Suborder Mysticeti or Odontoceti of the Order Cetacea.

**changed company** has the meaning given by subsection 125(1).

**charge year** means a period of 12 months beginning on 1 April.

**coastal 1 kilometre line** has the same meaning as in the Zoning Plan.

**coastal 100 metre line** has the same meaning as in the Zoning Plan.

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**coastal 500 metre line** has the same meaning as in the Zoning Plan.

**collapsible trap** has the meaning given by the Fisheries Regulation.

**collected amount** has same meaning as in Part VA of the Act.

**commercial fisher** has the same meaning as in the Fisheries Regulation.

**Commonwealth Heritage value** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**Commonwealth island** means an island that is:

- (a) owned by the Commonwealth; and
- (b) within the Marine Park.

**Conservation Park Zone** means the zone described in the Zoning Plan as the Conservation Park Zone.

**continuation application** means an application for a permission for which the following conditions are met:

- (a) the permission is of the same kind and relates to the same conduct as a permission (the **original permission**) the applicant holds or held;
- (b) either:
  - (i) the application is made before the end of the period specified in the original permission as the period for which the permission is in force; or
  - (ii) the application is made after the end of that period but the Authority decides under subsection 83(4) to treat the application for the permission as having been made before the end of that period.

Note: Subsection 83(4) relates to applications for special permissions.

**CPI** means the All Groups Consumer Price Index number for Brisbane published by the Australian Statistician.

**crab pot** has the meaning given by the Fisheries Regulation.

**cruise ship anchorage** has the same meaning as **designated anchorage**.

**Defence Force** means the Australian Defence Force.

**designated anchorage** means an area described in:

- (a) Schedule 1; or
- (b) without limiting paragraph (a), if a declaration is in force under paragraph (2)(a) of this section—the declaration, as in force from time to time.

Note: A declaration under paragraph (2)(a) may add additional areas to the areas described in Schedule 1.

**dilly** has the meaning given by the Fisheries Regulation.

**dinghy**:

- (a) means a small open boat, having no designed sleeping accommodation, that has an overall length of less than 6 metres; and
- (b) does not include a boat of the kind commonly known as a half-cabin boat.



**dolphin** means a member of the family Delphinidae or the family Phocoenidae.

**drying reef** means an area of reef exposed at low tide.

**engage in conduct**, when used in relation to an offence, has the meaning given by the *Criminal Code*.

**environmental impact statement** (except in item 6 of the table in subsection 202(6)) means an environmental impact statement under Subdivision C of Division 3 of Part 3.

**EOI notice** means a notice given under section 84.

**EPBC referral deemed application** means a referral under the *Environment Protection and Biodiversity Conservation Act 1999* of a proposal to take an action that, under section 37AB of the *Great Barrier Reef Marine Park Act 1975*, is taken to be an application for a permission.

**existing permission** has the same meaning as in the *Hinchinbrook Plan of Management 2004*, as in force from time to time.

Note: **Existing permission** means a relevant permission (within the meaning of section 11 of this instrument) in force immediately before 15 April 2004 (which was the day the *Hinchinbrook Plan of Management 2004* commenced).

**facility** has the same meaning as it has in subsection 3A(9) of the Act.

Note: A facility includes a building, a structure, a vessel, goods, equipment or services.

**fee-bearing application** means an application under Part 3 for a permission, except an application for a permission that is required to carry on an activity in the Marine Park for any of the following purposes in accordance with the Zoning Plan:

- (a) the traditional use of marine resources;
- (b) the taking, in accordance with a program approved by the Authority, of animals or plants that pose a threat to:
  - (i) human life or safety; or
  - (ii) marine or island ecosystems that are part of the Marine Park; or
  - (iii) the use and amenity of an area of the Marine Park or of adjacent areas.

**Fisheries Regulation** means the *Fisheries Regulation 2008* (Qld).

**fishing or collecting** has the meaning given by the Zoning Plan.

Note 1: **Fishing or collecting** means taking any plant, animal or marine product in accordance with any limitations prescribed by this instrument. See also section 17.

Note 2: Fishing or collecting has the meaning given by the Act or its ordinary meaning in some sections of this instrument (see for example section 47).

**fix** a net (except in paragraph (d) of the definition of **minor research aid**) has the meaning given by the Fisheries Regulation.

**floating hotel** means a vessel that:

- (a) has designed sleeping accommodation for persons who are not:
  - (i) crew; or

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- (ii) persons employed on the vessel for the purpose of the maintenance of the vessel or the provision of services; and
- (b) is supplied with visitors by other vessels or by aircraft.

**full day amount** has the meaning given by subsection 217(2).

**grade A treated sewage** means sewage that has been treated and complies with the standard set out in Part 2 of Schedule 5 to the *Transport Operations (Marine Pollution) Regulation 2018* (Qld).

Note 1: The standards for grade A treated sewage implement Resolution of MEPC.2(IV) MARPOL 73/78 made for the purposes of Annex IV of MARPOL 73/78.

Note 2: The samples of grade A treated sewage taken during the test period must not contain more than the following:

- (a) 250 thermotolerant coliforms/100 mL, most probable number, as assessed by a multiple tube fermentation analysis or an equivalent analytical procedure;
- (b) 50 mg/L of total suspended solids content above the suspended solids content of ambient water used for flushing purposes;
- (c) 50 mg/L of 5 day biochemical oxygen demand.

**grade B treated sewage** means sewage that has been treated and complies with the standard set out in Part 3 of Schedule 5 to the *Transport Operations (Marine Pollution) Regulation 2018* (Qld).

Note: The samples of grade B treated sewage taken during the test period must not contain more than the following:

- (a) 150 thermotolerant coliforms/100 mL, most probable number, as assessed by a multiple tube fermentation analysis or an equivalent analytical procedure;
- (b) 50 mg/L of total suspended solids content above the suspended solids content of ambient water used for flushing purposes.

**grade C treated sewage** means sewage that has been treated and complies with the standard set out in Part 4 of Schedule 5 to the *Transport Operations (Marine Pollution) Regulation 2018* (Qld).

Note: The samples of grade C treated sewage taken during the test period must not contain more than 150 thermotolerant coliforms/100 mL, most probable number, as assessed by a multiple tube fermentation analysis or an equivalent analytical procedure.

**haul** a net has the meaning given by the Fisheries Regulation.

**hazardous goods** has the same meaning as **dangerous goods** has in Chapter VII of the Annex to the International Convention for the Safety of Life at Sea, done at London on 1 November 1974, as in force for Australia from time to time.

Note: The Convention is in Australian Treaty Series 1983 No. 22 ([1983] ATS 22) and could in 2019 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**heli-pontoon** means a non-motorised, permanently moored facility that is used solely as a landing area for helicopters.

**high-speed vessel** means a personal watercraft, hovercraft or wing-in-ground-effect craft, or any other vessel if operated faster than 35 knots.

**Hinchinbrook authorisation** means an authorisation mentioned in the *Hinchinbrook Plan of Management 2004* and granted under section 69.

**Hinchinbrook Planning Area** has the meaning given by the *Hinchinbrook Plan of Management 2004*.

**holding company** has the same meaning as in the *Corporations Act 2001*.

**hook** means any of the following:

- (a) hook within the ordinary meaning of the expression;
- (b) a single-shanked double or treble hook;
- (c) a lure (that is, an artificial bait with no more than 3 hooks attached to it);
- (d) an artificial fly;
- (e) a jig for taking squid;
- (f) a ganged hook set, consisting of no more than 6 hooks, each of which is in contact (by the point of one hook being threaded through the eye of another, or joined by a swivel or wire) with at least one of the other hooks in the set, used to attach one piece of bait and intended to catch only one fish;
- (g) a bait jig (that is, a hook or a group of hooks consisting of no more than 6 hooks, each hook being of a size between number 1 and number 12 (both inclusive) or their equivalents).

**Indigenous heritage value** has the same meaning as **indigenous heritage value** has in the *Environment Protection and Biodiversity Conservation Act 1999*.

**INF Code** means the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships, done at London on 27 May 1999, as in force from time to time.

Note: The INF Code could in 2019 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**infringement notice offence** has the meaning given by subsections 243(1) and (2).

**infringement notice penalty** has the meaning given by subsections 243(1) and (2).

**lead core rope** means rope which, during manufacture, incorporates lead along the full length of the rope.

**limited research sampling** has the meaning given by subsection 20(2).

**Marine National Park Zone** means the zone described in the Zoning Plan as the Marine National Park Zone.

**mesh net** has the meaning given by the Fisheries Regulation.

**mesh size** of a net has the meaning given by the Fisheries Regulation.

**minor research aid** means any of the following:

- (a) any of the following that is not powered in a way that poses a threat to the environment:
  - (i) apparatus, or equipment, authorised under Queensland fisheries legislation for recreational use;
  - (ii) a data logger;

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- (iii) a water-sampling device;
- (iv) a sediment-sampling device;
- (v) passive acoustic monitoring or survey equipment;
- (vi) equipment for conducting an underwater video survey;
- (b) a tag;
- (c) a stake;
- (d) a non-fixed plankton net;
- (e) a sub-surface marker buoy;
- (f) a surface marker buoy;
- (g) a non-fixed transect tape or quadrat;
- (h) clove oil in solution;
- (i) equipment for fastening anything described in another paragraph of this definition.

***misuse of a public mooring*** includes the following:

- (a) attaching a vessel to the mooring by attaching the mooring tackle to a part of the vessel other than to its bow;
- (b) attaching a vessel to the mooring when another vessel is already attached to the mooring;
- (c) attaching a vessel (except a tender) to another vessel when that other vessel is attached to a mooring;
- (d) attaching a vessel to another vessel when that other vessel is part of a chain of 2 or more attached vessels, and a vessel in that chain is attached to the mooring;
- (e) if a vessel is attached to the mooring for the maximum period specified on a tag or buoy attached to the mooring—reattaching the vessel to the mooring within one hour of the end of that period;
- (f) claiming to be the owner of the mooring or falsely claiming to have a preferential right to the use of the mooring;
- (g) altering or moving the mooring;
- (h) shortening a mooring rope attached to the mooring;
- (i) manoeuvring a vessel under power while the vessel is attached to the mooring (except when the vessel is being released from the mooring);
- (j) if a tag or buoy attached to the mooring includes instructions for the use of the mooring—not complying with an instruction on the tag or buoy.

Note: The following are examples for paragraph (j):

- (a) a vessel attached to the mooring is over the maximum vessel length limit specified on the tag or buoy;
- (b) a vessel has been attached to the mooring for longer than the maximum period specified on the tag or buoy;
- (c) a vessel is attached to the mooring, or remains attached to the mooring, when the wind speed at the location of the mooring exceeds the maximum wind speed specified on the tag or buoy.

***misuse of public infrastructure*** includes attaching a vessel to public infrastructure that is not intended for use by the attaching of vessels.

***modify*** a condition includes vary, add, omit and substitute.

***mooring reference number*** for a permitted mooring means:

- (a) the unique number, or alphanumeric code, issued by or for:
  - (i) the Authority; or
  - (ii) the Government of Queensland; or
  - (iii) an authority of that Government;in relation to the permitted mooring for display on the mooring buoy; or
- (b) if the mooring is also a buoy mooring approved under the *Transport Operations (Marine Safety) Regulation 2016* (Qld)—the identifying number for the buoy mooring mentioned in paragraph 190(a) of that Regulation.

**motorised water sport** means (except in section 26) any of the following activities:

- (a) the irregular driving of a motorised vessel other than in a straight line (except for necessary turns or diversions), including:
  - (i) driving in a circle or other pattern; or
  - (ii) weaving or diverting; or
  - (iii) surfing down, or jumping over or across, any wave, swell or wash;
- (b) any activity in which a high-speed vessel or a motorised vessel tows a person on top of the water or in the air (for example, waterskiing or parasailing);
- (c) any activity in which a personal watercraft is used, except:
  - (i) for transiting an area or from a place to another place; or
  - (ii) if the personal watercraft can only be operated when fully submerged under the water and is only operated for the primary purpose of viewing the environment.

**‘NII’ fish** has the same meaning as in the Fisheries Regulation.

**National Heritage value** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**netting** has the meaning given by the Zoning Plan.

Note 1: **Netting** means netting in accordance with any limitations prescribed by this instrument. See also section 27.

Note 2: Netting has its ordinary meaning in some sections of this instrument (see for example section 15).

**no-anchoring area** means an area described in:

- (a) Schedule 3; or
- (b) without limiting paragraph (a), if a declaration is in force under paragraph (2)(b) of this section—the declaration, as in force from time to time.

Note: A declaration under paragraph (2)(b) may add additional areas to the areas described in Schedule 3.

**non-bait fish** means a fish of any of the following species:

- (a) bream of the genus *Acanthopagrus* or *Rhabdosargus*;
- (b) flathead of the genus *Platycephalus*;
- (c) whiting of the genus *Sillago*.

**non-fishing area of the Marine Park** means:

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- (a) a zone described in the Zoning Plan as:
  - (i) the Scientific Research Zone; or
  - (ii) the Marine National Park Zone; or
  - (iii) the Preservation Zone; or
- (b) any other area of the Marine Park where the taking of fish is not permitted.

**Offshore Port Douglas Sector** has the same meaning as in Schedule 2 to the *Cairns Area Plan of Management 1998*.

**offshore waters** has the meaning given by the Fisheries Regulation.

**oil** (except in paragraph (h) of the definition of **minor research aid**) means oil or an oily mixture within the meaning of Part II of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.

**operation** of a tourist program:

- (a) has the same meaning as in subsection 3A(3) of the Act; and
- (b) includes the construction, maintenance or operation of a building or other facility (or its removal or demolition) in the Marine Park, for a purpose of the tourist program.

**owner** of a vessel means:

- (a) for a vessel that is registered under a law of a State or Territory providing for the registration of vessels—the registered owner; or
- (b) for any other vessel—the person who is legally entitled to possession of the vessel.

**part day amount** has the meaning given by subsection 219(2).

**permission** means a permission to which Part 3 applies.

**permitted mooring** means a mooring, other than a public mooring, for which the Authority has granted a permission.

**personal watercraft** means a powered vessel that:

- (a) has a fully enclosed hull that does not take on water if the vessel capsizes; and
- (b) is designed to be operated by a person standing, crouching or kneeling on the vessel or sitting astride the vessel.

**PIP terms** has the meaning given by subsection 94(1).

**possess** a thing (except in paragraph (b) of the definition of **owner** in this subsection) means:

- (a) have custody or control of the thing; or
- (b) have an ability or right to obtain custody or control of the thing.

**primary commercial fishing vessel** means:

- (a) a vessel in relation to which a licence or other permission (however described and whether or not in force) has been granted under a law of the Commonwealth, a State or a Territory, permitting the vessel to be used to take fish for commercial purposes; or
- (b) a vessel that is used to take fish for commercial purposes.

**primary service** means a service that:

- (a) forms part of a tourist program; and
- (b) is not a secondary service.

**Princess Charlotte Bay specified area** means the area enclosed by the meridians 143°30.0'E and 144°30.0'E and the parallels 14°00.0'S and 14°30.0'S.

Note: The area defined is known as the Queensland fisheries logbook areas D11 and E11.

**private mooring** means a mooring other than a public mooring.

**prohibited dumping:**

- (a) means dumping, in the Marine Park, an amount of capital dredge spoil material that prior to its excavation was, in situ, more than 15,000 cubic metres in volume; and
- (b) does not include burying a pipe, cable or tube with capital dredge spoil material if the material had been excavated to create the trench in which the pipe, cable or tube was laid.

**prohibited vessel** means any of the following:

- (a) a jet ski;
- (b) a vessel that is being used for parasailing;
- (c) a hovercraft;
- (d) a hydrofoil;
- (e) a wing-in-ground-effect craft;
- (f) a motorised diving aid (for example, a motorised underwater scooter).

**proposed conduct**, in relation to an application for a permission, means the conduct proposed to be permitted by the permission.

**proposed conduct advertisement** has the meaning given by subparagraph 98(1)(c)(ii).

**Protocol of 1978** means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships of 2 November 1973, as amended, done at London on 17 February 1978.

Note: The Protocol of 1978 is in Australian Treaty Series 1988 No. 29 ([1988] ATS 29) and could in 2019 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**public environment report** (except in item 6 of the table in subsection 202(6)) for an activity means a public environment report under Subdivision C of Division 3 of Part 3.

**public infrastructure:**

- (a) means infrastructure that is installed in the Marine Park by or for:
  - (i) the Authority; or
  - (ii) the Government of Queensland; or
  - (iii) an authority of that Government;and relates to the use of the Marine Park by the public; and
- (b) includes infrastructure covered by paragraph (a) that is:
  - (i) a reef protection marker; or

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- (ii) a buoy not attached to a public mooring; or
- (iii) a sign; or
- (iv) a boundary-marking rope.

***public mooring:***

- (a) means a mooring that is installed in the Marine Park by or for:
  - (i) the Authority; or
  - (ii) the Government of Queensland; or
  - (iii) an authority of that Government;and is labelled as a public mooring or otherwise intended for public use; and
- (b) includes a mooring covered by paragraph (a) that is:
  - (i) a floating buoy, tag and tackle; or
  - (ii) a structure fixing the mooring to the seabed.

***quarter*** means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

***Queensland fisheries legislation*** has the meaning given by the Zoning Plan.

Note: See also section 31.

***Queensland planning legislation*** means:

- (a) the *Planning Act 2016* (Qld); or
- (b) the *Planning Regulation 2017* (Qld); or
- (c) the State Planning Policy as defined in Schedule 24 to the *Planning Regulation 2017* (Qld).

***recreational fisher*** has the same meaning as in the Fisheries Regulation.

***reef edge*** has the same meaning as in the Zoning Plan.

***relevant heritage values*** has the meaning given by subsection 176(2).

***relevant impacts*** of proposed conduct or permitted conduct means:

- (a) the potential direct and indirect impacts of the conduct, and the potential cumulative impacts of the conduct (in conjunction with other conduct, events and circumstances), on the environment, biodiversity, and heritage values, of the Marine Park or a part of the Marine Park; or
- (b) the risk of the proposed conduct restricting reasonable use by the public of a part of the Marine Park and the extent of that restriction (if any).

***representative Aboriginal/Torres Strait Islander body*** has the same meaning as in the *Native Title Act 1993*.

***research guidelines*** means written policies about the conduct of research in the Marine Park that are published by the Authority, as they are in existence from time to time.

***research location*** means:

- (a) a discrete, identified reef; or
- (b) a continuous non-reef area of up to 1,000 hectares.



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**research project** means a diligent and systematic inquiry or investigation into a subject, in order to discover facts or principles, that has its own objectives, sampling design and outcomes.

**Ribbon Reefs Sector** has the same meaning as in Schedule 2 to the *Cairns Area Plan of Management 1998*.

**secondary service** means a service that:

- (a) forms part of a tourist program; and
- (b) the Authority has determined, under section 212, to be a secondary service.

**secondary treatment**: sewage receives **secondary treatment** if the sewage complies with the following standards:

- (a) 5-day biochemical oxygen demand does not exceed 20 milligrams per litre;
- (b) suspended solids do not exceed 30 milligrams per litre;
- (c) pH value is between 6.0 and 8.5;
- (d) dissolved oxygen is at least 2 milligrams per litre;
- (e) *Escherichia coli* bacteria organisms in at least 5 samples of the effluent, collected at intervals of not less than half an hour:
  - (i) have, in respect of all the samples, a geometric mean value that is not more than 200 colonies per 100 millilitres; and
  - (ii) number, in 80% of the samples, less than 1000 colonies per 100 millilitres.

**set mesh net** has the meaning given by the Fisheries Regulation.

**sewage** means drainage and other waste from any form of toilet or urinal (including waste water that includes such drainage or waste).

**sightseeing aircraft excursion** means an aircraft excursion that:

- (a) is provided under a chargeable permission; and
- (b) returns to, and disembarks passengers at, the place from which the aircraft embarked the passengers without landing at any other place; and
- (c) has sightseeing as its sole purpose.

**SMA** means Special Management Area.

**special management provision** has the meaning given by subsection 42(1).

**special permission** has the meaning given by subsections 82(1), (2) and (3).

**special tourism permission** means a permission to conduct a tourist program, or to conduct an activity under a tourist program, if:

- (a) this instrument or a plan of management has imposed a limit on the number of such permissions that may be granted; or
- (b) a plan of management declares such permissions to be special tourism permissions for the purposes of this instrument.

**standard tourist program charge** means charge that is payable under section 215.

**stowed or secured** in relation to equipment for fishing or collecting has the meaning given by the Zoning Plan.

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Note: See also section 33 which prescribes requirements for the purposes of the definition of *stowed or secured* in the Zoning Plan.

*subsidiary* has the same meaning as in the *Corporations Act 2001*.

*superyacht* means a high-value, luxury sailing or motor vessel in use for sport or pleasure (whether for private or commercial use).

*superyacht anchorage* means an area described in:

- (a) Schedule 2; or
- (b) without limiting paragraph (a), if a declaration is in force under paragraph (2)(c) of this section—the declaration, as in force from time to time.

Note: A declaration under paragraph (2)(c) may add additional areas to the areas described in Schedule 2.

*swimming-with-whales activity* means an activity for the purpose of enabling tourists to swim, snorkel or scuba dive with cetaceans, or to observe cetaceans while in the water with them, including:

- (a) using an aircraft or vessel to find cetaceans for that purpose; and
- (b) placing tourists in the water for that purpose.

*takes part* in a tourist program has the meaning given by section 214.

*tertiary treatment*: sewage receives *tertiary treatment* if the sewage has received secondary treatment and the sewage complies with the following standards:

- (a) either:
  - (i) total nitrogen content is less than 4 milligrams per litre and the total phosphorus content is less than 1 milligram per litre; or
  - (ii) if subparagraph (i) does not apply—no more than 5% of the annual volume of effluent generated is discharged into the Marine Park at a land-based outfall;
- (b) total oil and grease content is less than 10 mg/litre;
- (c) the effluent does not produce a slick or any other visible evidence of oil or grease;
- (d) if the effluent has been disinfected by chlorination, the effluent does not contain by-products of the disinfection that may pollute water in a manner harmful to animals or plants in the Marine Park.

*tourist* has the same meaning as it has in subsection 3A(9) of the Act.

*Traditional Owner* has the same meaning as *traditional owner* has in the Act.

*Traditional Owner group* has the same meaning as *traditional owner group* has in subsection 34(2).

*transfer passenger* means a person who:

- (a) is transported into the Marine Park and disembarked at a place contiguous to, or at a wharf or jetty within or partly within, the Marine Park by a person who holds a permission for a tourist program; and
- (b) is transported by the most direct reasonable route; and
- (c) does not:

- (i) during the course of travel in the Marine Park—engage in any tourist activity provided by the permission holder; and
- (ii) at the disembarkation destination, for at least 2 hours after disembarkation—engage in any tourist activity provided by the permission holder under that permission.

**transiting:** a vessel or aircraft is **transiting** an area (however described), or from a place (the **origin**) to another place (the **destination**), if the vessel or aircraft is travelling:

- (a) through the area, or from the origin to the destination, by the most direct and reasonable route; and
- (b) in the case of a vessel—in such a manner that, at all times when the vessel is on that route, the vessel is being propelled (whether by engine, sail or human power) through the water in a forward direction and is not adrift.

For this purpose, it does not matter where the origin or the destination is, whether the origin is a point or an area or whether the destination is a point or an area.

**TUMRA** (short for traditional use of marine resources agreement) has the same meaning as **traditional use of marine resources agreement** has in the Zoning Plan.

**TUMRA holder**, in relation to a TUMRA, is an individual:

- (a) who is a member of the Traditional Owner group covered by the TUMRA; and
- (b) to whom correspondence may be sent on behalf of the group.

**visitor** means a person to whom a service is provided under a chargeable permission, but who is not:

- (a) a transfer passenger; or
- (b) a person of one of the following kinds, in respect of whom the holder of the permission is not paid a fee for the provision of the service:
  - (i) a child aged less than 4 years;
  - (ii) a person visiting the Marine Park as a beneficiary of a charity registered under a law of the Commonwealth, a State or a Territory;
  - (iii) a member of a school-supervised school group;
  - (iv) a person engaged in the tourism industry who is visiting the Marine Park for trade familiarisation or who is accompanying visitors to the Marine Park as driver, guide, instructor, or for a similar reason;
  - (v) a person engaged in the newspaper, broadcasting or other information media who is visiting the Marine Park for the purpose of reporting on a matter in the Marine Park.

**whale** means a cetacean other than a dolphin.

**whale protection area** means a whale protection area in Schedule 4.

**whale watching activity** means an activity (other than a swimming-with-whales activity) conducted for the purpose of enabling tourists to observe cetaceans, including using a vessel or aircraft to find cetaceans for that purpose.

**Whitsunday Planning Area** has the meaning given by the *Whitsundays Plan of Management 1998*, as in force from time to time.

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**wreck** has the meaning given by the Zoning Plan.

**Zoning Plan** means the *Great Barrier Reef Marine Park Zoning Plan 2003*, as in force from time to time.

### *Declarations*

- (2) The Authority may, by notifiable instrument, declare an area described in the declaration to be:
  - (a) a designated anchorage for the purposes of the definition of **designated anchorage** in subsection (1); or
  - (b) a no-anchoring area for the purposes of the definition of **no-anchoring area** in subsection (1); or
  - (c) a superyacht anchorage for the purposes of the definition of **superyacht anchorage** in subsection (1).
- (3) In making a declaration under subsection (2), the Authority must have regard to the environmental, economic and social values of the area described.

## 6 References to laws of Queensland

- (1) Subject to subsection (2), a reference in this instrument to a law of Queensland is a reference to that law as in force from time to time.
- (2) A reference in this instrument to the *Transport Operations (Marine Pollution) Regulation 2018* (Qld) or the *Transport Operations (Marine Safety) Regulation 2016* (Qld) is a reference to that law as in force at the time this instrument commences.

## 7 Meaning from Zoning Plan applies in relation to Amalgamated Great Barrier Reef Section

A word or expression used in this instrument that is defined in the Zoning Plan has, in the application of this instrument to and in relation to the Amalgamated Great Barrier Reef Section, the same meaning as it has in the Zoning Plan.

Note: The Dictionary to the Zoning Plan provides for a number of terms in the Zoning Plan to have the meaning given by this instrument.

## 8 Geographic coordinates

Geographic coordinates in this instrument are expressed in terms of the Geocentric Datum of Australia 1994.

Note: The Geocentric Datum of Australia 1994 (also known as GDA94) was published in Gazette No. GN35 of 6 September 1995.

## **Division 3—Prescribing matters for the purposes of the Act**

### **9 Pilots—prescribed law for the purposes of subsection 3(1)**

For the purposes of paragraph (b) of the definition of *pilot* in subsection 3(1) of the Act, the following laws are prescribed:

- (a) the *Navigation Act 2012*;
- (b) the *Transport Operations (Marine Safety) Act 1994* (Qld).

### **10 Protected species—declaration for purposes of the Act**

For the purposes of paragraph (d) of the definition of *protected species* in subsection 3(1) of the Act, the following species are declared to be a protected species:

- (a) each species mentioned in the table in section 30;
- (b) each species of marine mammal, bird or reptile that is prescribed as “near threatened wildlife” under the *Nature Conservation Act 1992* (Qld);
- (c) each species of the genus *Epinephelus* (other than *E. tukula* or *E. lanceolatus*), but only in relation to individuals in the species that are more than 1,000 millimetres long.

### **11 Meaning of *relevant permission***

For the purposes of subsection 39ZC(1) of the Act, the Zoning Plan and a plan of management, *relevant permission* means a permission mentioned in paragraph 75(1)(b) or (c).

## **Part 2—Definitions and other matters for the purposes of the Zoning Plan**

### **Division 1—Simplified outline of this Part**

#### **12 Simplified outline of this Part**

This Part prescribes matters for the purposes of the Zoning Plan.

Division 2 defines concepts, and limitations for the purposes of concepts, that are used in the Zoning Plan.

Division 3 declares certain activities to be prohibited under the Zoning Plan.

Division 4 designates Special Management Areas and special management provisions for the purposes of the Zoning Plan. A person who contravenes a special management provision may commit an offence or be liable for a civil penalty under section 38BA or 38BB of the Act.

Division 5 provides miscellaneous provisions relating to the Zoning Plan.

Division 6 creates offences for fishing and other related matters for the purposes of enforcing the Zoning Plan.

Division 7 provides for authorisations to be granted to allow activities that were prohibited by the *Hinchinbrook Plan of Management 2004* to continue.

## **Division 2—Prescribing definitions and limitations for the purposes of the Zoning Plan**

### **13 Accreditation of educational or research institutions**

- (1) This section applies for the purposes of the definition of *accredited educational or research institution* in the Zoning Plan.
- (2) The Authority may, in writing, accredit an educational or research institution to conduct one or more of the following:
  - (a) limited impact research (extractive);
  - (b) limited impact research (non-extractive);
  - (c) a limited educational program;if the Authority is satisfied that the institution:
  - (d) has adopted appropriate environmental practices and standards (including instruction and training of personnel); and
  - (e) has an ongoing commitment to improve those practices and standards;relating to research or education undertaken in the Marine Park by the institution or on its behalf.

Note 1: For *limited impact research (extractive)* and *limited impact research (non-extractive)*, see the Dictionary to the Zoning Plan and sections 20 and 21 of this instrument. For *limited educational program*, see the Dictionary to the Zoning Plan.

Note 2: See Part 15, and sections 64 and 64A of the Act, for reconsideration and review of decisions.

- (3) The Authority may, in writing, revoke an accreditation if:
  - (a) it is satisfied that the institution:
    - (i) has ceased to hold the practices and standards mentioned in paragraph (2)(d); or
    - (ii) no longer has the commitment mentioned in paragraph (2)(e); or
  - (b) it is satisfied that:
    - (i) damage to, or degradation or disruption of, the physical environment or the living resources of the Marine Park, or of any part of it, has occurred; or
    - (ii) there is an imminent threat that such damage, degradation or disruption will occur.

### **14 Accreditation of harvest fisheries**

- (1) This section applies for the purposes of the definition of *accredited harvest fishery* in the Zoning Plan.
- (2) The Authority may, in writing, accredit a harvest fishery for the Zoning Plan if the Authority is satisfied that the management arrangements for the fishery under Queensland fisheries legislation provide a sound basis for an ecologically sustainable harvest fishery in an area that is part of, or includes a part of, the Marine Park.

Note 1: In the Zoning Plan, *harvest fishery* is defined in part as a fishery declared by the Regulations. For the list of harvest fisheries, see section 18.

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Note 2: See Part 15, and sections 64 and 64A of the Act, for reconsideration and review of decisions.

- (3) The Authority may, in writing, revoke an accreditation if it is satisfied that:
  - (a) the management arrangements are no longer a sound basis for an ecologically sustainable fishery in an area that is part of, or includes a part of, the Marine Park; or
  - (b) the compliance arrangements for the fishery are not adequate, or are not being adequately enforced.

### **15 Bait netting—limitations on netting**

- (1) This section declares the nets and prescribes the limitations on netting (within the ordinary meaning of the expression) for the purposes of the definition of ***bait netting*** in the Zoning Plan.
- (2) The following nets are declared:
  - (a) for a recreational fisher—a cast, scoop or seine net that complies with the size, measurement and other physical requirements in the following provisions of the Fisheries Regulation:
    - (i) for a cast net—section 187A;
    - (ii) for a scoop net—section 187B;
    - (iii) for a seine net—section 187C;
  - (b) for a commercial fisher—a seine, cast or mesh net that complies with the size, measurement and other physical requirements in the following provisions of the Fisheries Regulation:
    - (i) for a seine net—subsection 475(1);
    - (ii) for a cast net—section 532;
    - (iii) for a mesh net (other than a seine net)—section 533.
- (3) The following limitations are prescribed:
  - (a) for a recreational fisher—bait netting must be in accordance with section 179 of the Fisheries Regulation;
  - (b) for a commercial fisher:
    - (i) while using a seine net, bait netting must be in accordance with sections 179 and 181 and subsections 472(6), 472(7) and 475(2) of the Fisheries Regulation; and
    - (ii) while using a cast net for taking ‘N11’ fish, the fisher must comply with the licence condition in subsection 247(5) of the Fisheries Regulation; and
    - (iii) while using a mesh net, bait netting must be in accordance with sections 179, 181, 530, 533 and 533B of the Fisheries Regulation and, if the net used for taking ‘N11’ fish, the fisher must comply with the licence condition in subsection 247(5) of the Fisheries Regulation;
  - (c) a commercial fisher must not:
    - (i) take a non-bait fish in the Conservation Park Zone using a net mentioned in subsection (2); or
    - (ii) possess (whether or not in the Conservation Park Zone) a non-bait fish that was taken in the Conservation Park Zone using a net mentioned in subsection (2).



- (4) However, a commercial fisher does not take or possess a non-bait fish if:
  - (a) the fish is taken unintentionally; and
  - (b) the fisher does not allow the net containing the fish to be out of the water other than to immediately remove the fish from the net; and
  - (c) the fisher immediately releases the fish into water deep enough to allow the fish to escape.

## 16 Definition of *defence activities*

In the Zoning Plan, *defence activities* means activities for defence purposes:

- (a) conducted by the Defence Force; or
- (b) conducted in the Marine Park by an arm of the defence forces of a foreign country with the consent of the Commonwealth; or
- (c) conducted or authorised by a Department whose Minister administers all or part of the *Defence Act 1903*.

## 17 Fishing or collecting—limitations

- (1) For the purposes of the definition of *fishing or collecting* in the Zoning Plan, the following limitations are prescribed:
  - (a) an animal or plant of a protected species is not to be taken or possessed except in accordance with subparagraph 5.3(b)(ii) or paragraph 5.3(c) of the Zoning Plan;
  - (b) a specimen of an animal of a species is not to be taken or possessed if the species is specified in:
    - (i) Part 1 of the table in subsection (2); or
    - (ii) without limiting subparagraph (i) of this paragraph, if a declaration is in force under paragraph (3)(a)—the declaration, as in force from time to time;
  - (c) no more than 5 specimens of an animal of a species specified in:
    - (i) Part 2 of the table in subsection (2); or
    - (ii) without limiting subparagraph (i) of this paragraph, if a declaration is in force under paragraph (3)(b)—the declaration, as in force from time to time;may be taken or possessed;
  - (d) if an animal or plant of a species authorised to be taken under Queensland fisheries legislation is taken:
    - (i) no more than the number of specimens authorised by that legislation to be taken or possessed are to be taken or possessed; and
    - (ii) the taking or possession is to be in accordance with that legislation.

Note 1: For paragraph (a), section 30 sets out the kinds of species that are protected species.

Note 2: A declaration under paragraph (3)(a) or (b) may add additional species to the species specified in the table in subsection (2).

- (2) The following table has effect for the purposes of subparagraphs (1)(b)(i) and (c)(i).

**Part 2** Definitions and other matters for the purposes of the Zoning Plan

**Division 2** Prescribing definitions and limitations for the purposes of the Zoning Plan

Section 17

<b>Restricted species for fishing or collecting</b>		
<b>Item</b>	<b>Species</b>	<b>Common names</b>
<b>Part 1—No specimens to be taken or possessed at any time</b>		
1	Classes Anthozoa and Hydrozoa (all species)	Corals (hard, soft and black), anemones, zoanthids, seafans, corallimorpharians, hydroids and fire corals
<b>Part 2—No more than 5 specimens to be taken or possessed at a time</b>		
1	<i>Chlorurus microrhinos</i>	Steephead parrotfish
2	Class Ascidiacea (all species)	Sea squirts
3	Class Gastropoda (all species except <i>Cassia cornuta</i> and <i>Charonia tritonis</i> )	Snails and slugs (including whelks, nudibranchs, limpets, cowries, trochus and baler shells) except giant helmet shell and trumpet triton
4	Family Anomalopidae (all species)	Flashlightfishes
5	Family Antennariidae (all species)	Anglerfishes and frogfishes
6	Family Aploactinidae (all species)	Velvetfishes
7	Family Apogonidae (all species)	Cardinalfishes and siphonfishes
8	Family Aulostomidae (all species)	Trumpetfishes
9	Family Balistidae (all species)	Triggerfishes
10	Family Batrachoididae (all species)	Frogfishes
11	Family Blenniidae (all species)	Blennies
12	Family Callionymidae (all species)	Dragonets
13	Family Caracanthidae (all species)	Crouchers and orbicular velvetfishes
14	Family Centriscidae (all species)	Razorfishes and shrimpfishes
15	Family Chaetodontidae (all species)	Butterflyfishes
16	Family Cirrhitidae (all species)	Hawkfishes
17	Family Clinidae (all species)	Scaled blennies, armoured blennies and weedfishes
18	Family Congridae (all species)	Conger eels
19	Family Diodontidae (all species)	Porcupinefishes
20	Family Ehippidae (all species)	Batfishes
21	Family Fistulariidae (all species)	Flutemouths
22	Family Gobiidae (all species)	Gobies
23	Family Holocentridae (all species)	Squirrelfishes and soldierfishes
24	Family Labridae (all species except <i>Choerodon anchorago</i> , <i>C. schoenleini</i> , <i>C. cyanodus</i> , <i>C. cephalotes</i> , <i>C. venustus</i> , <i>Bodianus</i> spp., <i>Cheilinus undulatus</i> , <i>C. fasciatus</i> and <i>C. trilobatus</i> )	Wrasses and tuskfishes (except anchor tuskfish, blackspot tuskfish, blue tuskfish, purple tuskfish, Venus tuskfish, pigfish, humphead Maori wrasse, redbreast Maori wrasse and tripletail Maori wrasse)
25	Family Malacanthidae (all species)	Tilefishes
26	Family Microdesmidae (all species)	Wormfishes and dartfishes
27	Family Monacanthidae (all species)	Leatherjackets
28	Family Monocentrididae (all species)	Pineapplefishes

Section 18

<b>Restricted species for fishing or collecting</b>		
<b>Item</b>	<b>Species</b>	<b>Common names</b>
29	Family Muraenidae (all species)	Moray eels
30	Family Ophichthidae (all species)	Snake eels
31	Family Ostraciidae (all species)	Boxfishes
32	Family Pegasidae (all species)	Seamoths
33	Family Plesiopidae (all species)	Longfins and prettyfins
34	Family Pomacanthidae (all species)	Angelfishes
35	Family Pomacentridae (all species)	Damselfishes
36	Family Priacanthidae (all species)	Bigeyes
37	Family Pseudochromidae (all species)	Dottybacks and eel blennies
38	Family Scorpaenidae (all species)	Scorpionfishes, firefishes and lionfishes
39	Family Siganidae (all species)	Rabbitfishes
40	Family Tetraodontidae (all species)	Toadfishes and pufferfishes
41	Family Tripterygiidae (all species)	Triplefins
42	Family Zaclidae (all species)	Moorish idol
43	Genus <i>Nautilus</i> (all species)	Nautilus
44	Genus <i>Pinctada</i> (all species)	Pearl oysters
45	Phylum Echinodermata (all species except those of the class Holothuroidea or the species of <i>Acanthaster</i> )	Sea stars, crinoids, brittle stars, sea urchins, but not sea cucumbers or crown of thorns starfish
46	Phylum Porifera (all species)	Sponges
47	Subfamily Anthiinae (all species)	Anthias and basslets
48	Tribe Grammistini (all species)	Soapfishes

(3) The Authority may, by notifiable instrument, make a declaration for the purposes of:

- (a) subparagraph (1)(b)(ii); or
- (b) subparagraph (1)(c)(ii).

## 18 Harvest fisheries—declaration of fisheries

For the purposes of the definition of *harvest fishery* in the Zoning Plan, the following fisheries (being fisheries described in Chapters 7 and 11 of the Fisheries Regulation) are declared:

- (a) the Aquarium Fish Fishery;
- (b) the Sea Cucumber Fishery (East Coast);
- (c) the Coral Fishery;
- (d) the Commercial Crayfish and Rocklobster Fishery;
- (e) the Shell Fishery;
- (f) the Trochus Fishery (East Coast);
- (g) the Pearl Fishery;
- (h) the Beachworm Fishery;
- (i) the Bloodworm Fishery;
- (j) the Marine Yabby Fishery.

Section 19

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**19 Limited collecting—limitations**

For the purposes of the definition of **limited collecting** in the Zoning Plan:

- (a) collecting (within the ordinary meaning of the expression) plants and animals is to be:
  - (i) by hand; or
  - (ii) with a hand-held implement that is not motorised and not pneumatically or hydraulically operated; and
- (b) marine products are not to be collected.

Note: This is not the only relevant limitation. The Zoning Plan refers to limited collecting only as a kind of fishing or collecting. The definition of **fishing or collecting** in the Zoning Plan provides for extra limitations, which are set out in subsection 17(1).

**20 Definition of *limited impact research (extractive)***

*Definition for Zoning Plan*

- (1) In the Zoning Plan, **limited impact research (extractive)** means research that:
  - (a) involves:
    - (i) the taking (within the meaning of the Zoning Plan) of an animal, plant or marine product by limited research sampling (see subsection (2)); or
    - (ii) the installation and operation of minor research aids in a way that does not pose a threat to the environment, safety or navigation and is in accordance with the research guidelines (if any); and
  - (b) is a component of a research project conducted by a research institution accredited under section 13; and
  - (c) if:
    - (i) the research is conducted in an area of the Scientific Research Zone; and
    - (ii) the Authority has approved an environmental management plan in writing for a research station associated with the area;is conducted in accordance with that plan.
- (2) **Limited research sampling** is sampling in accordance with all of the following conditions:
  - (a) taking is done, in accordance with the research guidelines (if any):
    - (i) by hand; or
    - (ii) with a hand-held implement that is not motorised and not pneumatically or hydraulically operated; or
    - (iii) by the use of a minor research aid;
  - (b) no more than 20 litres of wet sediment is taken for a research project for a calendar year;
  - (c) no more than 100 litres of seawater is taken for a research project for a calendar year;
  - (d) taking of marine plants, as defined in the *Fisheries Act 1994* (Qld), complies with Queensland fisheries legislation and Queensland planning legislation;

- (e) taking of organisms of marine taxa of the kingdom Chromista would comply with Queensland fisheries legislation and Queensland planning legislation if those organisms were marine plants for the purposes of all that legislation;
- (f) the conditions described in subsections (3) and (4) on taking animals.

Note: As all the conditions mentioned in the definition need to be met for sampling to be limited research sampling, if 2 or more conditions potentially relate to the same activity, the activity will be limited research sampling only if all those conditions are met.

*Conditions on taking animals of certain species in limited research sampling*

- (3) Sampling for a research project in a calendar year:
    - (a) must not involve the taking (within the meaning of the Zoning Plan) of any animals of the following species:
      - (i) a protected species as defined in the Act or the Zoning Plan;
      - (ii) a species in class Mammalia (mammals);
      - (iii) a species in class Aves (birds);
      - (iv) a species in class Reptilia (reptiles);
      - (v) a species in class Amphibia (amphibians); and
    - (b) must comply with the limits specified in:
      - (i) an item of the table in Schedule 6; or
      - (ii) without limiting subparagraph (i), if a declaration is in force under subsection (5)—the declaration, as in force from time to time;
- on taking (within the meaning of the Zoning Plan) animals of a species (or a species or length) specified in the item or declaration.

Note 1: If a species is both a protected species and a species specified in the declaration, no animals of that species can be taken in limited research sampling.

Note 2: A declaration under subsection (5) may add additional limits to the limits specified in Schedule 6.

*Conditions on taking animals of other species in limited research sampling*

- (4) For a research project in a calendar year:
  - (a) no more than 200 animals of a particular species (or species and length) whose taking is not dealt with in subsection (3) may be taken; and
  - (b) no more than 50 of those animals may be taken from a single research location.

*Notifiable instrument*

- (5) The Authority may, by notifiable instrument, make a declaration for the purposes of subparagraph (3)(b)(ii).

## **21 Definition of *limited impact research (non-extractive)***

In the Zoning Plan, ***limited impact research (non-extractive)*** means research that:

- (a) does not involve any of the following:

## Section 22

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- (i) an activity that would require permission if it were not part of a research activity;
  - (ii) physical disturbance of a heritage value of a place (including physical disturbance of an artefact that is part of that value);
  - (iii) taking (within the meaning of the Zoning Plan) of animals, plants or marine products, by means other than the use, for a visual survey, of non-fixed transect tapes, or non-fixed quadrats, that are attended at all times while in use; and
- (b) is a component of a research project conducted by a research institution accredited under section 13; and
- (c) if:
  - (i) the research is conducted in an area of the Scientific Research Zone; and
  - (ii) the Authority has approved an environmental management plan in writing for a research station associated with the area;is conducted in accordance with that plan.

### 22 Limited spearfishing—limitations

For the purposes of the definition of *limited spearfishing* in the Zoning Plan, the following limitations are prescribed:

- (a) the person spearfishing does not have a loaded speargun in the person's possession out of the water;
- (b) the spearfishing is not engaged in, in any part of the Marine Park where spearfishing is prohibited under Queensland fisheries legislation.

### 23 Limited trapping—limitations

For the purposes of the definition of *limited trapping* in the Zoning Plan, the following limitations are prescribed:

- (a) trapping (within the ordinary meaning of the expression) must be conducted only for the purpose of taking crabs, and only crabs may be taken;
- (b) only crab pots, collapsible traps and dillies may be used;
- (c) no more than 4 such crab pots, collapsible traps or dillies may be used, whether alone or in combination;
- (d) subject to paragraphs (a), (b) and (c), the Queensland fisheries legislation must be complied with.

### 24 Managed vessel or aircraft—declaration of vessels

For the purposes of the definition of *managed vessel or aircraft* in the Zoning Plan, vessels of the following kinds are declared:

- (a) hovercraft;
- (b) wing-in-ground-effect craft;
- (c) hydrofoils.

## 25 Definition of *Mission Beach Leader Prawn Broodstock Capture Area*

For the purposes of the definition of *Mission Beach Leader Prawn Broodstock Capture Area* in the Zoning Plan, the area declared is the area of the Marine Park bounded by the line starting at the point described in the first item of the following table and running sequentially as described in the remaining items.

Mission Beach Leader Prawn Broodstock Capture Area	
Item	Description
1	The intersection of the mainland coastline at mean low water and the parallel 17°39.009'S (at the point closest to 17°39.009'S 146°08.951'E)
2	East along the parallel 17°39.009'S to longitude 146°11.800'E
3	Southerly along the geodesic to 17°52.810'S 146°09.620'E
4	South-easterly along the geodesic to 18°03.920'S 146°13.390'E
5	North-westerly along the geodesic to the intersection of the mainland coastline at mean low water and the parallel 18°01.970'S (at the point closest to 18°01.970'S 146°03.005'E)
6	Generally northerly along the mainland coastline at mean low water to the starting point

## 26 Definition of *motorised watersports*

In the Zoning Plan, *motorised watersports*:

- (a) has the same meaning as *motorised water sport* has in subsection 5(1); and
- (b) includes any activity in which a vessel is operated at a speed greater than 35 knots, except while transiting an area or from a place to another place.

## 27 Netting—limitations

- (1) For the purposes of the definition of *netting* in the Zoning Plan, the following limitations are prescribed (subject to subsection (2)):
  - (a) set mesh nets used in an area of waters described in clause 2 of Schedule 5 that are offshore waters must be used only as permitted by subsection 44(3);
  - (b) the provisions of the Fisheries Regulation must be complied with if those provisions:
    - (i) apply in the Marine Park; and
    - (ii) relate to the use of nets in commercial net fisheries;
  - (c) netting must not be carried out in an area described in clause 3 of Schedule 5;
  - (d) subject to paragraphs (e) and (f), only set mesh nets and mesh nets may be used in an area described in clause 4 of Schedule 5;
  - (e) set mesh nets used in the area described in clause 4 of Schedule 5 must be used in accordance with subsection 44(5);
  - (f) mesh nets (except set mesh nets used in accordance with subsection 44(5)) used in the area described in clause 4 of Schedule 5 must be used in accordance with subsection 44(6).

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- (2) Paragraph (1)(b), (c) or (d) of this section does not apply to bait netting, or to section 475 or Part 5 of Chapter 9 of the Fisheries Regulation, to the extent that those provisions relate to bait netting.

Note: See section 15 for the nets specified for the definition of **bait netting** in the Zoning Plan and the prescribed limitations on the use of those nets.

## **28 Pelagic species—declaration**

For the purposes of the definition of **pelagic species** in the Zoning Plan:

- (a) all species in the following families are declared:
  - (i) Carangidae;
  - (ii) Coryphaenidae;
  - (iii) Sphyraenidae;
  - (iv) Istiophoridae;
  - (v) Scombridae; and
- (b) all species in the following genera are declared:
  - (i) *Aphareus*;
  - (ii) *Aprion*; and
- (c) the following species are declared:
  - (i) *Rachycentron canadum*;
  - (ii) *Xiphias gladius*.

## **29 Definition of *photography, filming or sound recording***

In the Zoning Plan, ***photography, filming or sound recording*** means the recording of images or sounds in a way that has, or is likely to have, negligible impact on the Marine Park.

## **30 Protected species—declaration for purposes of the Zoning Plan**

For the purposes of the definition of **protected species** in the Zoning Plan, the following species are declared:

- (a) each species of cetacean;
- (b) each species that is a listed marine species, a listed migratory species, a listed threatened ecological community, or a listed threatened species, (within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999*);
- (c) each species of marine mammal, bird or reptile that is prescribed as “endangered wildlife”, “near threatened wildlife” or “vulnerable wildlife” under the *Nature Conservation Act 1992* (Qld);
- (d) each species of the genus *Epinephelus* (other than *E. tukula* or *E. lanceolatus*), but only in relation to individuals of the species that are more than 1,000 millimetres long;
- (e) each species that is at risk, or in need of special protection, and is specified in the following table.

Note: The table may not list all protected species, as other species may be protected species because of paragraph (b) or (c) (which cover certain species listed or prescribed under other Commonwealth and Queensland laws).



<b>Protected species</b>		
<b>Item</b>	<b>Species</b>	<b>Common name</b>
<b>Invertebrates</b>		
1	Family Tridacnidae (all species)	Giant clams
2	<i>Cassis cornuta</i>	Giant helmet shell
3	<i>Charonia tritonis</i>	Trumpet triton
<b>Fish</b>		
4	Families Syngnathidae and Solenostomidae (all species)	Seahorses, seadragons, pipefishes and ghost pipefishes
5	Family Pristidae (all species)	Sawfishes
6	<i>Epinephelus lanceolatus</i>	Queensland groper
7	<i>Epinephelus tukula</i>	Potato rockcod
8	<i>Cheilinus undulatus</i>	Humphead Maori wrasse
9	<i>Chromileptes altivelis</i>	Barramundi cod
10	<i>Rhincodon typus</i>	Whale shark
11	<i>Carcharias taurus</i>	Grey nurse shark
12	<i>Carcharinus falciformis</i>	Silky shark
13	<i>Carcharodon carcharias</i>	White shark
14	<i>Glyphis glyphis</i>	Speartooth shark
15	<i>Isurus oxyrinchus</i>	Shortfin mako shark
16	<i>Isurus paucus</i>	Longfin mako shark
17	<i>Lamna nasus</i>	Porbeagle shark
18	<i>Manta alfredi</i>	Reef manta ray
19	<i>Manta birostris</i>	Giant manta ray
20	<i>Mobula eregoodootenkee</i>	Pygmy devilray
21	<i>Mobula japanica</i>	Japanese devilray
22	<i>Mobula thurstoni</i>	Bentfin devilray
23	<i>Sphyrna lewini</i>	Scalloped hammerhead
<b>Marine reptiles</b>		
24	Genus <i>Crocodylus</i> (all species)	Crocodiles
25	Families Hydrophiidae and Laticaudidae (all species)	Sea snakes
26	Family Cheloniidae (all species)	Green turtle, loggerhead turtle, olive ridley turtle, hawksbill turtle, flatback turtle
27	Family Dermochelyidae	Leatherback turtle
<b>Birds</b>		
28	Class Aves (all species)	Birds
<b>Marine mammals</b>		
29	Families Otariidae and Phocidae (all species)	Seals
30	<i>Dugong dugon</i>	Dugong

## Section 31

### Protected species

Item	Species	Common name
31	Order Cetacea (all species)	Whales and dolphins

## 31 Queensland fisheries legislation

For the purposes of the definition of *Queensland fisheries legislation* in the Zoning Plan, the following laws of Queensland as in force from time to time are prescribed:

- (a) the *Fisheries Act 1994* (Qld);
- (b) the Fisheries Regulation;
- (c) a fishery management plan made under paragraph 32(1)(a) of the *Fisheries Act 1994* (Qld), to the extent that the plan applies in the Marine Park;
- (d) a declaration made by the Chief Executive under that Act, to the extent that the declaration applies in the Marine Park.

## 32 Definition of *ship*

In the Zoning Plan, *ship* means a vessel that:

- (a) has an overall length of at least 50 metres; or
- (b) is an oil tanker (within the meaning given by the Protocol of 1978) regardless of its length; or
- (c) is a chemical carrier or liquefied gas carrier, regardless of its length; or
- (d) is a ship to which the INF Code applies, regardless of its length; or
- (e) is a vessel that is adapted to carry oil or chemicals in bulk in cargo spaces; or
- (f) is a vessel engaged in towing or pushing another vessel or vessels if:
  - (i) any of paragraphs (a) to (e) applies to the towed or pushed vessel; or
  - (ii) the total length of the tow, from the stern of the towing vessel to the aft end of the tow, is more than 150 metres;

but does not include:

- (g) a vessel of the Defence Force; or
- (h) a vessel of the armed service of a foreign country, if the vessel is in the Marine Park with the consent of the Commonwealth; or
- (i) a vessel that has an overall length of at least 50 metres and is used for private recreational activities.

## 33 Stowed or secured—requirements

For the purposes of the definition of *stowed or secured* in the Zoning Plan, the following requirements are prescribed for trawl fishing apparatus:

- (a) all nets are out of the water or the fore ends of the nets are drawn up to the booms;
- (b) all otter boards are drawn up to the trawl blocks on the booms or are inboard the vessel;
- (c) all lazy lines are through the blocks;
- (d) the cod ends are open.

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### 34 Definitions of *traditional owner* and *traditional owner group*

- (1) In the Zoning Plan, *traditional owner* has the same meaning in the Act.
- (2) In the Zoning Plan, *traditional owner group*, in relation to a site or area of the Marine Park, means the group of Traditional Owners who, in accordance with Aboriginal or Torres Strait Islander custom, speak for the site or area.

### 35 Trapping—limitations

For the purposes of the definition of *trapping* in the Zoning Plan, the following limitations are prescribed:

- (a) trapping may only be conducted for the purpose of taking crabs, and only crabs may be taken;
- (b) only crab pots, collapsible traps or dillies may be used;
- (c) subject to paragraphs (a) and (b), the apparatus used to trap crabs, and the take of crabs, must be in accordance with the relevant provisions of Queensland fisheries legislation.

### 36 Trawling—limitations

For the purposes of the definition of *trawling* in the Zoning Plan, the limitation prescribed is that the following laws are complied with:

- (a) the Fisheries Regulation;
- (b) the *Fisheries (East Coast Trawl) Management Plan 2010* (Qld).

### 37 Trolling—limitation

For the purposes of paragraph (c) of the definition of *trolling* in the Zoning Plan, the limitation prescribed is that the vessel that is underway:

- (a) must be propelled through the water in a forward direction (whether by engine, sail or human power); and
- (b) must not be adrift.

### 38 Definition of *vessel or aircraft charter operation*

In the Zoning Plan, *vessel or aircraft charter operation* means an activity (whether consisting of a single act or a series of acts) that involves a vessel or aircraft:

- (a) that is available for charter or hire; and
- (b) that is used in the course of carrying on a business that is, or includes, the provision of accommodation, transport, or services for a purpose other than a tourist program or an educational program; and
- (c) that travels in or into the Marine Park; and
- (d) that is not merely transiting the Marine Park.

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## **Division 3—Prescribing other matters for the purposes of the Zoning Plan**

### **39 Activities prohibited in zones**

- (1) This section applies for the purposes of the following paragraphs of the Zoning Plan:
  - (a) paragraph 2.2.4(o) (General Use Zone);
  - (b) paragraph 2.3.4(o) (Habitat Protection Zone);
  - (c) paragraph 2.4.4(n) (Conservation Park Zone);
  - (d) paragraph 2.5.4(k) (Buffer Zone);
  - (e) paragraph 2.6.4(l) (Scientific Research Zone);
  - (f) paragraph 2.7.4(l) (Marine National Park Zone);
  - (g) paragraph 2.8.4(b) (Preservation Zone).
- (2) The following activities are declared:
  - (a) fishing involving line fishing using more than 6 hooks per line (other than for the purposes of research or management of the Marine Park);
  - (b) except in relation to paragraph 2.2.4(o) of the Zoning Plan—aquaculture operations that involve the addition of feed;
  - (c) in any case—an activity that results in a contravention of a special management provision.

Note: The effect of this section is that these activities are prohibited in the Zones mentioned in subsection (1) (see the definition of *prohibited* in subsection 3(1) of the Act).

### **40 Remote Natural Area—purposes for which the area may not be used or entered**

For the purposes of paragraph 3.3(b) of the Zoning Plan, the following purposes are declared:

- (a) carrying out works (other than works relating to navigational aids) involving:
  - (i) dumping spoil; or
  - (ii) reclamation; or
  - (iii) beach protection works; or
  - (iv) harbour works;
- (b) constructing or operating a structure other than a vessel mooring or a navigational aid.

## **Division 4—Special Management Areas and special management provisions**

### **41 Purpose of this Division**

This Division:

- (a) designates Special Management Areas for the purposes of paragraph 4.2.1(1)(b) of the Zoning Plan; and
- (b) specifies special management provisions for the purposes of section 4.2.3 of the Zoning Plan.

### **42 Interpretation**

#### *Special management provisions*

- (1) For the purposes of subsection 4.2.3(1) of the Zoning Plan, each subsection (except subsection (1)) in each of sections 44 to 53 is expressed to be a **special management provision**.

Note: See sections 38BA and 38BB of the Act for an offence and a civil penalty provision that apply to a person who engages in conduct that contravenes a special management provision.

#### *Special Management Areas*

- (2) A reference in this Division to a particular Special Management Area is a reference to the area of that name as declared in Schedule 5.
- (3) A reference in this Division to a particular kind of Special Management Area is a reference to the areas of that kind as declared in Schedule 5.

### **43 Types of Special Management Areas**

The following areas are designated as Special Management Areas:

- (a) Species Conservation (Dugong Protection) SMA;
- (b) Seasonal Closure (Offshore Ribbon Reefs) SMA;
- (c) No Dorries Detached (Offshore Ribbon Reefs) SMA;
- (d) Restricted Access SMA;
- (e) Public Appreciation SMA;
- (f) No Dorries Detached (Marine National Park Zone) SMA;
- (g) One Dory Detached (Conservation Park Zone) SMA;
- (h) One Dory Detached (Buffer Zone) SMA;
- (i) Natural Resources Conservation SMA;
- (j) Maritime Cultural Heritage Protection SMA.

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**44 Species Conservation (Dugong Protection) SMAs**

*Designation of Species Conservation (Dugong Protection) SMAs*

- (1) Each area described in clause 1 of Schedule 5 is designated as a Species Conservation (Dugong Protection) SMA in accordance with that clause.

*Special management provisions*

- (2) Netting or bait netting (within the ordinary meaning of the expressions) in a Species Conservation (Dugong Protection) SMA mentioned in column 1 of an item in the following table must, subject to this section, be carried out by commercial fishers in accordance with the provisions of Chapter 2 of the Fisheries Regulation specified in column 2 of that item.

<b>Special management provisions for Species Conservation (Dugong Protection) SMAs</b>		
<b>Item</b>	<b>Column 1 For the following Species Conservation (Dugong Protection) SMA ...</b>	<b>Column 2 the applicable provisions of Chapter 2 of the Fisheries Regulation are ...</b>
1	Hinchinbrook Island Area Species Conservation (Dugong Protection) SMA	section 114.
2	(a) Lucinda to Allingham—Halifax Bay Species Conservation (Dugong Protection) SMA; (b) Bowling Green Bay Species Conservation (Dugong Protection) SMA; (c) Edgumbe Bay—Bowen Species Conservation (Dugong Protection) SMA; (d) Repulse Bay Species Conservation (Dugong Protection) SMA; (e) Ball Bay—Sand Bay Species Conservation (Dugong Protection) SMA; (f) Llewellyn Bay Species Conservation (Dugong Protection) SMA; (g) Clairview Bluff—Carmilla Creek Species Conservation (Dugong Protection) SMA; (h) Port of Gladstone—Rodds Bay Species Conservation (Dugong Protection) SMA;	Division 3 of Part 12.
3	(a) Cleveland Bay—Magnetic Island Species Conservation (Dugong Protection) SMA; (b) Stewart Peninsula—Newry Islands—Ball Bay Species Conservation (Dugong Protection) SMA; (c) Ince Bay (Cape Palmerston—Allom Point) Species Conservation (Dugong Protection) SMA	sections 116 and 116A.
4	Upstart Bay Species Conservation (Dugong Protection) SMA	section 111.
5	Shoalwater Bay Species Conservation (Dugong Protection) SMA	section 110.
6	Port Clinton (Reef Point—Cape Clinton) Species Conservation (Dugong Protection) SMA	section 109.

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Note: Under the Zoning Plan, only the General Use Zone and the Habitat Protection Zone may be used or entered without permission for the purpose of netting (other than bait netting).

*Conditions of set mesh net use in certain offshore waters—clause 2 of Schedule 5*

- (3) A set mesh net must not be used in an area of waters described in clause 2 of Schedule 5 that are offshore waters unless the net:
- (a) is not longer than 50 metres; and
  - (b) is used in accordance with section 121 of the Fisheries Regulation.

*No netting (other than bait netting)—clause 3 of Schedule 5*

- (4) No netting (within the ordinary meaning of the expression), other than bait netting (within the meaning of this instrument), may be carried out in the area described in clause 3 of Schedule 5.

Note 1: For an additional requirement related to stowing and securing any equipment that is normally used for fishing or collecting, see paragraph 2.3.3(g) of the Zoning Plan.

Note 2: See section 15 for the nets specified for the definition of **bait netting** in the Zoning Plan and the prescribed limitations on the use of those nets.

*Conditions of set mesh net use—clause 4 of Schedule 5*

- (5) A set mesh net must be used in an area described in clause 4 of Schedule 5 in accordance with the following conditions:
- (a) the set mesh net must be:
    - (i) weighed down along the full length of the bottom of the net with only continuous lead core rope that has a diameter between 6 and 8 millimetres (inclusive); and
    - (ii) used in accordance with paragraphs 120A(c), (d), (e) and (f) of the Fisheries Regulation;
  - (b) under each authority that allows netting (within the ordinary meaning of the expression) in the area, the number of set mesh nets being used in the area must be no more than 3;
  - (c) each set mesh net must be no longer than 120 metres;
  - (d) the mesh size of each set mesh net must be between 100 and 215 millimetres (inclusive);
  - (e) if a set mesh net has a mesh size between 150 and 215 millimetres (inclusive)—the number of rows of mesh between the top and bottom of the net must be no more than 16.

Note 1: The definition of **mesh net** in the Fisheries Regulation includes several examples of ways a mesh net can be used, including using a mesh net as a set mesh net.

Note 2: For the definition of **authority** that applies to this section, see paragraph (b) of the definition of that term in subsection 5(1).

*Conditions of mesh net use—clause 4 of Schedule 5*

- (6) A mesh net (except a set mesh net used in accordance with subsection (5)) must not be used in an area described in clause 4 of Schedule 5 unless the mesh net:
- (a) is fixed or hauled; and
  - (b) is no longer than 120 metres; and

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- (c) has a mesh size between 50 and 115 millimetres (inclusive); and
- (d) is weighed down along the full length of the bottom of the net with only continuous lead core rope that has a diameter between 6 and 8 millimetres (inclusive); and
- (e) is used in accordance with subsection 472(7) of the Fisheries Regulation.

Note: The definition of *mesh net* in the Fisheries Regulation includes several examples of ways a mesh net can be used, including as a set mesh net.

## 45 Seasonal Closure (Offshore Ribbon Reefs) SMAs

### *Designation of Seasonal Closure (Offshore Ribbon Reefs) SMAs*

- (1) Each area described in clause 5 of Schedule 5 is designated as a Seasonal Closure (Offshore Ribbon Reefs) SMA in accordance with that clause.

### *Special management provisions*

- (2) A Seasonal Closure (Offshore Ribbon Reefs) SMA must not be used or entered for the purposes of fishing involving the taking of a pelagic species by trolling (within the ordinary meaning of the expression) during the months of January to August (inclusive) in a year.
- (3) A dory in a Seasonal Closure (Offshore Ribbon Reefs) SMA must be physically attached to its primary commercial fishing vessel at all times during those months.

## 46 No Dories Detached (Offshore Ribbon Reefs) SMAs

### *Designation of No Dories Detached (Offshore Ribbon Reefs) SMAs*

- (1) Each area described in clause 6 of Schedule 5 is designated as a No Dories Detached (Offshore Ribbon Reefs) SMA in accordance with that clause.

### *Special management provision*

- (2) A dory in a No Dories Detached (Offshore Ribbon Reefs) SMA must be physically attached to its primary commercial fishing vessel at all times.

## 47 Restricted Access SMAs

### *Designation of Restricted Access SMAs*

- (1) Each area described in clause 7 of Schedule 5 is designated as a Restricted Access SMA in accordance with that clause.

### *Special management provision*

- (2) A Restricted Access SMA must not be used or entered without the written permission of the Authority unless the use or entry:
  - (a) has been authorised by Part 5 of the Zoning Plan; or
  - (b) is in accordance with any of subsections (3) to (5).



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*Exceptions to special management provision*

- (3) The Raine Island Reef (11-243) Restricted Access SMA, the Moulter Cay Reef (11-030) Restricted Access SMA, or the MacLennan Cay Reef (11-070) Restricted Access SMA may be entered to navigate a vessel (except a ship, or a managed vessel or aircraft) for access to areas that form part of Queensland:
  - (a) if any equipment normally used for fishing (within the meaning of the Act) or collecting (within the ordinary meaning of the expression) is stowed or secured; and
  - (b) access is in accordance with all relevant laws of Queensland as in force from time to time.
- (4) The Australian Institute of Marine Science, or a person acting with its written approval, may enter the Australian Institute of Marine Science Restricted Access SMA for the purpose of an activity associated with the operation of the research station used by the Institute if:
  - (a) permission for the activity would not, but for subsection (2), be required under Part 2 of the Zoning Plan; or
  - (b) the Institute already holds the written permission of the Authority for the activity.
- (5) The University of Sydney, or a person acting with its written approval, may enter the One Tree Island Reef (23-055) Restricted Access SMA for the purpose of an activity associated with the operation of the research station used by the University if:
  - (a) permission for the activity would not, but for subsection (2), be required under Part 2 of the Zoning Plan; or
  - (b) the University already holds the written permission of the Authority for the activity.

## **48 Public Appreciation SMAs**

*Designation of Public Appreciation SMAs*

- (1) Each area described in clause 8 of Schedule 5 is designated as a Public Appreciation SMA in accordance with that clause.

*Special management provisions*

- (2) Subsection (3) applies to any Public Appreciation SMA (other than a part of the Whitsundays Public Appreciation SMA that is not in the Conservation Park Zone).
- (3) The area must not be used or entered for any of the following purposes:
  - (a) limited spearfishing;
  - (b) the conduct of a harvest fishery;
  - (c) aquaculture operations (except in the Fitzroy Island Reef (CP-16-4039) Public Appreciation SMA);unless authorised by Part 5 of the Zoning Plan (additional purposes for use or entry).

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**49 No Dorries Detached (Marine National Park Zone) SMAs**

*Designation of No Dorries Detached (Marine National Park Zone) SMAs*

- (1) Each area mentioned in Part 6 (Marine National Park Zone) of Schedule 1 to the Zoning Plan is designated as a No Dorries Detached (Marine National Park Zone) SMA having as its name the name of the area followed by the words “No Dorries Detached (Marine National Park Zone) SMA”.

*Special management provision*

- (2) A dory in a No Dorries Detached (Marine National Park Zone) SMA must be physically attached to its primary commercial fishing vessel at all times except if:
  - (a) the dory is used to engage in the rescue or attempted rescue of an endangered person; or
  - (b) the dory is used to provide assistance to an endangered aircraft, vessel or structure to prevent or mitigate damage to the environment or to the aircraft, vessel or structure; or
  - (c) both of the following apply:
    - (i) the dory is used to convey a person on a direct journey from land to its primary commercial fishing vessel (the **primary vessel**), or from the primary vessel to land;
    - (ii) throughout the journey, the primary vessel remains within one nautical mile of both the dory and the land (not including any coral reefs); or
  - (d) the dory is in the area described in Part 6 of Schedule 1 to the Zoning Plan as MNP-13-1015 (Night Island) and stays within 500 metres of a fishing industry service vessel for which a permission is in force.

**50 One Dory Detached (Conservation Park Zone) SMAs**

*Designation of One Dory Detached (Conservation Park Zone) SMAs*

- (1) Each area mentioned in Part 3 (Conservation Park Zone) of Schedule 1 to the Zoning Plan is designated as a One Dory Detached (Conservation Park Zone) SMA having as its name the name of the area followed by the words “One Dory Detached (Conservation Park Zone) SMA”.

*Special management provision*

- (2) No more than one dory is to be detached from its primary commercial fishing vessel in a One Dory Detached (Conservation Park Zone) SMA at any time.

**51 One Dory Detached (Buffer Zone) SMAs**

*Declaration of One Dory Detached (Buffer Zone) SMAs*

- (1) Each area mentioned in Part 4 (Buffer Zone) of Schedule 1 to the Zoning Plan, except for the areas described in clause 6 of Schedule 5 (No Dorries Detached (Offshore Ribbon Reefs) SMAs) is designated as a One Dory Detached (Buffer

Zone) SMA having as its name the name of the area followed by the words “One Dory Detached (Buffer Zone) SMA”.

*Special management provision*

- (2) No more than one dory is to be detached from its primary commercial fishing vessel in a One Dory Detached (Buffer Zone) SMA:
  - (a) at any time of the year (unless paragraph (b) applies); or
  - (b) in a Seasonal Closure (Offshore Ribbon Reefs) SMA described in clause 5 of Schedule 5—at any time during September, October, November and December in a year.

## **52 Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA**

*Designation of Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA*

- (1) The area described in clause 9 of Schedule 5 is designated as the Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA.

*Special management provision*

- (2) A person must not undertake fishing (within the meaning of the Act) or collecting (within the ordinary meaning of the expression) within the Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA except if the person is:
  - (a) trolling or bait netting for pelagic species; or
  - (b) conducting limited impact research (extractive); or
  - (c) conducting research in accordance with a permission.

## **53 Maritime Cultural Heritage Protection SMAs**

*Designation of Maritime Cultural Heritage Protection SMAs*

- (1) Each area described in clause 10 of Schedule 5 is designated as a Maritime Cultural Heritage Protection SMA in accordance with that clause.

*Special management provisions*

- (2) A person must not do any of the following in a Maritime Cultural Heritage Protection SMA without the written permission of the Authority:
  - (a) enter a wreck;
  - (b) approach within 100 metres of a wreck (other than in a non-submersible vessel or aircraft);
  - (c) operate a vessel, other than for the purpose of transiting the SMA;
  - (d) anchor or attempt to anchor a vessel, or deploy the vessel’s anchoring equipment.
- (3) A person must not undertake fishing (within the meaning of the Act) or collecting (within the ordinary meaning of the expression) in a Maritime Cultural Heritage Protection SMA.

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**54 Emergency Special Management Areas**

- (1) For the purposes of subsection 4.2.1(2) of the Zoning Plan, the Authority may, by legislative instrument, designate a Special Management Area under that subsection without public consultation if the designation is required for a purpose referred to in section 4.2.2, except paragraph 4.2.2(d) or (g) of the Plan.
- (2) The designation may be of a part or parts of a zone, or of more than one zone.
- (3) The designation:
  - (a) must specify the area to be designated; and
  - (b) must state the special management provisions that will apply to the area; and
  - (c) must state the period during which those provisions will apply to the area.
- (4) The Authority must, as soon as practicable, publish a notice of the designation in one or more of the following ways:
  - (a) in a newspaper that circulates generally in Queensland;
  - (b) in a local newspaper that circulates in the part of Queensland adjacent to the part of the Marine Park that is designated;
  - (c) on the Authority's website.
- (5) The notice must also state that it is an offence to fail to comply with the special management provisions that apply to the area.
- (6) The designation ceases to have effect at the end of:
  - (a) the period of 120 days after it commences; or
  - (b) if, before the end of that period, the Authority extends or reduces that period in accordance with subsection 55(2)—the period determined by the Authority under that subsection.

**55 Extension and revocation of designation**

- (1) The Authority may at any time, by legislative instrument, revoke a designation under section 54.
- (2) The Authority may, by legislative instrument:
  - (a) reduce the period of the designation; or
  - (b) extend the designation in accordance with subsection 4.2.1(2) of the Zoning Plan.

**Note:** The period must not be extended for more than 60 days (see subsection 4.2.1(2) of the Zoning Plan).

## **Division 5—Additional purposes for use or entry**

### **56 Entry to zones for purpose of taking certain protected species**

The following purposes and limitations are prescribed for the purposes of paragraph 5.3(c) of the Zoning Plan:

- (a) the taking of an animal of the species *Solegnathus hardwickii*, *S. dunckeri* or *Sphyrna lewini*;
- (b) the taking must be in accordance with Queensland fisheries legislation.

Note: The first 2 species mentioned are pipefish, of the family Syngnathidae. All other species of that family are otherwise protected (see section 30).

### **57 Directions given following notice of proposed conduct**

- (1) This section applies for the purposes of paragraphs 66(2)(b), (f) and (i) of the Act.
- (2) If a person notifies the Authority in accordance with section 38BC of the Act that the person proposes to engage in conduct in the zone (including using or entering the zone), the Authority may give to the person a direction in respect of the person's conduct in the zone (including the person's use of, or entry to, the zone).
- (3) The direction:
  - (a) may be any direction that is reasonably necessary for the protection or preservation of the Marine Park or property or things in the Marine Park; and
  - (b) must not require the person to remove a structure, landing area, farming facility, vessel, aircraft or other thing that is in the Marine Park.
- (4) A direction given under subsection (2) is declared to be a direction to which section 38DC of the Act applies.

### **58 Commercial activities on Low Island**

For the purposes of paragraphs 66(2)(b) and (j), and subsection 66(11), of the Act, a person commits an offence of strict liability if:

- (a) the person carries on a business on Low Island; and
- (b) the business involves an activity that is not either of the following:
  - (i) selling materials or services of an educational nature that relate to the Marine Park;
  - (ii) providing guided tours of the island.

Penalty: 50 penalty units.

## Division 6—Fishing and related offences

### 59 Purposes of this Division

This Division is made for the purposes of paragraphs 66(2)(b) and (i) and subsection 66(11) of the Act.

### 60 Conservation Park Zone—fishing offence

A person commits an offence of strict liability if:

- (a) the person engages in fishing (within the meaning of the Act) in the Conservation Park Zone; and
- (b) the person uses more than:
  - (i) one hand-held rod or handline; or
  - (ii) one hook attached to a line; and
- (c) the person does not hold a permission authorising the fishing.

Note: Section 2.4.3 of the Zoning Plan allows the Conservation Park Zone to be used, without the written permission of the Authority, for particular kinds of fishing, including limited line fishing.

Penalty: 50 penalty units.

### 61 Marine National Park Zone—fishing or collecting offence

A person commits an offence of strict liability if:

- (a) the person engages in fishing (within the meaning of the Act) or collecting (within the ordinary meaning of the expression) in the Marine National Park Zone; and
- (b) the fishing or collecting is not for a purpose set out in paragraph 2.7.3(b) of the Zoning Plan; and
- (c) the person does not hold a permission authorising the fishing or collecting.

Note: Paragraph 2.7.3(b) of the Zoning Plan allows the Marine National Park Zone to be used, without the written permission of the Authority, for activities otherwise permitted by the section or in accordance with an accredited traditional use of marine resources agreement and any requirements relating to the operation of that agreement prescribed in this instrument.

Penalty: 50 penalty units.

### 62 Dories not under tow or attached in non-fishing areas

*Offence by master of vessel, or licence or permission holder*

- (1) A person commits an offence of strict liability if:
  - (a) the person:
    - (i) is the master of a primary commercial fishing vessel; or
    - (ii) holds a licence or other permission (however described) in force under a Commonwealth, State or Territory law permitting a primary commercial fishing vessel to be used to take fish; and
  - (b) a dory is used in association with the primary vessel; and

- (c) when the dory is in a non-fishing area of the Marine Park, the person does not have the dory under tow by, or otherwise attached to, the primary vessel with which the dory is licensed or used.

Note: For defences to this subsection, see subsection (3).

Penalty: 50 penalty units.

*Offence by person on dory*

- (2) A person commits an offence of strict liability if:
- (a) the person is in, or on, a dory that is in a non-fishing area of the Marine Park; and
  - (b) the dory is not under tow by, or otherwise attached to, the primary commercial fishing vessel with which the dory is licensed or used.

Note: For defences to this subsection, see subsection (3).

Penalty: 50 penalty units.

*Exception*

- (3) Subsections (1) and (2) do not apply in relation to a dory if, throughout the period during which the dory was detached from the relevant primary commercial fishing vessel while the dory was in a non-fishing area of the Marine Park:
- (a) the dory:
    - (i) was in the area described in Part 6 of Schedule 1 to the Zoning Plan as MNP-13-1015 (Night Island); and
    - (ii) stayed within 500 metres of a fishing industry service vessel for which a permission is in force; or
  - (b) both of the following applied in relation to the dory:
    - (i) the dory was engaged in rescuing, or attempting to rescue, an endangered person, or the dory was providing assistance to an endangered aircraft, vessel or other structure to prevent or mitigate the occurrence of damage to the environment or to the aircraft, vessel or structure;
    - (ii) any equipment on the dory normally used for fishing (within the meaning of the Act) was stowed or secured; or
  - (c) all of the following applied in relation to the dory:
    - (i) the dory was engaged in transporting a person on a direct journey from land to the primary vessel, or from the primary vessel to land;
    - (ii) at all times during the journey, the primary vessel remained within 1 nautical mile of both the dory and the land (not including any coral reefs);
    - (iii) any equipment on the dory normally used for fishing (within the meaning of the Act) was stowed or secured.

Note: A defendant bears an evidential burden in relation to a matter mentioned in this subsection (see subsection 13.3(3) of the *Criminal Code*).

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**63 Multiple dories in Buffer Zone or Conservation Park Zone—offence by master of vessel, or licence or permission holder**

A person commits an offence of strict liability if:

- (a) the person:
  - (i) is the master of a primary commercial fishing vessel; or
  - (ii) holds a licence or other permission (however described) in force under a Commonwealth, State or Territory law permitting a primary commercial fishing vessel to be used to take fish; and
- (b) 2 or more dories are used in association with the primary vessel; and
- (c) at a particular time:
  - (i) 2 or more of those dories are in the Buffer Zone, or 2 or more of those dories are in the Conservation Park Zone; and
  - (ii) more than one of those dories is detached from the primary vessel.

Penalty: 50 penalty units.

**64 Multiple dories in Buffer Zone or Conservation Park Zone—offence by person on dory**

A person commits an offence if:

- (a) 2 or more dories are licensed, or used, in association with a primary commercial fishing vessel; and
- (b) at a particular time:
  - (i) 2 or more of those dories are in the Buffer Zone, or 2 or more of those dories are in the Conservation Park Zone; and
  - (ii) more than one of those dories is detached from the primary vessel; and
  - (iii) the person is in, or on, one of the dories that is detached from the primary vessel; and
  - (iv) the person is reckless as to the fact that the person is in, or on, a dory in the circumstances mentioned in this section.

Penalty: 50 penalty units.



## **Division 7—Authorisations relating to Hinchinbrook Planning Area**

### **65 Purpose of this Division**

This Division provides, for the purposes of paragraph 66(2)(u) of the Act, for authorisations to do an activity in the Hinchinbrook Planning Area that was permitted by an existing permission in force immediately before 15 April 2004, but is not permitted by the *Hinchinbrook Plan of Management 2004*.

Note: The *Hinchinbrook Plan of Management 2004* commenced on 15 April 2004.

### **66 Application for Hinchinbrook authorisation**

- (1) The holder of an existing permission (and only the holder) may apply to the Authority for a Hinchinbrook authorisation to do an activity in the Hinchinbrook Planning Area if:
  - (a) but for clause 2.5, 2.6, 2.9 or 2.18 of the *Hinchinbrook Plan of Management 2004*, the existing permission would authorise the holder to do the activity in the area; and
  - (b) the existing permission authorises the holder to do the activity in the area on more than 50 days in each year.
- (2) An application for a Hinchinbrook authorisation must be in writing and set out:
  - (a) the name and address of the applicant; and
  - (b) the details of the permission to which the authorisation is to be attached; and
  - (c) details of the activity to be authorised, including its location.

### **67 Asking for more information about application**

- (1) The Authority may, in writing, ask an applicant for a Hinchinbrook authorisation to give the Authority, in writing, any other information that the Authority reasonably needs to consider the application.
- (2) The application lapses if the information is not given to the Authority before the end of:
  - (a) 60 days after the Authority asks for it; or
  - (b) if the Authority extends that period in accordance with section 253—that extended period.

### **68 Consideration of application**

In considering an application for a Hinchinbrook authorisation, the Authority must take into account:

- (a) any relevant eligibility criteria set out in the *Hinchinbrook Plan of Management 2004*; and
- (b) the requirements for ensuring the orderly and proper management of the Marine Park; and
- (c) whether the applicant owes any fee or other amount payable under the Act, this instrument or any other instrument made for the purposes of the Act.

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**69 Grant or refusal of Hinchinbrook authorisation**

- (1) If a person has applied for a Hinchinbrook authorisation, and has complied with any request by the Authority for more information about the application, the Authority must grant, or refuse to grant, the authorisation.
- (2) The Authority must not grant a Hinchinbrook authorisation to do an activity except to a person who holds an existing permission that would, but for a section of the *Hinchinbrook Plan of Management 2004*, authorise the holder to do the activity.
- (3) Except in special circumstances, a Hinchinbrook authorisation may be granted only if the application is made before the end of 3 months after the eligibility process commencement day (within the meaning of that expression in the *Hinchinbrook Plan of Management 2004*).
- (4) A Hinchinbrook authorisation may be granted subject to conditions, including:
  - (a) a condition allowing the giving of authorities, and specifying how many persons may be given authorities; and
  - (b) a condition indemnifying the Authority in respect of costs to the Authority that the authorisation holder's activities might incur; and
  - (c) any other condition appropriate to achieving the objects of the Act (including a requirement that the authorisation holder give the Authority a written undertaking in a form approved by the Authority).
- (5) The Authority must give the person written notice of its decision, setting out:
  - (a) if the decision was to grant a Hinchinbrook authorisation—the details of the existing permission to which it is attached; and
  - (b) if the Hinchinbrook authorisation was granted subject to a condition—details of the condition and the Authority's reasons for imposing it; and
  - (c) if the decision was to refuse to grant the Hinchinbrook authorisation sought—the reasons for the refusal.
- (6) If the Authority's decision was to refuse the authorisation, or to grant the authorisation subject to a condition, the written notice must include a statement to the effect that the applicant:
  - (a) may ask the Authority to reconsider the decision; and
  - (b) if the applicant is dissatisfied with the Authority's decision on reconsideration, may apply to the AAT for review of that decision.

Note: See Part 15, and sections 64 and 64A of the Act, for reconsideration and review of decisions.

**70 When condition or refusal has effect**

- (1) A decision to grant a Hinchinbrook authorisation unconditionally has effect immediately after the holder of the existing permission is told in writing of the decision.
- (2) A decision to refuse to grant a Hinchinbrook authorisation, or to grant a Hinchinbrook authorisation subject to a condition, has effect 6 months after the holder of the existing permission is told in writing of the decision.

- (3) The permission holder may continue to carry on the relevant activity in accordance with the permission until a decision to which subsection (2) applies has effect.

Note: Clause 2.11 of the *Hinchinbrook Plan of Management 2004* permits the permission holder to continue the activity until the Authority makes a decision on an application even though the Plan prevents the activity, or regulates the activity in a way that was inconsistent with the permission.

## **71 Hinchinbrook authorisation is part of permission**

Except as otherwise provided in this instrument, a Hinchinbrook authorisation is part of the existing permission mentioned in the notice under subsection 69(5) to which it is attached.

## **72 How long Hinchinbrook authorisation remains in force**

- (1) A Hinchinbrook authorisation remains in force while the existing permission to which it is attached remains in force, or until the authorisation is surrendered or revoked.
- (2) A permission holder may surrender a Hinchinbrook authorisation without surrendering the existing permission to which it is attached.

## **73 Variation of Hinchinbrook authorisation in certain circumstances**

- (1) The Authority may vary a condition to which a Hinchinbrook authorisation is subject at any time (with the written consent of the holder of the existing permission to which the authorisation is attached) to ensure that the condition is appropriate to achieving the objects of the Act.
- (2) Subsection 33(3) (power to vary instruments) of the *Acts Interpretation Act 1901* does not apply in relation to a condition to which a Hinchinbrook authorisation is subject.

Note: The Hinchinbrook authorisation may be varied under section 129 in certain circumstances.

- (3) This section does not otherwise affect the power to vary a Hinchinbrook authorisation under subsection 33(3) of that Act.

## **Part 3—Permissions**

### **Division 1—Introduction**

#### **74 Simplified outline of this Part**

This Division is made for the purposes of sections 38AA, 38BA, 38BB, 38BD, 38CA, 38DD, and paragraphs 66(2)(f), (p), (r), (u) and (uc), of the Act.

Under this Part, a person may apply for a permission (including a special permission) to engage in proposed conduct relating to the Marine Park. The requirement to hold a permission may be in the Act, the Zoning Plan or this instrument.

Before deciding whether to grant a permission, and whether to impose any conditions on the permission, the Authority must decide how to assess the relevant impact of the proposed conduct. The method of assessment may include routine or tailored assessment, or assessment by public information package, public environment report or environmental impact statement.

There are certain limits on the permissions that may be granted by the Authority.

A condition in a permission may authorise a permission holder to grant an authority under the permission to another person to carry out any activity that the permission allows.

A permission granted to a person may be transferred to another person with the approval of the Authority. There are obligations to report a change in beneficial ownership of a company that is granted a permission.

Permissions can be modified, suspended or revoked by the Authority.

Adverse decisions relating to permissions may be reconsidered internally in accordance with section 64 of the Act, and reviewed by the Administrative Appeals Tribunal in accordance with section 64A of the Act, (see Part 15 of this instrument).

This Part also creates offences relating to permissions.

#### **75 Permissions to which this Part applies**

- (1) This Part applies to the following permissions:
  - (a) a permission for the purposes of section 38AA of the Act to engage in mining operations or geological storage operations;
  - (b) a permission referred to in sections 38BA and 38BB of the Act for the purposes of a zoning plan to engage in conduct in a zone (including the person's use of, or entry to, the zone);

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- (c) a permission referred to in section 38BD of the Act for the purposes of a zoning plan to fish in a zone using a particular fishing method or particular fishing apparatus;
  - (d) a permission for the purposes of section 38CA of the Act to engage in conduct in an unzoned area of the Marine Park;
  - (e) a permission for the purposes of section 38DD of the Act to discharge waste in the Marine Park;
  - (f) a permission for the purposes of subsection 47(2) of this instrument to use or enter a Restricted Access SMA mentioned in subsection 47(1);
  - (g) a permission for the purposes of subsection 53(2) of this instrument in relation to a Maritime Cultural Heritage Protection SMA mentioned in subsection 53(1).
- (2) To avoid doubt, a permission referred to in paragraph (1)(b) includes a special permission.

## **Division 2—Applications for permissions**

### **Subdivision A—Making applications for permissions**

#### **76 How applications for permissions must be made**

- (1) A person may, subject to section 83, apply to the Authority for a permission by:
  - (a) lodging a written application in accordance with subsection (2); or
  - (b) making an application (whether or not in writing) in the circumstances, and in the manner, approved by the Authority.

Note: Section 83 sets out a process for selecting entitled persons for special permissions. Generally, only entitled persons may apply for special permissions.

- (2) For the purposes of paragraph (1)(a), the application must:
  - (a) be in the form approved by the Authority; and
  - (b) include the information required by the form; and
  - (c) be accompanied by any documents required by the form; and
  - (d) be lodged at a place or by a means specified in the form.

### **Subdivision B—Deciding whether applications are properly made**

#### **77 Authority must decide whether applications are properly made**

##### *Decision*

- (1) After receiving an application for a permission, the Authority must decide whether it was made in accordance with section 76.

##### *Notice of decision*

- (2) The Authority must give notice of its decision to the applicant. The notice must be in writing for an application made under paragraph 76(1)(a).

##### *Decision that application was not made in accordance with section 76*

- (3) If the Authority decides that the application was not made in accordance with section 76, the Authority must not deal further with the application unless:
  - (a) the application is a continuation application; and
  - (b) the matters that caused the application not to be made in accordance with section 76 are rectified within 30 business days from the day stated in the notice of the decision.
- (4) Notice of a decision that the application was not made in accordance with section 76 must:
  - (a) state the day the notice is prepared; and
  - (b) state that the application was not made in accordance with section 76; and
  - (c) indicate generally the matters that caused the application not to be made in accordance with section 76; and
  - (d) state that:

- (i) the Authority will not deal further with the application; or
- (ii) if the application is a continuation application—the Authority will not deal further with the application unless those matters are rectified within 30 business days from the day stated in the notice under paragraph (a).

## **Subdivision C—Additional information**

### **78 Additional information**

- (1) For the purposes of making one or more decisions under this Part relating to an application for a permission, the Authority may (subject to subsection (4)) request, in writing, that the applicant give to the Authority specified additional information or a specified additional document.
- (2) The applicant may provide the information or document as part of a report or assessment prepared for the purposes of:
  - (a) the *Environment Protection and Biodiversity Conservation Act 1999*; or
  - (b) the *Environmental Protection Act 1994* (Qld), Queensland planning legislation or the *State Development and Public Works Organisation Act 1971* (Qld).
- (3) The application is taken to have been withdrawn if the additional information or document is not provided to the Authority before the end of:
  - (a) 20 business days after the Authority gives the notice to the applicant; or
  - (b) if the Authority extends that period in accordance with section 253—that extended period.
- (4) The Authority must not make a request under subsection (1) after deciding under Subdivision A of Division 3 that the approach of routine assessment must be used for assessing the relevant impacts of the proposed conduct (unless the Authority has revoked that decision).

## **Subdivision D—Withdrawal of applications**

### **79 Withdrawal of applications**

A person who makes an application under section 76 may (subject to section 80), by written notice to the Authority, withdraw the application at any time before it is decided by the Authority.

### **80 Withdrawals of EPBC referral deemed applications**

- (1) If an event that relates to the *Environment Protection and Biodiversity Conservation Act 1999* (the **EPBC Act**) as described in column 1 of an item of the following table happens in relation to an EPBC referral deemed application, the application is taken to be withdrawn at the time described in column 2 of the item.

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**Division 2** Applications for permissions

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<b>When EPBC referral deemed application is taken to be withdrawn</b>	
<b>Column 1</b> <b>Event causing application to be taken to be withdrawn</b>	<b>Column 2</b> <b>Time application is taken to be withdrawn</b>
1 The Minister administering the EPBC Act decides under subsection 74A(1) of that Act not to accept the referral	When that Minister makes the decision
2 The Minister administering the EPBC Act decides under section 74B of that Act that Division 1A of Part 7 of that Act should apply to the referral	When that Minister makes the decision
3 The Minister administering the EPBC Act decides under section 133 of that Act to refuse to approve the taking of the action	When that Minister makes the decision
4 A request is made under section 156A of the EPBC Act for the Minister administering that section to accept a varied proposal such that 37AB of the <i>Great Barrier Reef Marine Park Act 1975</i> would not apply in relation to the proposal if the request were accepted	When the request is made
5 Chapter 4 (except section 155) of the EPBC Act ceases to apply to the action because of a declaration made by the Minister administering that Act under section 155 of that Act	When the Chapter ceases to apply
6 The referral is withdrawn under section 170C of the EPBC Act	When the referral is withdrawn

Note: Subdivision D of Division 4 also treats an application as withdrawn if the Authority decides the application is to be assessed by public information package, public environment report or environmental impact statement and the applicant does not promptly follow the processes for that assessment.

*Reinstating application withdrawn as described in table item 2 or 4 of subsection (1)*

- (2) Despite subsection (1), if the application is taken to be withdrawn and the circumstances described in column 1 of an item of the following table later exist in relation to the referral, the application is taken to be reinstated at the time described in column 2 of the item.

<b>When EPBC referral deemed application is taken to be reinstated</b>	
<b>Column 1</b> <b>Circumstances of reinstatement of application</b>	<b>Column 2</b> <b>Time application is taken to be reinstated</b>
1 The application is taken to be withdrawn because the Minister administering the EPBC Act decides under section 74B of that Act that Division 1A of Part 7 of that Act should apply to the referral, and that Minister later decides under paragraph 74D(4)(b) of that Act that the referral is to be dealt with under provisions of Chapter 4 of that Act	When that Minister makes the later decision



<b>When EPBC referral deemed application is taken to be reinstated</b>	
<b>Column 1</b> <b>Circumstances of reinstatement of application</b>	<b>Column 2</b> <b>Time application is taken to be reinstated</b>
2 The application is taken to be withdrawn because a request is made under section 156A of the EPBC Act, and the Minister administering that Act later decides not to accept the varied proposal	When that Minister makes the later decision

- (3) However, the application is not taken to be reinstated at a time if that time is after the time one of the following events occurred or would have occurred apart from the application being taken under subsection (1) to be withdrawn:
- (a) the application is taken to be withdrawn under section 101 (withdrawal of applications for failure to advertise for public comment) or 102 (Authority may require action on assessment process and declare application withdrawn for failure to comply);
  - (b) the application lapsed under section 204 (lapsing of application for permission).

## **Subdivision E—Applications for special permissions**

### **81 Purpose of Subdivision**

- (1) This Subdivision provides for the process of seeking expressions of interest in relation to applications for special permissions.
- (2) This Subdivision also sets out how expressions of interest are to be ranked in order for the person submitting the expression of interest to be declared an entitled person.

Note: Generally, only entitled persons can apply under section 76 for a special permission.

### **82 Meaning of *special permission***

- (1) A special tourism permission is a ***special permission***.
- (2) A permission to operate a heli-pontoon facility of the kind mentioned in subclause 1.37(2) of the *Cairns Area Plan of Management 1998* is a ***special permission***.
- (3) A permission to operate a private mooring is a ***special permission*** if:
  - (a) the private mooring:
    - (i) is in a location listed in Schedule 6 to the *Cairns Area Plan of Management 1998*; or
    - (ii) is of a kind mentioned in subclause 1.37(1) of the *Cairns Area Plan of Management 1998*;  
but is not a private mooring of a kind mentioned in paragraph 1.36(3)(a), (b), (c), (e) or (f), clause 1.38 or subclause 1.39(7) of the *Cairns Area Plan of Management 1998*; or
  - (b) either:

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- (i) the private mooring is in the Whitsunday Planning Area and the permission was in force immediately before 18 December 2008, but is not a private mooring of a kind mentioned in subclause 1.27(2) of the *Whitsundays Plan of Management 1998*; or
- (ii) the permission is a permission of a kind mentioned in subclause 1.27(3) or (4) of the *Whitsundays Plan of Management 1998*; or
- (c) the private mooring is in the Hinchinbrook Planning Area and the permission was in force immediately before 15 April 2004, but the private mooring is not of a kind referred to in subclause 1.29(1) of the *Hinchinbrook Plan of Management 2004*.

**83 Only certain persons may apply for special permission**

- (1) Despite subsection 76(1), a person may apply for a special permission only if:
  - (a) the person is, under this Subdivision, declared to be an entitled person for the permission; or
  - (b) the person is covered by subsection (3) in relation to the special permission.
- (2) The Authority may declare a person to be an entitled person for a special permission only if the permission is available to be granted under a plan of management or this instrument, and the permission:
  - (a) has not been granted previously; or
  - (b) if granted previously—will not be in force at the time the entitled person is granted under section 111 the permission the person applied for.

Note 1: A permission might no longer be in force because the period specified in the permission has ended or the permission has been surrendered or revoked.

Note 2: The process of seeking expressions of interest must occur before the granting of the special permission, except if subsection (3) applies (see section 84).

*Persons not required to be entitled persons*

- (3) A person is not required to be declared an entitled person under this Subdivision in order to apply for a special permission if:
  - (a) the person holds a special permission and, before the end of the period specified in the permission as the period (the ***specified period***) during which the permission is in force, the person applies under section 76 to replace the permission with a permission of the same kind; or
  - (b) the person held a special permission and after the end of the specified period:
    - (i) the person applied under section 76 to replace the permission with a permission of the same kind; and
    - (ii) the Authority, under subsection (4) of this section, decides to treat the application as having been made before the end of the specified period; or
  - (c) the permission is transferred to the person under section 123.
- (4) For the purposes of subparagraph (3)(b)(ii), the Authority may decide to treat the application as having been made before the end of the specified period if the

Authority considers that special circumstances specified in writing by the applicant justify its doing so.

#### **84 Invitations for expressions of interest**

- (1) Before granting a special permission under section 111, the Authority must publish a notice (the **EOI notice**) inviting expressions of interest in the permission (except if the permission is to be granted to a person covered by subsection 83(3)).
- (2) The EOI notice must be published:
  - (a) on the Authority's website; and
  - (b) in a newspaper circulating in an area of Queensland adjacent to the part of the Marine Park in which the conduct for which permission is sought is to occur.
- (3) The EOI notice must set out:
  - (a) each kind of permission for which expressions of interest are sought; and
  - (b) the procedure for expressing an interest; and
  - (c) the closing date for expressing an interest; and
  - (d) the amount of the lodgement fee for expressing an interest; and
  - (e) the criteria to be applied by the Authority in assessing an expression of interest.
- (4) The EOI notice must be published at least 10 business days before the closing date for the expressions of interest.

#### **85 Consideration of expressions of interest to determine entitled person**

- (1) In deciding under section 87 who is an entitled person for a special permission mentioned in an EOI notice, the Authority must only consider expressions of interest that are:
  - (a) made in the form approved by the Authority; and
  - (b) received after the publication of the notice but no later than the closing date set out in the notice; and
  - (c) accompanied by the lodgement fee mentioned in the notice.
- (2) In considering an expression of interest, the Authority must have regard to the criteria mentioned in paragraph 84(3)(e).

#### **86 Ranking expressions of interest**

- (1) For each kind of special permission for which interest is expressed by more than one person, the Authority:
  - (a) must rank each expression of interest that satisfies all of the criteria mentioned in the EOI notice in order of merit on the basis of those criteria; and
  - (b) may rank by ballot any expressions of interest that are of equal merit; and
  - (c) must not rank any expression of interest that does not satisfy all of the criteria mentioned in the EOI notice.

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*Where only one expression of interest satisfies all of the criteria*

- (2) If only one expression of interest satisfies all of the criteria mentioned in the EOI notice, that expression of interest is the highest ranked expression of interest.

*Expressions of interest that are not the highest ranked or not ranked*

- (3) After ranking expressions of interest, the Authority must give a written notice to a person if:
  - (a) the person's expression of interest for a special permission was not the highest ranked expression of interest for the permission; or
  - (b) the person's expression of interest was not ranked because of paragraph (1)(c).
- (4) The notice must set out the reasons for the Authority's decision in relation to the expression of interest.
- (5) The Authority must give the notice to the person within 20 business days after making the decision.

**87 Declaration of entitled person**

As soon as practicable after ranking expressions of interest under section 86, the Authority must, in writing, declare, for each kind of special permission set out in the EOI notice, the person who lodged the highest ranked expression of interest to be the entitled person for the permission.

**Note:** The Authority might declare more than one person to be the entitled person if a person previously declared to be the entitled person ceases to be an entitled person under section 89.

**88 Giving declaration to entitled person**

- (1) A declaration under section 87 that a person is the entitled person for a special permission must be given to the person as soon as practicable after:
  - (a) the Authority ranks the person's expression of interest as the highest ranked expression of interest for the permission; or
  - (b) the person's expression of interest becomes the highest ranked expression of interest for the permission because another person ceases to be the entitled person for the permission under section 89.
- (2) The declaration must:
  - (a) specify the day from which the declaration takes effect; and
  - (b) declare that the person is an entitled person who may make an application under section 76 for the permission; and
  - (c) state that the person must make the application within 15 business days after that day or the person will cease to be the entitled person for the permission.
- (3) The day must not be before the day the declaration is given to the person.

## **89 Ceasing to be an entitled person**

- (1) A person declared to be the entitled person for the special permission under section 87 ceases to be the entitled person if the person:
  - (a) does not apply under section 76 within the period mentioned in paragraph 88(2)(c); or
  - (b) withdraws an application made under section 76; or
  - (c) lodges an application under section 76 and the application:
    - (i) is taken to have been withdrawn under subsection 78(3) (not providing additional information); or
    - (ii) is refused under section 111 (grant or refusal of permission); or
    - (iii) lapses under section 204 (lapsing of application for permission).
- (2) If a person (the *previously entitled person*) ceases to be the entitled person for the special permission, the person whose expression of interest for the permission was ranked immediately after that of the previously entitled person is taken, for the purposes of section 87, to have lodged the most highly ranked expression of interest.

## Division 3—Assessment of impacts of proposed conduct

### Subdivision A—Deciding on approach for assessment

#### 90 Application of this Subdivision

This Subdivision applies if the Authority has received an application for a permission and either:

- (a) the Authority has decided under section 77 that the application was made in accordance with section 76; or
- (b) for a continuation application that was not made in accordance with section 76—all matters indicated in the notice of the decision were rectified within 30 business days from the day stated in the notice.

#### 91 Authority must decide on approach for assessment

- (1) Before considering whether to grant or refuse the permission, the Authority must decide, in accordance with section 92, which one of the following approaches must be used for assessing the relevant impacts of the proposed conduct:
  - (a) routine assessment;
  - (b) tailored assessment;
  - (c) assessment by public information package under Subdivision B;
  - (d) assessment by public environment report under Subdivision C;
  - (e) assessment by environmental impact statement under Subdivision C.

Note: The Authority may, under section 78, request additional information before deciding whether to grant or refuse the permission only if the Authority decides that tailored assessment or assessment under Subdivision B or C must be used.

- (2) The Authority may revoke a decision (the *old decision*) previously made under this section that a particular approach must be used and substitute a new decision made in accordance with section 92 that a different approach must be used, if:
  - (a) after the old decision was made, extra information becomes available to the Authority; and
  - (b) the Authority is satisfied that the extra information (in conjunction with information the Authority had before the old decision) justifies the new decision.

#### 92 Considerations in deciding on approach for assessment

In deciding which approach must be used for assessing the relevant impacts of the proposed conduct, the Authority must consider:

- (a) information the Authority has about those impacts (including information about the scale and complexity of those impacts); and
- (b) whether provisions of this instrument:
  - (i) require consideration of matters other than those set out in section 103 in deciding whether to grant the permission; or
  - (ii) may limit the circumstances in which the permission may be granted; and

- (c) any relevant policies published by the Authority under subsection 7(4) of the Act; and
- (d) if the application is an EPBC referral deemed application involving an action—any decision made under subsection 87(1) of the *Environment Protection and Biodiversity Conservation Act 1999* in relation to the action.

Note: The Authority may have the information described in paragraph (a):

- (a) because it was included in the application or in a document accompanying the application; or
- (b) if paragraph (d) applies—because the information was provided to the Authority by the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* or by the Department administered by that Minister; or
- (c) for another reason.

## **Subdivision B—Assessment by public information package**

### **93 Application of this Subdivision**

This Subdivision applies if the Authority has decided under section 91, in relation to an application for a permission, that assessment by public information package must be used for assessing the relevant impacts of the proposed conduct (and has not revoked the decision).

### **94 Publication of information and advertisement**

*Terms of reference for public information package (or PIP terms)*

- (1) The Authority must give the applicant written terms of reference (the **PIP terms**) for:
  - (a) publishing within a specified period:
    - (i) specified information relating to the application (which may include information relating to the relevant impacts of the proposed conduct); and
    - (ii) an advertisement inviting interested persons to make written comments to the Authority about the application within a period for comment of not less than 20 business days specified in the PIP terms, and setting out the manner in which any such comments must be given; and
  - (b) other steps (if any) to be taken by the applicant to seek comments about the application.
- (2) The PIP terms must require the advertisement to be published in a newspaper circulating in an area of Queensland adjacent to the part of the Marine Park in which the proposed conduct is to occur. The PIP terms may also require publication of the advertisement in other ways.

*Publication of applicant's advertisement by Authority*

- (3) The applicant must give the Authority a copy of the advertisement before the applicant publishes it.
- (4) The Authority must publish the advertisement on its website.

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**95 Dealing with response to publication of information and advertisement**

- (1) The PIP terms may also provide for dealing with:
  - (a) any comments received in response to any of the actions described in paragraphs 94(1)(a) and (b) and subsection 94(4); or
  - (b) the fact that no such comments are received.
- (2) If the PIP terms do not make provision in relation to such comments, the applicant must:
  - (a) deal with any such comments by addressing them in a document given to the Authority; or
  - (b) deal with the fact that no such comments are received by stating in a document given to the Authority that there were no such comments.

**96 Applicant to act in accordance with PIP terms**

The applicant must act in accordance with the PIP terms.

- Note: The application is, or may be, taken to be withdrawn if:
- (a) the applicant does not publish the advertisement within the period specified in the PIP terms (see section 101); or
  - (b) the applicant delays acting in accordance with the PIP terms in some other way (see section 102).

**Subdivision C—Assessment by public environment report or environmental impact statement**

**97 Application of this Subdivision**

This Subdivision applies if the Authority has decided under section 91, in relation to an application for a permission, that:

- (a) assessment by public environment report; or
- (b) assessment by environmental impact statement;

must be used for assessing the relevant impacts of the proposed conduct (and has not revoked the decision).

**98 Terms of reference for public environment report or environmental impact statement**

- (1) The Authority must give the applicant written terms of reference for:
  - (a) preparing a draft public environment report or draft environmental impact statement (as the case requires) (the ***draft document***) about the relevant impacts of the proposed conduct; and
  - (b) obtaining the Authority's approval to publish the draft document; and
  - (c) publishing within a specified period after obtaining that approval:
    - (i) the draft document; and
    - (ii) an advertisement (the ***proposed conduct advertisement***) inviting interested persons to make written comments to the Authority about the draft document or the proposed conduct within a period for comment of at least 20 business days specified in the terms of



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reference, and setting out the manner in which any such comments must be given; and

- (d) other steps (if any) to be taken by the applicant to seek comments about the draft document or the proposed conduct; and
- (e) dealing with any comments received in response to the actions described in any of paragraphs (c) and (d) and section 99 (publication of proposed conduct advertisement by Authority) or with the fact that no such comments are received; and
- (f) finalising the public environment report or environmental impact statement (as the case requires) (the ***finalised document***), taking account of any such comments, and including in the finalised document a summary of any such comments and the way in which they are addressed in the finalised document; and
- (g) publishing the finalised document.

Note: This section and section 99 do not apply if:

- (a) the application is an EPBC referral deemed application; and
- (b) under section 100, the Authority notifies the applicant that guidelines given to the applicant under section 96A or 101A of the *Environment Protection and Biodiversity Conservation Act 1999* also apply for the purposes of assessing the relevant impacts of the proposed conduct.

*Terms of reference about draft document*

- (2) The terms of reference must set out requirements for the content and presentation of the draft document.
- (3) In preparing the terms of reference the Authority must seek to ensure that the draft document will contain enough information about the proposed conduct and its relevant impacts to allow:
  - (a) a reader of the draft document to understand the nature of the proposed conduct and to make informed comments on the relevant impacts of the proposed conduct; and
  - (b) the Authority to make an informed decision whether or not to grant the permission.

*Terms of reference about publication of proposed conduct advertisement*

- (4) The terms of reference must require the proposed conduct advertisement to be published in a newspaper circulating in an area of Queensland adjacent to the part of the Marine Park in which the proposed conduct is to occur. The terms of reference may also require publication of the proposed conduct advertisement in other ways.

*Applicant to act in accordance with terms of reference*

- (5) The applicant must act in accordance with the terms of reference.

Note: The application is, or may be, taken to be withdrawn if:

- (a) the applicant does not publish the advertisement within the period specified in the terms of reference (see section 101); or
- (b) the applicant delays acting in accordance with the terms of reference in some other way (see section 102).

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**99 Publication of proposed conduct advertisement by Authority**

- (1) The applicant must give the Authority a copy of the proposed conduct advertisement before the applicant publishes it.
- (2) The Authority must publish the proposed conduct advertisement on its website.

Note: This section does not apply if:

- (a) the application is an EPBC referral deemed application; and
- (b) under section 100, the Authority notifies the applicant that guidelines given to the applicant under section 96A or 101A of the *Environment Protection and Biodiversity Conservation Act 1999* also apply for the purposes of assessing the relevant impacts of the proposed conduct.

**100 Alternative procedure for EPBC referral deemed application**

- (1) This section applies if:
  - (a) the application is an EPBC referral deemed application; and
  - (b) the Authority has decided in relation to the application that:
    - (i) assessment by public environment report must be used, and PER guidelines have been given to the applicant under section 96A of the *Environment Protection and Biodiversity Conservation Act 1999*; or
    - (ii) assessment by environmental impact statement must be used, and EIS guidelines have been given to the applicant under section 101A of that Act.
- (2) The Authority may give the applicant written notice that the guidelines also apply for the purposes of assessing the relevant impacts of the proposed conduct.
- (3) If the Authority gives the applicant such a notice:
  - (a) sections 98 and 99 do not apply; and
  - (b) the applicant must act in accordance with the guidelines.

Note: The Authority may declare that the application is taken to be withdrawn if the applicant delays acting in accordance with the guidelines (see section 102).

**Subdivision D—Application treated as withdrawn for delay in following assessment processes**

**101 Withdrawal of applications for failure to advertise for public comment**

If an applicant is required under this Division to publish an advertisement inviting comment, and does not do so before the end of the required period, the application is taken to be withdrawn at the end of the period.

**102 Authority may require action on assessment process and declare application withdrawn for failure to comply**

- (1) This section applies if:
  - (a) the Authority has decided in relation to an application for a permission that one of the following approaches must be used for assessing the relevant impacts of the proposed conduct (and has not revoked the decision):
    - (i) assessment by public information package under Subdivision B;

- (ii) assessment by public environment report under Subdivision C;
- (iii) assessment by environmental impact statement under Subdivision C;  
and
- (b) the applicant does not comply with the relevant Subdivision within a period that the Authority believes is reasonable, having regard to:
  - (i) the nature and relevant impacts of the proposed conduct; and
  - (ii) any comments about the application or the proposed conduct that have been received in response to any action taken under that Subdivision.

*Invitation to satisfy Authority that assessment should continue*

- (2) The Authority may give the applicant a written notice inviting the applicant to satisfy the Authority within a specified reasonable period that assessment of the application should continue.

*Application taken to be withdrawn if Authority not satisfied*

- (3) If, by the end of the specified period, the applicant fails to satisfy the Authority that assessment of the application should continue, the Authority may declare in writing that the application is taken to be withdrawn on a day specified in the declaration (which must not be earlier than the day the declaration is made).
- (4) The declaration has effect for the purposes of this Part according to its terms.
- (5) The Authority must give a copy of the declaration to the applicant.

## Division 4—Consideration of applications

### 103 Mandatory considerations in deciding whether to grant permission

The Authority must consider the following in deciding whether to grant a permission on an application, and whether or not to impose any conditions on the permission:

- (a) if the proposed conduct will take place in a zone—the objectives (if any) of the zoning plan for the zone;
- (b) if the proposed conduct will take place in a specific area of the Marine Park to which a legislative instrument under the Act (whether this instrument or another instrument), or a provision of such a legislative instrument, applies—that instrument or provision;

Note: Some examples of legislative instruments under the Act other than this instrument are a zoning plan and a plan of management. Some examples of provisions are special management provisions of this instrument for SMAs (such as sections 108 and 187).

- (c) whether the applicant for the permission is a suitable person to hold a permission for the proposed conduct, having regard to:
  - (i) the applicant's capacity to engage in and manage the proposed conduct to the satisfaction of the Authority; and
  - (ii) the applicant's history in relation to environmental matters; and
  - (iii) if the applicant is a body corporate—the history of its executive officers in relation to environmental matters; and
  - (iv) if the applicant is a subsidiary of a holding company—the history of the holding company and its executive officers in relation to environmental matters; and
  - (v) whether the applicant owes any fee or other amount payable under the Act, this instrument or any other instrument made for the purposes of the Act; and
  - (vi) any other relevant matter;
- (d) the requirement in section 37AA of the Act for users of the Marine Park to take all reasonable steps to prevent or minimise harm to the environment in the Marine Park that might or will be caused by the user's use or entry;
- (e) whether there are feasible and prudent alternatives to the proposed conduct;
- (f) any written comments received under Division 4 in connection with the application;
- (g) the relevant impacts of the proposed conduct;
- (h) options for avoiding, mitigating and offsetting those relevant impacts;
- (i) options for monitoring and managing those relevant impacts;
- (j) a law of the Commonwealth or of Queensland as in force from time to time, or a relevant plan (as in force from time to time) made under such a law, that:
  - (i) relates to the management of the environment or to an area in the Marine Park; and
  - (ii) is relevant to the proposed conduct;except so far as that law or plan is covered by paragraph (b);

- (k) if the proposed conduct also requires an approval under the *Environment Protection and Biodiversity Conservation Act 1999*:
  - (i) whether the approval has been, or is likely to be, granted and, if granted, the terms and conditions of it being granted; and
  - (ii) any relevant assessment documentation (within the meaning given by subsection 133(8) of that Act) in relation to the approval;
- (l) if the proposed conduct also requires an approval or a permission (however described) under a law of Queensland—whether the approval or permission has been, or is likely to be, granted and, if granted, the terms and conditions of it being granted;
- (m) any recovery plan, wildlife conservation plan, threat abatement plan or approved conservation advice, that is relevant to the proposed conduct;
- (n) any international agreement to which Australia is a party, or any agreement between the Commonwealth and a State or Territory, that is relevant to the proposed conduct;
- (o) any policies that are relevant to the proposed conduct and the management of the Marine Park or of its environment, biodiversity or heritage values and are:
  - (i) published by the Authority under paragraph 7(4)(a) of the Act; or
  - (ii) adopted by the Department administered by the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999*;
- (p) any other matters relevant to the proposed conduct and either:
  - (i) achieving the objects of the Act; or
  - (ii) orderly and proper management of the Marine Park.

Note 1: Some other provisions of this instrument (such as subsections 105(2), 106(2) and 108(5)) require consideration of additional matters for applications for particular permissions.

Note 2: This section does not apply in relation to an application for a permission to camp on a Commonwealth island (see section 110).

## **104 Limit on granting permission for dumping**

- (1) Despite any other provision in this Part, the Authority must not grant a permission for an activity if the Authority is satisfied that the activity would constitute or involve prohibited dumping.
- (2) Subsection (1) applies in relation to the following applications for permission:
  - (a) an application made, or taken to have been made, before 2 June 2015, but not decided before that day;
  - (b) an application made, or taken to have been made, on or after the day that Regulation commences.

Note: The *Great Barrier Reef Marine Park Amendment (Capital Dredge Spoil Dumping) Regulation 2015* commenced on 2 June 2015.

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**105 Limits on granting permissions to take protected species**

- (1) The Authority must not issue a permission for conduct that is the subject of an application for a permission that relates to, or involves, the taking of a protected species (within the meaning of the Zoning Plan) unless the Authority is satisfied that:
  - (a) the conduct is not inconsistent with any relevant recovery plan, wildlife conservation plan, threat abatement plan or approved conservation advice, under the *Environment Protection and Biodiversity Conservation Act 1999*; and
  - (b) one or more of the following apply:
    - (i) to the extent that the conduct relates to an area or areas outside the Marine Park—the conduct is not prohibited by or under the *Environment Protection and Biodiversity Conservation Act 1999*;
    - (ii) the conduct is of particular significance to the traditions of Traditional Owners and will not adversely affect the survival or recovery in nature of the protected species;
    - (iii) the conduct will contribute to the conservation of the protected species;
    - (iv) the taking of the protected species is not the main purpose of the conduct but is merely incidental to the conduct and will not adversely affect the conservation status of the species.
- (2) If the application relates to research, photography, filming or sound recording involving cetaceans or a tourist program involving whale watching or a swimming-with-whales activity, the Authority must also consider whether the conduct will adversely affect:
  - (a) one or more cetaceans; or
  - (b) the conservation status of a population of a species of cetacean; or
  - (c) the conservation status of a species of cetacean.
- (3) The matters mentioned in subsections (1) and (2) are additional to the matters that the Authority must consider under section 103.

**106 Limits on granting permissions to take leader prawn broodstock in Habitat Protection Zone in Mission Beach Leader Prawn Broodstock Capture Area**

- (1) The Authority must not grant a permission to take leader prawn broodstock in the Habitat Protection Zone in the Mission Beach Leader Prawn Broodstock Capture Area:
  - (a) unless the person applying for the permission:
    - (i) demonstrates, or has previously demonstrated, by producing logbook records and receipts for broodstock from an aquaculture facility, that the person has taken leader prawn broodstock in the Area in at least 3 of the calendar years 1998, 1999, 2000, 2001 and 2002; and
    - (ii) holds a current commercial fishing boat licence (T1 endorsement) under Queensland fisheries legislation; and

- (iii) demonstrates compliance with the requirements of Queensland fisheries legislation relating to turtle excluder devices and bycatch reduction devices; and
    - (iv) demonstrates compliance with the requirements of Queensland fisheries legislation relating to the maintenance and use of vessel monitoring systems; and
    - (v) holds a purchase order for leader prawn broodstock from a licensed Australian aquaculture facility; or
  - (b) if doing so would result in there being more than 5 such permissions in force at any one time.
- (2) The matters mentioned in subsection (1) are additional to the matters that the Authority must consider under section 103.

**107 Limit on granting permissions to swim with dwarf minke whales in part of the Cairns Planning Area—maximum number**

- (1) The Authority must not grant a permission to conduct a tourist program that consists, in whole or part, of a swimming-with-whales activity involving dwarf minke whales in the Ribbon Reefs Sector and the Offshore Port Douglas Sector of the Cairns Planning Area if doing so would result in there being more than 9 permissions of that kind in force at one time.
- (2) The matter mentioned in subsection (1) is additional to the matters that the Authority must consider under section 103.

**108 Limits on granting permissions to enter or use Princess Charlotte Bay SMA—special management provisions**

- (1) The Authority must not grant a permission to a person to use or enter the Princess Charlotte Bay Special Management Area for netting (within the ordinary meaning of the expression), other than bait netting (within the meaning of this instrument), unless:
- (a) the person is the holder of a primary commercial fishing boat licence issued under a law of Queensland as in force from time to time, that authorises netting to be carried out in the Princess Charlotte Bay specified area; and
  - (b) in accordance with the licence, netting was carried out in that area:
    - (i) at any time between 1 January 1996 and 31 December 1999 (inclusive); and
    - (ii) at any time in 3 or more calendar years between 1 January 1988 and 31 December 1999 (inclusive); and
  - (c) in accordance with the licence, at least 5 tonnes of catch were taken while netting was being carried out in that area in the period mentioned in subparagraph (b)(ii).

*Evidence required for application*

- (2) An application for permission to use or enter the Princess Charlotte Bay Special Management Area for netting (within the ordinary meaning of the expression),

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other than bait netting (within the meaning of this instrument), in addition to containing the information required by Division 2, must:

- (a) be accompanied by evidence of the kind mentioned in subsection (3) showing that the applicant satisfies the conditions in subsection (1); or
  - (b) for a continuation application—be accompanied by evidence that the primary commercial fishing boat licence is the same licence as existed when the original permission was first given (whether or not that permission was originally given to that person).
- (3) For the purposes of paragraph (2)(a), the evidence is:
- (a) a certificate, or a certified copy of a certificate, issued under section 74 of the *Fisheries Act 1994* (Qld), showing that the applicant is the holder of a primary commercial fishing boat licence of the kind mentioned in paragraph (1)(a); and
  - (b) a copy of each of the documents specified in subsection (4), certified to be true copies by or on behalf of the chief executive (within the meaning of the *Fisheries Act 1994* (Qld)), showing that the applicant had complied with the conditions set out in paragraphs (1)(b) and (c).
- (4) For the purposes of paragraph (3)(b), the following documents are specified:
- (a) each relevant return, or part of a return, given to the former Queensland Fisheries Management Authority, or Queensland, through the former Queensland Fisheries Service under section 109 of the repealed *Fisheries Regulation 1995* (Qld), as in force on 1 July 2004;
  - (b) if applicable, each relevant return, or part of a return, given to the former Queensland Fish Management Authority under the repealed *Fishing Industry Organisation and Marketing Act 1982* (Qld).

*Matters do not limit section 103*

- (5) The matters mentioned in subsection (1) are additional to the matters that the Authority is required to consider under section 103.

### **109 Limits on granting permissions to enter or use Maritime Cultural Heritage Protection SMAs—special management provisions**

The Authority must not grant a permission to a person to use or enter a Maritime Cultural Heritage Protection SMA except for one or more of the following purposes:

- (a) to carry out cultural heritage research;
- (b) to carry out cultural heritage monitoring;
- (c) to carry out works to stabilise wrecks;
- (d) to carry out photography, filming or sound recording that will improve public education about, or understanding of, cultural heritage;
- (e) to carry out ceremonial activities directly relevant to cultural heritage;
- (f) to carry out activities incidental to an activity covered by paragraphs (a) to (e).



### **110 Considerations for permissions to camp on Commonwealth islands**

- (1) In considering whether to grant a permission to camp on a Commonwealth island, the Authority must only consider the reasonable requirements for the orderly and proper management of the Marine Park and the camping site.
- (2) To avoid doubt, the matters that the Authority must consider under section 103 do not apply to the decision whether to grant the permission.

Note: Subsection 7(3) of the Act provides that the Authority must have regard to, and seek to act in a way that is consistent with, the objects of the Act, the principles of ecologically sustainable use and the protection of the world heritage values of the Great Barrier Reef World Heritage Area.

## Division 5—Granting and refusing permissions

### 111 Grant or refusal of permission

- (1) The Authority must make a decision on an application for a permission if:
  - (a) the application is made in accordance with this Part; and
  - (b) the person has complied with any requirement or request by the Authority about the application and, if relevant, with Subdivision B or C of Division 4 (acting in accordance with terms of reference or guidelines for assessing the relevant impacts of the proposed conduct).
- (2) In making the decision, the Authority must take into account the matters that the Authority is required to take into account under the Act and this Part.

### 112 Application to be decided within reasonable time

Within a reasonable period after receiving an application, the Authority must (subject to section 113):

- (a) make a decision on the application; and
- (b) give written notice to the applicant of its decision.

Note 1: Section 113 deals with EPBC referral deemed applications.

Note 2: Under the *Electronic Transactions Act 1999*, the Authority may notify its decision by electronic communication.

### 113 Decision on EPBC referral deemed applications

- (1) The Authority must not make a decision in relation to an EPBC referral deemed application involving an action unless:
  - (a) the action has been determined, under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999*, not to be a controlled action; or
  - (b) if the action has been determined to be a controlled action—the action has been approved under section 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- (2) The Authority must make a decision in relation to the EPBC referral deemed application:
  - (a) if paragraph (1)(a) applies—within a reasonable period after the making of the determination mentioned in that paragraph; and
  - (b) if paragraph (1)(b) applies—before the end of:
    - (i) 10 business days after approving the action as mentioned in that paragraph; or
    - (ii) if the Authority extends that period in accordance with section 253—that extended period.

## **Division 6—Form, term and conditions of permissions**

### **114 Form of permission**

A permission issued by the Authority must be in writing and must specify the following:

- (a) if the permission is issued to an individual—the name of the individual to whom the permission is issued;
- (b) if the permission is issued to a body corporate—the name of the body corporate and, if available, the ABN or ACN of the body corporate;
- (c) the conduct that the person to whom the permission is issued is authorised to engage in;
- (d) the date the permission is granted and, if different, the date the permission comes into force;
- (e) the period during which the permission is in force;
- (f) the conditions subject to which the permission is granted;
- (g) whether the permission allows the holder to grant authorities under the permission.

### **115 Term of permission**

- (1) A permission remains in force (subject to section 116) for the period specified in the permission, unless it is revoked or surrendered before the end of that period.
- (2) The permission has no effect during any period for which it is suspended, but the period of the permission continues to run.

### **116 Certain permissions to continue in force**

- (1) This section applies if:
  - (a) a continuation application is made relating to a permission (the ***original permission***); and
  - (b) for a continuation application made before the end of the period specified in the original permission as the period for which the permission is in force:
    - (i) the continuation application has not been granted or refused before the end of that period; and
    - (ii) the continuation application has not been withdrawn under Subdivision D of Division 2 or Subdivision D of Division 3 before the end of that period.
- (2) The original permission is taken always to have been in force, and remains in force until the first of the following events occurs:
  - (a) the application is withdrawn under Subdivision D of Division 2 or Subdivision D of Division 3;
  - (b) the Authority makes a decision on the application under section 111;
  - (c) the original permission is suspended or revoked under Division 9;
  - (d) the application lapses under section 204.

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*Authorisations*

- (3) Any Hinchinbrook authorisation attached to the original permission is taken to remain in force as long as the original permission is in force under subsection (2).

**117 Conditions of permission**

- (1) A permission may be granted subject to any conditions appropriate to achieving the objects of the Act.
- (2) Without limiting subsection (1), a permission may be granted subject to any of the following conditions:
- (a) a condition relating to the manner in which conduct (including the use of, or entry to, a zone) that is the subject of the permission is to be carried out;
  - (b) a condition requiring the preparation, the submission for approval by the Authority, and the implementation, of a plan for avoiding, mitigating or offsetting the relevant impacts of the permitted conduct;
  - (c) a condition requiring specified monitoring and audit activities to be carried out;
  - (d) a condition requiring the permission holder to enter into an agreement with the Commonwealth providing undertakings appropriate to achieving the objects of the Act;
  - (e) a condition requiring the provision of a security by way of a bond, guarantee or cash deposit;
  - (f) a condition requiring the permission holder to pay the Authority's reasonable costs associated with inspections and supervision in relation to any conduct that is permitted by the permission;
  - (g) a condition requiring the permission holder to indemnify the Authority in respect of costs to the Authority that the permission holder's conduct may incur (including costs that may be incurred under section 61A of the Act);
  - (h) a condition requiring the permission holder to insure against any specified liability of the holder to the Authority for measures taken by the Authority to repair and mitigate damage to the Marine Park caused by the permission holder's conduct or contravention of the Act or this instrument;
  - (i) a condition requiring the permission holder to undertake specified activities:
    - (i) to protect the environment of the Marine Park; or
    - (ii) to repair or mitigate damage to the environment of the Marine Park;
  - (j) a condition requiring the permission holder to make a financial contribution for the purpose of supporting activities mentioned in paragraph (i).
- (3) The Authority must not include in a permission a condition of a kind mentioned in paragraph (2)(i) or (j) that is not directly related to activities authorised by the permission unless the permission holder has consented to the condition.

**118 Authorities under permissions**

- (1) In granting a permission, the Authority may include in the permission a condition that allows the holder to give a person written authority to carry out
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any activity that may be lawfully carried out in accordance with the permission for such period as is specified in the authority.

- (2) The holder of the permission may give such an authority, unless doing so would contravene another condition of the permission.
- (3) If the carrying out of an activity by a person is authorised by an authority under a permission:
  - (a) the permission is, for the purposes of this instrument, taken to authorise the person to carry out that activity, subject to any conditions set out in the permission that relate to the carrying out of that activity; and
  - (b) the permission holder remains responsible for any activity carried out under the authority; and
  - (c) the giving of the authority does not prevent the carrying out of any activity by the permission holder at any time that the person is not carrying out the activity; and
  - (d) the permission is taken not to authorise the permission holder to carry out the activity at the same time as the person.

## **Division 7—Transfer of permissions and changes in beneficial ownership**

### **Subdivision A—Transfer of permissions**

#### **119 Application to transfer permission**

- (1) The holder of a permission (the *transferor*) may apply to the Authority to transfer the permission, unless:
  - (a) the permission is suspended; or
  - (b) the period specified in the permission ends no later than 20 business days before the day on which the transfer is intended to occur.
- (2) The application must:
  - (a) be in the form approved by the Authority; and
  - (b) be signed by the transferor and the proposed transferee; and
  - (c) include, or be accompanied by, the information and documents required by the form; and
  - (d) be lodged:
    - (i) at a place or by a means specified in the form; and
    - (ii) at least 20 business days before the day the transfer is intended to occur; and
  - (e) be accompanied by the transfer fee required under item 1 of the table in subsection 205(1).

*Authority not required to consider application—application not complying with subsection (2)*

- (3) The Authority is not required to consider or further consider the application if the application does not comply with subsection (2).
- (4) The Authority must give the applicant a written notice, within 10 business days after the day the Authority makes a decision that the application does not comply with subsection (2), stating:
  - (a) that the application is incomplete; and
  - (b) the matters that must be dealt with to complete the application.
- (5) The application is taken to have been withdrawn if the matters have not been dealt with before the end of:
  - (a) 30 business days after the notice is given; or
  - (b) if the Authority extends the period in accordance with section 253—that extended period.

*Authority not required to consider application—permission taken to remain in force*

- (6) The Authority is not required to consider or further consider the application while the permission is, or is taken to be, in force under section 116.

- (7) If the permission ceases to be in force under that section because the Authority grants a new permission under section 111, the Authority may further consider the application as if the application were an application to transfer the new permission.

## **120 Mandatory considerations in deciding whether to approve transfer of permission**

The Authority must consider the following in deciding whether to approve the transfer of a permission:

- (a) whether the proposed transferee is a suitable person to hold the permission, having regard to:
  - (i) the proposed transferee's capacity to engage in and manage, to the Authority's satisfaction, the conduct permitted by the permission; and
  - (ii) the proposed transferee's history in relation to environmental matters; and
  - (iii) if the proposed transferee is a body corporate—the history of its executive officers in relation to environmental matters; and
  - (iv) if the proposed transferee is a subsidiary of a holding company—the history of the holding company and its executive officers in relation to environmental matters; and
  - (v) whether the proposed transferee owes any fee or other amount payable under the Act, this instrument or any other instrument made for the purposes of the Act; and
  - (vi) any other relevant matter;
- (b) whether the transferor owes any fee or other amount payable under the Act, this instrument or any other instrument made for the purposes of the Act; and
- (c) any other matters relevant to the proposed transfer and either:
  - (i) achieving the objects of the Act; or
  - (ii) orderly and proper management of the Marine Park.

## **121 Further information required to consider application**

- (1) For the purposes of assessing the transferor's application under section 119, the Authority may, in writing, request the transferor or the transferee (the **notice recipient**) to give to the Authority specified additional information or specified additional documents.
- (2) The application is taken to have been withdrawn if the information or documents have not been given to the Authority before the end of:
  - (a) 20 business days after the Authority gives the request to the notice recipient; or
  - (b) if the Authority extends the period in accordance with section 253—that extended period.

## **122 Transfer of permissions related to approval under the *Environment Protection and Biodiversity Conservation Act 1999***

The Authority must not approve the transfer of a permission that relates to an action that is also the subject of an approval under the *Environment Protection and Biodiversity Conservation Act 1999* unless consent has been given to the transfer of the approval under section 145B of that Act.

## **123 Approval of transfer**

- (1) The Authority must, in writing given to the transferor and the proposed transferee, approve or refuse the transfer of the permission before the end of 20 business days after:
  - (a) receiving the application; or
  - (b) if the application is incomplete and a notice was given to the transferor under subsection 119(4)—the matters specified in the notice have been dealt with before the end of the period specified in subsection 119(5); or
  - (c) if the Authority has requested additional information or documents under section 121—the Authority receives the additional information or documents in accordance with that section.
- (2) The Authority must not approve a transfer unless any fee payable under section 205 has been paid.
- (3) If the Authority approves the transfer, it must issue the transferee a permission (the *new permission*) that has the same effect and the same conditions as the permission held by the transferor, unless otherwise agreed by the transferee.
- (4) Despite subsection (3), the new permission may include any of the following conditions:
  - (a) a condition requiring the provision of a security by way of a bond, guarantee or cash deposit;
  - (b) a condition requiring the permission holder to pay the Authority's reasonable costs associated with inspections and supervision in relation to any conduct that is permitted by the permission;
  - (c) a condition requiring the permission holder to indemnify the Authority in respect of costs to the Authority that the permission holder's activities may incur (including costs that may be incurred under section 61A of the Act);
  - (d) a condition requiring the permission holder to insure against any specified liability of the holder to the Authority for measures taken by the Authority to repair and mitigate damage to the Marine Park caused by the permission holder's activities or contravention of the Act or this instrument.
- (5) The permission held by the transferor is cancelled at the time the transferee is granted the new permission.

## **124 Transfer of Hinchinbrook authorisation attached to, or authority given under, permission**

- (1) Any Hinchinbrook authorisation that is attached to, or authority given under, a permission whose transfer is approved under section 123 is taken to have been given with the same effect when the new permission is granted.



- (2) To avoid doubt, a Hinchinbrook authorisation or authority cannot be transferred separately from the permission to which it is attached or under which it is given.

Note: For Hinchinbrook authorisations and authorities, see sections 71 and 118.

## **Subdivision B—Change in beneficial ownership of company**

### **125 Change in beneficial ownership of permission holder that is a company**

- (1) A permission holder that is a company must notify the Authority in writing if there is a change in the beneficial ownership of the company (the ***changed company***) after the permission has been granted.

Note: It is an offence against section 136 not to notify the Authority of the change.

- (2) The notice must be:
- (a) in a form approved by the Authority; and
  - (b) given to the Authority within 20 business days after the change occurs.
- (3) For the purposes of subsection (1), a change in the beneficial ownership of a company occurs when:
- (a) there is a change in the persons (whether individuals or bodies corporate) holding an interest in 50% or more of the total voting shares of the company; or
  - (b) the company becomes a subsidiary of another company.

### **126 Further particulars about change in beneficial ownership**

- (1) The Authority may, by written notice given to a changed company, request the company to provide further information about the change in order to enable the Authority to properly consider the matters in section 127.
- (2) The Authority may, by written notice given to the changed company, suspend or revoke the permission held by the changed company, or modify the conditions of the permission, if the information is not provided to the Authority before the end of:
- (a) 20 business days after receiving the notice; or
  - (b) if the Authority extends that period in accordance with section 253—that extended period.
- (3) Before suspending or revoking the permission, or modifying the conditions of the permission, the Authority must:
- (a) give the company notice in writing of the facts and circumstances that, in the opinion of the Authority, justify suspending or revoking the permission, or modifying the conditions of the permission; and
  - (b) include in the notice a statement that the holder may, within 20 business days after the date of the notice (or any longer period specified in the notice), provide reasons to the Authority why the permission should not be suspended or revoked, or the conditions should not be modified.
- (4) In deciding whether or not to suspend or revoke the permission, or modify the conditions of the permission, the Authority must consider any reasons provided by the permission holder in accordance with the notice.

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**127 Modification, suspension or revocation relating to change in beneficial ownership**

- (1) If the Authority receives a notice under section 125 in relation to a changed company, it may modify the conditions of, or suspend or revoke, the permission held by the changed company on the ground that the changed company is not a suitable person to hold the permission (subject to the conditions to which it was subject before the change in beneficial ownership of the company), having regard to:
  - (a) the changed company's capacity to engage in and manage, to the Authority's satisfaction, the conduct permitted by the permission; and
  - (b) the changed company's history in relation to environmental matters (including that history before the company changed); and
  - (c) the history of the changed company's executive officers in relation to environmental matters (including that history before the company changed); and
  - (d) if the changed company is a subsidiary of a holding company—the history of the holding company and its executive officers in relation to environmental matters; and
  - (e) whether the changed company, or an executive officer of the changed company, owes any fee or other amount payable under the Act, this instrument or any other instrument made for the purposes of the Act; and
  - (f) any other relevant matter.
- (2) The Authority must notify the changed company whether or not it intends to suspend or revoke, or modify the conditions of, the permission held by the changed company within 20 business days after receiving:
  - (a) if the Authority has not requested further information under section 126—a notice under section 125; or
  - (b) if the Authority has requested further information under section 126—that further information.

## **Division 8—Modification, suspension and revocation**

### **128 Modification of permission conditions**

- (1) The Authority may, by written notice given to a permission holder, modify the conditions of the permission (including any Hinchinbrook authorisation attached to the permission) in order to ensure the permission, and the conditions of the permission, remain appropriate to achieving the objects of the Act.
- (2) The Authority may modify the conditions:
  - (a) with the consent of the permission holder; or
  - (b) without the consent of the permission holder:
    - (i) if the holder has been convicted or found guilty of an offence against the Act, this instrument, or any other instrument made for the purposes of the Act; or
    - (ii) if the holder has been convicted or found guilty of an offence against section 136.1 or 137.1 (false or misleading information or documents) of the *Criminal Code* in relation to the person's application for the permission; or
    - (iii) if the Federal Court has made a declaration under section 61AIA of the Act that the holder has contravened a civil penalty provision of the Act; or
    - (iv) if the activity or conduct that is the subject of the permission is also the subject of an approval under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* and a condition attached to that approval has been varied under section 143 of that Act; or
    - (v) if the Authority believes, on reasonable grounds, that it is necessary to do so to protect the environment, or the living resources, of the Marine Park.
- (3) Before taking action to modify a condition on a ground mentioned in paragraph (2)(b), the Authority must:
  - (a) give written notice to the holder of the facts and circumstances that, in the opinion of the Authority, justify modifying the condition; and
  - (b) include in the notice a statement that the holder may, within 20 business days after the date of the notice (or any longer period specified in the notice), provide reasons to the Authority why the condition should not be modified.
- (4) In deciding whether to modify the conditions of the permission, the Authority must consider any reasons provided by the permission holder in accordance with the notice.

### **129 Modification of conditions or suspension of permission—pending investigation**

- (1) The Authority may, by written notice given to a permission holder, modify the conditions of the permission (including any Hinchinbrook authorisation attached to the permission), or suspend the permission, for the purpose of conducting an investigation, if the Authority has reason to believe that:

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- (a) the holder has contravened, or is likely to contravene, the conditions of the permission; or
  - (b) unacceptable relevant impacts have occurred, are occurring or are likely to occur that were not foreseen at the time of granting the permission; or
  - (c) if the application for the permission was being considered again, the permission would not have been granted because of circumstances that were not foreseen at the time the permission was first granted; or
  - (d) the holder's history in environmental matters is such that the holder may no longer be an appropriate person to hold the permission.
- (2) The notice must also:
  - (a) set out the Authority's reasons for the modification or suspension; and
  - (b) specify a period of at least 10 business days within which the permission holder may provide reasons to the Authority as to why the Authority should remove the modification or suspension.
- (3) The modification or suspension commences:
  - (a) on the day the Authority gives notice to the permission holder under subsection (1); or
  - (b) if a later day is specified in the notice—on that later day.
- (4) The Authority must, as soon as practicable after giving notice to the permission holder:
  - (a) investigate the matter in respect of which the condition was modified or the permission was suspended; and
  - (b) consider any reasons provided by the permission holder in accordance with the notice.
- (5) The Authority must complete its investigation before the end of 20 business days after the later of the following:
  - (a) the day the modification or suspension commences;
  - (b) the day the permission holder provides reasons to the Authority in accordance with the notice.

**130 Action following investigation**

- (1) This section applies if the Authority conducts an investigation under section 129 in relation to a permission (including any Hinchinbrook authorisation attached to the permission) held by a permission holder.

*Reasonable grounds not found*

- (2) If, as a result of the investigation, the Authority does not find reasonable grounds for modifying the relevant condition or suspending the permission, it must:
  - (a) immediately remove the modification or suspension; and
  - (b) as soon as practicable after doing so, notify the permission holder in writing that it has removed the modification or suspension.

*Reasonable grounds found*

- (3) If, as a result of the investigation, the Authority finds reasonable grounds for modifying the relevant condition or suspending the permission, it may, by written notice given to the permission holder, take any of the following actions:
- (a) continue the modification;
  - (b) continue the suspension;
  - (c) revoke the permission.

The notice must include the reasons for continuing the modification or suspension, or revoking the permission.

*When action must be taken*

- (4) The Authority must take action under subsection (2) or (3) no later than 10 business days after it completes its investigation. If the Authority does not do so, the modification or suspension ceases to have effect at the end of that period.

*Effect of taking and not taking action under subsection (3)*

- (5) If the Authority continues the modification or suspension, the following provisions apply:
- (a) for the modification of a condition—the permission has effect as if it had been granted with the modified condition;
  - (b) for a suspension—the permission remains suspended for the period specified in the notice.
- (6) If the Authority revokes the permission, the revocation takes effect on the day the Authority gives the notice to the permission holder.

### **131 Suspension of permission—environmental management charge**

- (1) The Authority may, by written notice given to the holder of a chargeable permission, suspend the permission if the Authority is satisfied that any of the following apply:
- (a) at the end of the month in which charge is payable in relation to the permission by the holder of the permission, the charge has not been fully paid;
  - (b) charge that is payable in relation to the permission by a visitor has not been collected by the holder of the permission;
  - (c) at the end of the month in which a collected amount is payable in relation to the permission, the collected amount has not been fully paid;
  - (d) a penalty amount that is payable in relation to the permission has not been paid in accordance with subsection 39FA(3) of the Act;
  - (e) an amount of late payment penalty that is payable in relation to the permission has not been paid;
  - (f) at the end of the month in which a return in relation to the permission is to be given to the Authority under section 230, the return has not been given to the Authority.

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*Duration of suspension*

- (2) The suspension commences:
  - (a) on the day the Authority gives the notice to the permission holder; or
  - (b) if a later day is specified in the notice—on that later day.
- (3) The suspension remains in force until the Authority is satisfied:
  - (a) that:
    - (i) the charge, amount or penalty is paid; and
    - (ii) if paragraph (1)(f) applies—a properly completed return has been given to the Authority; and
  - (b) that the reinstatement fee under section 207 is paid to the Authority.

*Requirements before suspending permission*

- (4) Before taking action to suspend the permission, the Authority must:
  - (a) give the holder a written notice of the facts and circumstances that, in the opinion of the Authority, justify consideration being given to suspending the permission; and
  - (b) include in the notice a statement that the holder may, within 10 business days after the date of the notice, provide reasons to the Authority why the permission should not be suspended.
- (5) In deciding whether or not to suspend the permission, the Authority must consider any reasons provided by the holder in accordance with the notice.

**132 Revocation of permission—general**

- (1) The Authority may (subject to subsection (3)), by written notice given to a holder of a permission, revoke the permission (including any Hinchinbrook authorisation attached to the permission) if the Authority is satisfied that any of the following apply:
  - (a) the holder consents to the revocation;
  - (b) the holder has been convicted or found guilty of an offence against the Act, this instrument or any other instrument made for the purposes of the Act;
  - (c) the holder has been convicted or found guilty of an offence against section 136.1 or 137.1 (false or misleading information or documents) of the *Criminal Code* in relation to the holder's application for the permission;
  - (d) the Federal Court has made a declaration under section 61AIA of the Act that the holder has contravened a civil penalty provision of the Act;
  - (e) if the permission has been suspended under section 131—the holder has not, within 10 business days of the suspension, taken the action that would enable the Authority to reinstate the permission;
  - (f) the action that is the subject of the permission is also the subject of an approval under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* and that approval has been revoked under section 145 of that Act;
  - (g) the holder did not engage in the conduct in the Marine Park that is permitted by the permission within 120 days after the date on which the permission was granted, or transferred, under this instrument or any other

instrument made for the purposes of the Act, unless the permission states otherwise.

*When revocation takes effect*

- (2) A revocation takes effect:
- (a) on the day the Authority gives the notice to the holder; or
  - (b) if a later day is specified in the notice—on that later day.

*Requirements before revoking permission*

- (3) Before taking action to revoke a permission on a ground mentioned in any of paragraphs (1)(b) to (g), the Authority must:
- (a) give the holder a written notice of the facts and circumstances that, in the opinion of the Authority, justify consideration being given to revoking the permission; and
  - (b) include in the notice a statement that the holder may, within 10 business days after the date of the notice, provide reasons to the Authority why the permission should not be revoked.
- (4) In deciding whether to revoke the permission, the Authority must consider any reasons provided by the holder in accordance with the notice.

*Suspension of permission while considering revocation*

- (5) Despite subsection (3), the Authority may, by written notice given to the holder, suspend the permission while it considers whether or not to revoke the permission.
- (6) The suspension:
- (a) commences:
    - (i) on the day the Authority gives notice to the permission holder under subsection (5); or
    - (ii) if a later day is specified in the notice—on that later day; and
  - (b) ends on the earlier of:
    - (i) the day the Authority makes a decision whether or not to revoke the permission; and
    - (ii) the day that is 20 business days after the date of the notice mentioned in subsection (5).

### **133 Revoked permission to be reinstated in particular circumstances**

- (1) This section applies if:
- (a) the Authority has revoked a permission (the **revoked permission**) because the action that is the subject of the permission is also the subject of an approval under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* and that approval (the **revoked approval**) has been revoked under section 145 of that Act; and
  - (b) the revoked approval has been reinstated under section 145A of that Act.
- (2) The Authority must:

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- (a) reinstate the revoked permission as soon as practicable after the revoked approval has been reinstated; and
- (b) notify the permission holder in writing that the permission has been reinstated.



## **Division 9—Offence provisions**

### **134 Purpose of Division**

This Division applies for the purposes of paragraph 66(2)(u) and subsection 66(11) of the Act.

### **135 Requirement to produce permission etc. for inspection**

A person commits an offence of strict liability if:

- (a) the person holds a permission, an authority given under a permission, or a Hinchinbrook authorisation attached to a permission; and
- (b) the person engages in conduct in the Marine Park; and
- (c) the Authority, or an inspector performing functions under the Act, requests the person to produce a copy of the permission; and
- (d) the person does not produce the permission, authority or authorisation to the Authority or inspector.

Penalty: 50 penalty units.

### **136 Notification of change in beneficial ownership**

A person commits an offence of strict liability if:

- (a) the person is a body corporate; and
- (b) the person is a permission holder; and
- (c) the person is required to give a notice under section 125 relating to a change in the beneficial ownership of the person; and
- (d) the person does not give the Authority the notice within 20 business days of the change.

Penalty: 50 penalty units.

### **137 Conviction after permission etc. is suspended or revoked**

A person:

- (a) who was the holder of a permission, an authority given under a permission, or a Hinchinbrook authorisation attached to a permission; and
- (b) who failed to comply with a condition of the permission, authority or authorisation while the permission was in force;

may be convicted of an offence for failing to comply with the condition although the permission, authority or authorisation has been revoked or has otherwise ceased to be in force.

## Division 10—Miscellaneous

### 138 Prescribed circumstances

For the purposes of subsection 38BA(5) of the Act, the following circumstances are prescribed:

- (a) in respect of conduct engaged in by a person in an area covered by a zoning plan (a **later zoning plan**) prepared in accordance with Division 2 of Part V of the Act during the first 120 days after the day on which the plan comes into operation:
  - (i) the person engaged in conduct of the same kind, in that area, before the plan came into operation; and
  - (ii) permission was not required for that conduct in that area before the plan came into operation; and
  - (iii) that conduct does not involve fishing (within the meaning of the Act) or collecting (within the ordinary meaning of the expression) in that area that would otherwise require permission after the plan comes into operation;
- (b) in respect of conduct engaged in by a person in an area covered by the Zoning Plan, or a later zoning plan, during the first 120 days after the day on which an amendment of the Zoning Plan or later zoning plan commences:
  - (i) the person engaged in conduct of the same kind, in the same area, before the amendment commences; and
  - (ii) permission was not required for that conduct before the amendment commences; and
  - (iii) that conduct does not involve fishing (within the meaning of the Act) or collecting (within the ordinary meaning of the expression) in that area that requires permission after the amendment commences;
- (c) in respect of conduct engaged in by a person in an area covered by the Zoning Plan or a later zoning plan after the end of a period mentioned in paragraph (a) or (b):
  - (i) the person engaged in conduct of the same kind, in that area, before the beginning of that period; and
  - (ii) permission was not required for that conduct before the beginning of that period; and
  - (iii) the person applied for permission to engage in the conduct during that period; and
  - (iv) the person applied for the permission in accordance with this instrument or any other instrument made for the purposes of the Act; and
  - (v) the person complies with any requirement or request made by the Authority under the Act, this instrument, or any other instrument made for the purposes of the Act, the Zoning Plan or a later zoning plan, in relation to the application; and
  - (vi) the permission has not been granted or refused, and the application has not been withdrawn or lapsed.

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**139 No permission for reef walking in Whitsunday Planning Area**

- (1) For the purposes of paragraph 66(2)(u) of the Act:
  - (a) the Authority must not grant a permission for the activity of reef walking in the Whitsunday Planning Area; and
  - (b) a permission that purports to give such permission is of no effect (subject to subsection (4)).
- (2) Subsection (1) does not affect a permission to the extent that the permission deals with any other activity (whether or not the activity is in the Whitsunday Planning Area).
- (3) Disregard any permission for the activity of reef walking in the Whitsunday Planning Area in determining:
  - (a) for the purposes of subsections 83(3) and 116(1), whether a replacement permission or further permission is a permission of the same kind; or
  - (b) for the purposes of subsection 123(3), whether a new permission has the same effect and the same conditions.
- (4) Subsection (1) applies, for the permission set out in permit G14/36918.1 and the person that held the permission on 2 August 2017, in relation to carrying out the activity of reef walking at Langford Reef only on and after 1 June 2020.

Note: However, subsection (1) applies in relation to:

- (a) reef walking in places in the Whitsunday Planning Area other than Langford Reef; and
- (b) reef walking at Langford Reef under any permission arising from transferring or renewing that permission (whether the transfer or renewal occurs before, on or after 1 June 2020).

## **Part 4—Traditional Use of Marine Resources Agreements (TUMRAs)**

### **Division 1—Simplified outline of this Part**

#### **140 Simplified outline of this Part**

This Part is made for the purposes of:

- (a) subsection 35DA(1) and paragraph 66(2)(b) of the Act; and
- (b) the definition of *accredited traditional use of marine resources agreement* in the Zoning Plan.

A TUMRA is a Traditional Use of Marine Resources Agreement. The Zoning Plan allows various zones in the Marine Park to be used or entered in accordance with an accredited TUMRA. This Part provides for the accreditation of a TUMRA. A further approval may be required if an accredited TUMRA is modified.

The accreditation of a TUMRA may be modified, suspended or revoked and a TUMRA may be terminated.

Adverse decisions relating to TUMRAs may be reconsidered internally in accordance with section 64 of the Act, and reviewed by the Administrative Appeals Tribunal in accordance with section 64A of the Act, (see Part 15 of this instrument).

## **Division 2—Accreditation of TUMRAs**

### **141 Application for accreditation of a TUMRA**

#### *Who may apply for accreditation of a TUMRA*

- (1) An individual (the **applicant**), or an authorised representative (also the **applicant**) of an individual, may, on behalf of a Traditional Owner group, apply to the Authority for accreditation of a TUMRA that covers the group.
- (2) The individual must be a member of the Traditional Owner group covered by the TUMRA.

#### *Requirements for application*

- (3) The application must:
  - (a) be in the form approved by the Authority; and
  - (b) include the information required by the form; and
  - (c) be accompanied by a copy of the TUMRA; and
  - (d) be accompanied by any other documents required by the form; and
  - (e) be lodged at a place or by the means specified in the form.

#### *What happens if requirements for application are not complied with*

- (4) The Authority is not required to consider or further consider an application if the application does not comply with the requirements of subsection (3).
- (5) The Authority must give the applicant a written notice, within 10 business days after the day the Authority makes a decision under subsection (4), stating:
  - (a) that the application is incomplete; and
  - (b) the matters that must be dealt with to complete the application.
- (6) The application is taken to have been withdrawn if the matters have not been dealt with before the end of:
  - (a) 30 business days after the notice is given; or
  - (b) if the Authority extends the period in accordance with section 253—that extended period.
- (7) Despite subsection (6), the Authority may continue to consider an application that has been taken to be withdrawn under that subsection.

#### *Joint applications*

- (8) Nothing in this section prevents a group of individuals from making a joint application for accreditation of a TUMRA under subsection (1), but all of the individuals must be members of a Traditional Owner group covered by the TUMRA.

### **142 Matters to be included in TUMRA**

- (1) A TUMRA must do the following:

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- (a) describe the boundaries of the area of the Marine Park in relation to which the TUMRA is to operate;
- (b) identify the Traditional Owners covered by the TUMRA;
- (c) identify the TUMRA holder;
- (d) describe:
  - (i) the features and values of the area, and the traditional use of marine resources in the area; and
  - (ii) the activities proposed to be undertaken at specific locations in the area;
- (e) if any animal species is proposed to be harvested:
  - (i) identify the animal species; and
  - (ii) if those species include one or more protected species—identify how many specimens of each protected species are proposed to be harvested;
- (f) describe the management arrangements proposed by the Traditional Owner group for implementing the TUMRA, including the proposed role of the Traditional Owner group in ensuring compliance with the TUMRA;
- (g) describe the manner in which monitoring and reporting of the traditional use of marine resources is to be conducted under the TUMRA, including the recording and reporting of information about the take of protected species;
- (h) describe the process used to develop the TUMRA by the Traditional Owner group, including any consultation with government authorities and other interested persons.

Note: For paragraphs (e) and (g), see section 30 for information about protected species.

- (2) Individuals may be identified, for the purposes of paragraph (1)(b), by name, family, clan, Traditional Owner group or other means used by the group to identify members of the group.
- (3) A TUMRA may be accredited even if it does not contain all of the information required by subsection (1).

**143 Additional information**

- (1) For the purposes of assessing an application for accreditation of a TUMRA, the Authority may, in writing, request the applicant or applicants to give to the Authority specified additional information or a specified additional document.
- (2) The application is taken to have been withdrawn if the additional information or document has not been provided before the end of:
  - (a) 20 business days after the Authority gives the request to the applicant or applicants; or
  - (b) if the Authority extends that period in accordance with section 253—that extended period.
- (3) Despite subsection (2), the Authority may continue to consider an application that has been taken to be withdrawn under that subsection.

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#### **144 Withdrawal of applications**

- (1) An application under section 141 for accreditation of a TUMRA may be withdrawn, by written notice given to the Authority, at any time before it is decided by the Authority.
- (2) The notice must be signed, on behalf of the Traditional Owner group covered by the TUMRA, by:
  - (a) the applicant or applicants; or
  - (b) the authorised representative or representatives of the applicant or applicants;as the case may be.

#### **145 Assessment of applications for accreditation**

The Authority must consider the following matters in assessing an application for accreditation of a TUMRA, and in deciding whether or not to impose any conditions on the accreditation:

- (a) the objectives of the zone or zones in which the proposed TUMRA would apply;
- (b) the matters covered by the TUMRA;
- (c) the likely effect of accreditation of the TUMRA on future options for using or entering the Marine Park;
- (d) the nature and scale of the traditional use of marine resources and any conservation of natural resources to be undertaken in accordance with the TUMRA;
- (e) the conservation of the natural resources of the Marine Park, including the need for conservation of protected species and, in particular, the capability of the relevant population of such a species to sustain harvesting;
- (f) the need to protect the cultural values and heritage values held in relation to the Marine Park by Traditional Owners and other people;
- (g) the possible effects of the proposed traditional use of marine resources on the environment and the adequacy of safeguards for the environment;
- (h) the likely effects of the proposed traditional use of marine resources on adjoining and adjacent areas;
- (i) any existing agreements or arrangements between the Authority and the Traditional Owner group covered by the TUMRA;
- (j) any legislation or government policy that applies to the proposed traditional use of marine resources;
- (k) any action necessary to avoid, remedy or mitigate unacceptable environmental impact that may result from the accreditation of the TUMRA;
- (l) any other matters relevant to the TUMRA and either:
  - (i) achieving the objects of the Act; or
  - (ii) orderly and proper management of the Marine Park.

Note: For paragraph (e), see section 30 for information about protected species.

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**146 Accreditation of TUMRA**

- (1) This section applies if:
  - (a) an individual has applied for accreditation of a TUMRA in accordance with this Part; and
  - (b) any requirement or request by the Authority about the application has been complied with.
- (2) The Authority must, after taking into account the matters that it is required or permitted to take into account under the Act and this Part, make a decision on the application within a reasonable period after receiving the application.

Note: Subsection 7(3) of the Act provides that the Authority must have regard to, and seek to act in a way that is consistent with, the objects of the Act, the principles of ecologically sustainable use and the protection of the world heritage values of the Great Barrier Reef World Heritage Area.
- (3) The Authority must not decide to accredit a TUMRA unless it has:
  - (a) made reasonable efforts to consult with a relevant representative Aboriginal/Torres Strait Islander body about whether each member of the Traditional Owner group covered by the TUMRA is a Traditional Owner in relation to the relevant part of the Marine Park covered by the TUMRA; and
  - (b) if it has been able to so consult, considered any advice from the relevant representative Aboriginal/Torres Strait Islander body; and
  - (c) made an assessment, or had an assessment made, of the impact that the traditional use of marine resources under the TUMRA is likely to have on the Marine Park.
- (4) If the Authority decides not to accredit a TUMRA, the Authority must, within 10 business days of making the decision, give the TUMRA holder a written notice setting out the reasons for the decision.

**147 TUMRA has no effect unless accredited**

- (1) A TUMRA has no effect in the Marine Park unless it is accredited by the Authority.
- (2) An accreditation of a TUMRA has no effect during any period for which the accreditation is suspended, but the period of the accreditation continues to run.

**148 Conditions of accreditation**

- (1) The Authority may, on or after accreditation, impose conditions on the accreditation of a TUMRA.
- (2) If the Authority imposes conditions after accreditation, it must give the TUMRA holder a written notice setting out:
  - (a) the details of the conditions imposed; and
  - (b) the reasons for imposing the conditions; and
  - (c) the day on which the conditions take effect.
- (3) Before imposing a condition under subsection (2), the Authority must consult with the TUMRA holder.



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- (4) Any conditions imposed by the Authority must be appropriate to attaining the objects of the Act.
  - (5) A condition may include a requirement that in specified circumstances a person must give the Authority a written undertaking in a form approved by the Authority.

#### **149 Certificate of accreditation**

- (1) The Authority must, within 10 business days after deciding to accredit a TUMRA, give the TUMRA holder:
  - (a) a copy of the accredited TUMRA; and
  - (b) a certificate of accreditation.
- (2) The certificate of accreditation:
  - (a) must set out any conditions to which the accreditation is subject; and
  - (b) must specify the day on which the accreditation commences; and
  - (c) must specify the period of accreditation; and
  - (d) may include a condition that:
    - (i) allows the TUMRA holder to give to a person written authority to carry out any activity that may be lawfully carried out in accordance with the accredited TUMRA; and
    - (ii) specifies a maximum number of persons the holder may authorise under the condition.

#### **150 Authorities under accreditation**

- (1) If a certificate of accreditation in relation to a TUMRA contains a condition of a kind mentioned in paragraph 149(2)(d), the TUMRA holder may give to a person written authority to carry out any activity that may be lawfully carried out in accordance with the TUMRA for such period as is specified in the authority.
- (2) Any authority given must be given in accordance with the management arrangements for implementing the accredited TUMRA.
- (3) The giving of the authority must not contravene a condition of the TUMRA's accreditation.
- (4) If the carrying out of an activity by a person is authorised by an authority given under a certificate of accreditation, the accredited TUMRA is, for the purposes of this instrument, taken to authorise the person to carry out the activity, subject to any conditions set out in the accreditation relating to the carrying out of that activity.

#### **151 Accreditation to continue**

- (1) This section applies if:
  - (a) all of the following apply:
    - (i) before the end of the period of accreditation for a TUMRA (the **original TUMRA**), an application is made under section 141 for accreditation of a TUMRA that covers the same area as the original TUMRA;

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- (ii) the Authority has not made a decision on the application before the end of the period of accreditation;
  - (iii) the application has not been withdrawn before the end of that period; or
- (b) both of the following apply:
  - (i) after the end of the period of accreditation for a TUMRA (the *original TUMRA*), an application is made under section 141 for accreditation of a TUMRA that covers the same area as the original TUMRA;
  - (ii) the Authority decides to consider the application.
- (2) The original TUMRA is taken always to have been accredited, and any authority given under the TUMRA is taken always to have been in force, and the original TUMRA and authority are taken to remain accredited and in force until the earliest of the following events occurs:
  - (a) the application is taken to have been withdrawn under subsection 143(2);
  - (b) the application is withdrawn under section 144;
  - (c) the Authority makes a decision on the application under section 146.

## **Division 3—Modification of accredited TUMRAs**

### **152 Application to modify TUMRA or conditions of accreditation**

- (1) A TUMRA holder for an accredited TUMRA may, on behalf of the Traditional Owner group covered by the TUMRA, apply to the Authority for:
  - (a) approval of a modification of the TUMRA; or
  - (b) a modification of a condition of the TUMRA's accreditation.

#### *Requirements for application*

- (2) The application must:
  - (a) be in the form approved by the Authority; and
  - (b) provide details of the decision that the holder wants the Authority to make; and
  - (c) include, or be accompanied by, the information and documents required by the form; and
  - (d) be lodged at a place, or by a means, specified in the form.

#### *What happens if requirements for application are not complied with*

- (3) The Authority is not required to consider or further consider the application if the application does not comply with the requirements of subsection (2).
- (4) If the Authority decides not to consider or further consider the application, the Authority must give the applicant a notice in writing, within 10 business days after the Authority makes that decision, stating:
  - (a) that the application is incomplete; and
  - (b) the matters that must be dealt with to complete the application.
- (5) The application is taken to have been withdrawn if the matters have not been dealt with before the end of:
  - (a) 30 business days after the notice is given; or
  - (b) if the Authority extends that period in accordance with section 253—that extended period.
- (6) Despite subsection (5), the Authority may continue to consider an application that has been taken to be withdrawn under that subsection.

### **153 Additional information**

- (1) For the purpose of assessing an application under section 152 in relation to an accredited TUMRA, the Authority may, in writing, request the TUMRA holder to give to the Authority specified additional information or a specified additional document.
- (2) The application is taken to have been withdrawn if the TUMRA holder does not provide the additional information or document to the Authority before the end of:
  - (a) 20 business days after the Authority gives the request to the holder; or

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- (b) if the Authority extends that period in accordance with section 253—that extended period.
- (3) Despite subsection (2), the Authority may continue to consider an application that has been taken to be withdrawn under that subsection.

**154 Decision on application**

- (1) This section applies if:
  - (a) the TUMRA holder for an accredited TUMRA has applied in accordance with section 152 for the Authority to:
    - (i) approve a modification (the *proposed modification*) of the TUMRA; or
    - (ii) modify a condition (the *proposed modification*) of the TUMRA’s accreditation; and
  - (b) any requirement or request by the Authority about the application has been complied with.
- (2) The Authority must make a decision on the application within a reasonable period after receiving the application.
- (3) The Authority may approve the application if:
  - (a) for a proposed modification that may have an impact on the Marine Park that was not previously considered by the Authority in relation to the TUMRA:
    - (i) the Authority has considered an assessment of the impact that the proposed modification is likely to have; and
    - (ii) the Authority has considered the matters mentioned in section 145 (assuming that references in that section to “accreditation” included references to “modification”); and
  - (b) in any case—the Authority is satisfied that it is necessary and appropriate to do so.

**Note:** A new certificate of accreditation is given under subparagraph 155(1)(c)(ii) if a modification of a TUMRA is approved.

**155 Notice of decision**

- (1) Within 10 business days of making a decision under subsection 154(2) in relation to a TUMRA, the Authority:
  - (a) must give written notice of the decision to the TUMRA holder; and
  - (b) if the decision is to refuse the application in relation to the TUMRA—must give written reasons to the TUMRA holder; and
  - (c) if the Authority approves a modification or modifies a condition—may give the holder:
    - (i) a copy of the modified TUMRA as approved; and
    - (ii) a new certificate of accreditation that incorporates the effect of the decision.
- (2) The notice under paragraph (1)(a) to approve a modification or modify a condition must specify the day from which the approval takes effect.

## **Division 4—Modification, suspension and revocation**

### **156 Modification of conditions or suspension of accreditation—pending investigation**

- (1) The Authority may, by written notice given to a TUMRA holder, modify the conditions of accreditation of the TUMRA, or suspend the TUMRA's accreditation, for the purpose of conducting an investigation, if the Authority has reason to believe that:
  - (a) a person authorised by or under the TUMRA to undertake a traditional use of marine resources has not complied with:
    - (i) the provisions of the TUMRA relating to the use; or
    - (ii) a condition of the TUMRA's accreditation; or
  - (b) if the application for accreditation of the TUMRA was being considered again, the accreditation would not be granted because of circumstances that were not foreseen at the time the accreditation was first granted; or
  - (c) damage, degradation or disruption to the physical environment, or the living resources, of the Marine Park has occurred, is occurring or is likely to occur because of the operation of the TUMRA.
- (2) The notice must also:
  - (a) set out the Authority's reasons for the modification or suspension; and
  - (b) specify a period of at least 10 business days within which the TUMRA holder may provide reasons to the Authority as to why the Authority should remove the modification or suspension.
- (3) The modification or the suspension commences:
  - (a) on the day the Authority gives notice to the TUMRA holder under subsection (1); or
  - (b) if a later day is specified in the notice—on that later day.
- (4) The Authority must, as soon as practicable after giving notice to the TUMRA holder:
  - (a) investigate the matter in respect of which the condition was modified, or the accreditation was suspended; and
  - (b) consider any reasons provided in accordance with paragraph (2)(b) by the TUMRA holder in accordance with the notice.
- (5) The Authority must complete its investigation before the end of 20 business days beginning on the later of:
  - (a) the day after the modification or suspension commenced; or
  - (b) the day after the TUMRA holder provides reasons to the Authority in accordance with a notice given to the TUMRA holder under subsection (2).

### **157 Action following investigation**

- (1) This section applies if the Authority conducts an investigation under section 156 in relation to an accredited TUMRA held by a TUMRA holder.

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*Reasonable grounds not found*

- (2) If, as a result of the investigation, the Authority does not find reasonable grounds for modifying the condition or suspending the accreditation, it must:
  - (a) immediately remove the modification or suspension; and
  - (b) as soon as practicable after doing so, notify the TUMRA holder in writing that it has removed the modification or suspension.

*Reasonable grounds found*

- (3) If, as a result of the investigation, the Authority finds reasonable grounds for modifying the condition or suspending the accreditation, it may, by written notice given to the TUMRA holder, take any of the following actions:
  - (a) continue the modification;
  - (b) continue the suspension;
  - (c) revoke the accreditation of the TUMRA.

The notice must include the reasons for continuing the modification or suspension, or revoking the accreditation.

*When action must be taken by*

- (4) The Authority must take action under subsection (3) no later than 10 business days after it completes its investigation. If the Authority does not do so, the modification or suspension ceases to have effect at the end of that period.

*Effect of taking action under subsection (3)*

- (5) If the Authority continues the modification or suspension, the following provisions apply:
  - (a) for the modification of a condition—the accreditation has effect as if it had been granted with the modified condition;
  - (b) for a suspension—the accreditation remains suspended for the period specified in the notice.
- (6) If the Authority revokes the accreditation, the revocation takes effect on the day the Authority gives the notice to the TUMRA holder.

**158 Revocation of accreditation—general**

- (1) The Authority may (subject to subsections (3) and (4)), by written notice given to the TUMRA holder for an accredited TUMRA, revoke the accreditation of the TUMRA if:
  - (a) the TUMRA holder, on behalf of the Traditional Owner group covered by the TUMRA, consents to the revocation; or
  - (b) the TUMRA holder, or the person who applied for accreditation of the TUMRA, has been convicted or found guilty of an offence against section 136.1 or 137.1 of the *Criminal Code* in relation to the application for accreditation of the TUMRA.
- (2) The revocation commences:
  - (a) on the day the Authority gives notice to the TUMRA holder under subsection (1); or

- (b) if a later day is specified in the notice—on that later day.

*Requirements before revoking accreditation*

- (3) Before taking action to revoke the accreditation of the TUMRA on a ground mentioned in paragraph (1)(b), the Authority must:
  - (a) notify the TUMRA holder in writing of the facts and circumstances that, in the opinion of the Authority, justify consideration being given to revoking the accreditation of the TUMRA; and
  - (b) allow the TUMRA holder 10 business days after the Authority gives the notice to the holder to provide reasons to the Authority why the accreditation should not be revoked.
- (4) In deciding whether to revoke the TUMRA's accreditation, the Authority must consider any reasons provided by the TUMRA holder in accordance with paragraph (3)(b).

## **Division 5—Termination of accredited TUMRA**

### **159 Termination of accredited TUMRA**

- (1) The TUMRA holder for an accredited TUMRA may, on behalf of the Traditional Owner group covered by the TUMRA, terminate the TUMRA at any time by written notice given to the Authority.
- (2) The accredited TUMRA ceases to have effect:
  - (a) on the day the notice is given; or
  - (b) if a later day is specified in the notice—on that later day.



## Part 5—Discharge of sewage

### 160 Simplified outline of this Part

This Part is made for the purposes of paragraph 66(2)(e), and subsections 38DD(6), and 66(2A) and (11), of the Act.

This Part creates offences for discharging sewage in, or into, the Marine Park. Various defences apply in relation to the offences.

### 161 Limit on application of this Part

This Part does not apply to a discharge of sewage to which Division 2 of Part IIIB of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* applies.

**Note:** The object of that Division is to give effect to Australia's obligations regarding the discharge of sewage into the sea under Annex IV of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

### 162 Discharge of sewage generally

- (1) A person commits an offence if:
  - (a) the person engages in conduct; and
  - (b) the conduct causes the discharge of sewage in, or into, the Marine Park; and
  - (c) the person is negligent as to whether sewage will be discharged in, or into, the Marine Park.

Penalty: 50 penalty units.

#### *Exception*

- (2) Subsection (1) does not apply if the sewage is discharged from a vessel or aircraft:
  - (a) because of accidental damage to the vessel or aircraft (disregarding deterioration or defects covered by subsection (3)) and all reasonable precautions were taken before and after the occurrence of the damage to prevent or minimise the escape of sewage; or
  - (b) for the purpose of saving life at sea or securing the safety of the vessel or aircraft.

**Note 1:** A defendant bears an evidential burden in relation to matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

**Note 2:** There are additional defences in sections 163 and 164 (discharge of untreated and treated sewage from vessels) and section 10.5 of the *Criminal Code* (lawful authority).

- (3) For the purposes of paragraph (2)(a), accidental damage to the vessel or its equipment does not include:
  - (a) deterioration resulting from failure to maintain the vessel or equipment; or

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- (b) defects that develop during the normal operation of the vessel or equipment.

**163 Discharge of untreated sewage from vessels**

- (1) Section 162 does not apply in relation to conduct engaged in by a person that causes sewage to be discharged from a vessel in, or into, the Marine Park if:
  - (a) the vessel has 15 or fewer persons on board; and
  - (b) either:
    - (i) the vessel does not have a fixed toilet; or
    - (ii) where the vessel has a fixed toilet, the sewage has been reduced to a fine slurry; and
  - (c) the vessel is not inside a boat harbour or marina; and
  - (d) the vessel is more than one nautical mile from an aquaculture operation.

Note: A defendant bears an evidential burden in relation to matters in subsection (1) (see subsection 13.3(3) of the *Criminal Code*).

- (2) Section 162 does not apply in relation to conduct engaged in by a person that causes sewage to be discharged from a vessel in, or into, the Marine Park if:
  - (a) the vessel has more than 15 persons on board; and
  - (b) the vessel has a fixed toilet; and
  - (c) the sewage has been reduced to a fine slurry; and
  - (d) the sewage is discharged more than one nautical mile seawards of:
    - (i) the seaward edge of the nearest reef; and
    - (ii) the low water mark of the nearest island or the mainland; and
  - (e) the vessel is not inside a boat harbour or marina; and
  - (f) the vessel is more than one nautical mile from an aquaculture operation.

Note: A defendant bears an evidential burden in relation to matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

**164 Discharge of treated sewage from vessels**

Section 162 does not apply in relation to conduct engaged in by a person that causes sewage to be discharged from a vessel in the Marine Park if:

- (a) the sewage has received tertiary treatment; or
- (b) both of the following apply:
  - (i) the sewage is grade A treated sewage;
  - (ii) the vessel is not inside a boat harbour or marina; or
- (c) the sewage is grade B treated sewage and the vessel is:
  - (i) more than 700 metres seawards of the seaward edge of the nearest reef; and
  - (ii) more than 700 metres from any aquaculture operation; and
  - (iii) more than 700 metres from any person in the water; and
  - (iv) not inside a boat harbour or marina; or
- (d) the sewage is grade C treated sewage and the vessel is:
  - (i) more than half a nautical mile seawards of the seaward edge of the nearest reef; and
  - (ii) more than half a nautical mile from any aquaculture operation; and

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- (iii) more than half a nautical mile from any person in the water; and
- (iv) not inside a boat harbour or marina.

Note: A defendant bears an evidential burden in relation to matters in this section (see subsection 13.3(3) of the *Criminal Code*).

**165 Discharge in prescribed circumstances**

For the purposes of subsection 38DD(6) of the Act, the circumstances set out in sections 163 and 164 are prescribed.

## Part 6—Removal of property and various offences

### 166 Simplified outline of this Part

This Part is made for the purposes of paragraphs 66(2)(e), (f), (h), (m) and (v) and subsection 66(11) of the Act.

Under this Part, the Authority may order a person to remove property from the Marine Park or take other remediating action if the property may cause damage to the Marine Park, or is not permitted to be in the Marine Park. The order may be given to a number of specified persons, such as the owner. A person may commit an offence under section 38DC of the Act if the person does not comply with the order.

This Part also includes other offences, including offences to prevent conduct which may damage:

- (a) the Marine Park (such as taking animals into the Marine Park or littering); or
- (b) public moorings or infrastructure in the Marine Park.

### 167 Removal of property

#### *Ordering removal of property*

- (1) The Authority may, in writing, order a person mentioned in subsection (2):
- (a) to remove property from the Marine Park if the property has been abandoned, sunk or wrecked; or
  - (b) to remove property from the Marine Park if there is not in force, or is no longer in force, a permission granted by the Authority for an activity that involves the property; or
  - (c) to take action to remedy, mitigate or prevent damage to the Marine Park caused by the removal of abandoned, sunk or wrecked property; or
  - (d) to remove property from the Marine Park that may cause damage to the Marine Park.

Note: It an offence to contravene the order (see subsection (5) of this section and section 38DC of the Act).

#### *Order to be served on responsible person*

- (2) The order must be served on any one of following persons (the **responsible person**) that the Authority is satisfied is appropriate:
- (a) the owner of the property;
  - (b) the person who has control of the property;
  - (c) the person who caused the property to be in the Marine Park;
  - (d) the person who last held a permission under Part 3.

*When responsible person is unable to be located*

- (3) If the Authority is unable to locate the responsible person within a reasonable period, the Authority may publish a notice in accordance with subsection (4):
  - (a) on its website; and
  - (b) in a daily newspaper that is circulated in Queensland.
- (4) The notice must:
  - (a) describe the property; and
  - (b) identify, as appropriate:
    - (i) the place where the property is located (as accurately as practicable); or
    - (ii) the person from whom the property can be recovered; and
  - (c) order the responsible person to do either or both of the following:
    - (i) remove the property from the Marine Park within a reasonable period specified in the order;
    - (ii) take action to remedy, mitigate or prevent damage to the Marine Park caused by the removal of the abandoned, sunk or wrecked property; and
  - (d) state that, if action is not taken to satisfy the order, the Minister may deal with the matter under section 61A of the Act.

*Offence for contravening order*

- (5) An order under subsection (1) or paragraph (4)(c) is declared to be an order to which section 38DC of the Act applies.

Note: That section creates an offence for contravening the order.

**168 Certain animals not to be taken onto Commonwealth islands***Offence*

- (1) A person commits an offence of strict liability if the person:
  - (a) takes a living terrestrial animal onto an island, or part of an island, that is:
    - (i) owned by the Commonwealth; and
    - (ii) within the Marine Park; or
  - (b) allows a living terrestrial animal to enter upon an island, or part of an island, that is:
    - (i) owned by the Commonwealth; and
    - (ii) within the Marine Park.

Penalty: 50 penalty units.

*Exception*

- (2) However, subsection (1) does not apply if the animal is the person's assistance animal (within the meaning of section 9 of the *Disability Discrimination Act 1992*).

Note 1: A defendant bears an evidential burden in relation to the matters mentioned in subsection (2) (see section 13.3 of the *Criminal Code*).

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Note 2: See also section 10.5 of the *Criminal Code* (lawful authority).

### 169 Littering prohibited

A person commits an offence of strict liability if the person deposits litter in the Marine Park.

Penalty: 50 penalty units.

### 170 Mooring buoy must display mooring reference number

The holder of the permission for a permitted mooring commits an offence of strict liability if the mooring reference number is not permanently and legibly displayed on the mooring buoy.

Penalty: 15 penalty units.

### 171 Public mooring and public infrastructure not to be removed, misused or damaged

#### *Public mooring*

- (1) A person commits an offence of strict liability if:
- (a) the person engages in conduct; and
  - (b) the conduct results in:
    - (i) the removal of a public mooring; or
    - (ii) the misuse of a public mooring; or
    - (iii) damage to a public mooring.

Note: For the definition of **public mooring**, see subsection 5(1).

Penalty: 50 penalty units.

- (2) A person commits an offence of strict liability if:
- (a) the person is:
    - (i) the master of a vessel; or
    - (ii) the person in charge of a vessel; or
    - (iii) the owner of a vessel; or
    - (iv) any other person responsible for a vessel; and
  - (b) any person on the vessel engages in conduct; and
  - (c) the conduct results in:
    - (i) the removal of a public mooring; or
    - (ii) the misuse of a public mooring; or
    - (iii) damage to a public mooring.

Penalty: 50 penalty units.

#### *Public infrastructure*

- (3) A person commits an offence of strict liability if:
- (a) the person engages in conduct; and
  - (b) the conduct results in:

- (i) the removal of public infrastructure; or
- (ii) the misuse of public infrastructure; or
- (iii) damage to public infrastructure.

Note: For the definition of *public infrastructure*, see subsection 5(1).

Penalty: 50 penalty units.

- (4) A person commits an offence of strict liability if:
- (a) the person is:
    - (i) the master of a vessel; or
    - (ii) the person in charge of a vessel; or
    - (iii) the owner of a vessel; or
    - (iv) any other person responsible for a vessel; and
  - (b) a person on the vessel engages in conduct; and
  - (c) the conduct results in:
    - (i) the removal of public infrastructure; or
    - (ii) the misuse of public infrastructure; or
    - (iii) damage to public infrastructure.

Penalty: 50 penalty units.

*Exception—liability of owner when vessel stolen*

- (5) A person does not commit an offence against this section that occurs as a result of the use of, or an attribute of, a vessel if:
- (a) the person is the owner of the vessel; and
  - (b) the alleged offence is committed by another person who was in charge of the vessel; and
  - (c) at the time of the alleged offence, the vessel was stolen or illegally taken.

Note: A defendant bears an evidential burden in relation to matters in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

## Part 7—Register of permissions and other instruments

### 172 Simplified outline of this Part

This Part applies for the purpose of paragraphs 66(2)(b), (u), (ua) and (v) of the Act.

The Authority must keep a register of permissions, accreditations and any other approvals (however described). The register is publicly available.

### 173 Register of permissions and other instruments

- (1) The Authority may, for the purposes of this section, keep a register of the following instruments:
  - (a) permissions;
  - (b) accreditations;
  - (c) any of the following (however described) relating to the Marine Park:
    - (i) approvals;
    - (ii) Hinchinbrook authorisations;
    - (iii) authorities;
    - (iv) exemptions;
    - (v) licences.
- (2) The register may include copies of, and information in relation to, the following:
  - (a) applications, including variations of applications, for an instrument on the register or for the transfer or modification of such an instrument;
  - (b) further particulars in relation to an application mentioned in paragraph (a);
  - (c) decisions of the Authority about the grant, refusal, revocation, suspension, transfer or modification of an instrument on the register;
  - (d) any other reviewable decisions, or decisions of the Authority under section 64 of the Act (reconsideration of decisions);
  - (e) statements of reasons given for decisions mentioned in paragraphs (c) and (d);
  - (f) instruments on the register;
  - (g) notices relating to a matter mentioned in any of paragraphs (a) to (f);
  - (h) any other document or record that the Authority considers appropriate.
- (3) Without limiting paragraph (1)(c), an instrument on the register is taken to relate to the Marine Park if it relates to:
  - (a) the use or management of an area (which may be a Queensland national park or a Queensland marine park) whose use or management would or might affect the Marine Park; or
  - (b) the use of a place outside the Marine Park for a purpose relating to the Marine Park.



- (4) This section does not limit the power of the Authority to keep a register for any other purpose.

**174 Access to register**

The register kept for the purposes of section 173 must be made publicly available on the Authority's website.

## Part 8—Reporting requirements

### 175 Simplified outline of this Part

This Part is made for the purposes of paragraph 54(3)(i) of the Act.

The Great Barrier Reef Outlook Report is given to the Minister every 5 years under section 54 of the Act. The Report must include an assessment of the relevant heritage values of the Great Barrier Reef Region.

### 176 Great Barrier Reef Outlook Report

- (1) An assessment of the relevant heritage values of the Great Barrier Reef Region is prescribed as a matter that must be contained in the Great Barrier Reef Outlook Report.
- (2) The **relevant heritage values** of the Great Barrier Reef Region include the following values to the extent that they relate to the Region:
  - (a) the Commonwealth Heritage values;
  - (b) the Indigenous heritage values;
  - (c) the National Heritage values;
  - (d) the world heritage values;
  - (e) any other heritage values (within the ordinary meaning of the term) that the Authority considers relevant.
- (3) An **assessment of the relevant heritage values** of the Great Barrier Reef Region includes the following:
  - (a) an assessment of the current relevant heritage values of the region;
  - (b) an assessment of the risks to the relevant heritage values of the region;
  - (c) an assessment of the current resilience of the relevant heritage values of the region;
  - (d) an assessment of the existing measures to protect and manage the relevant heritage values of the region;
  - (e) an assessment of the factors influencing the current and projected future relevant heritage values of the region;
  - (f) an assessment of the long-term outlook for the relevant heritage values of the region.

## **Part 9—Interacting with cetaceans**

### **Division 1—Introduction**

#### **177 Simplified outline of this Part**

This Part applies for the purpose of paragraphs 66(2)(h), (i), (o) and (ue) and subsection 66(11) of the Act.

This Part sets out offences to protect cetaceans. The offences include:

- (a) offences regulating the distance and speed of vessels and aircraft near cetaceans; and
- (b) offences regulating persons swimming near cetaceans.

The Authority may give an exemption from this Part in relation to research and some other activities.

#### **178 Application of this Part**

A person does not contravene a provision of this Part only because the person is taking:

- (a) an action mentioned in paragraph 231(c), (d), (e) or (f) of the *Environment Protection and Biodiversity Conservation Act 1999*; or
- (b) an action mentioned in paragraph 231(a), (b) or (h) of the *Environment Protection and Biodiversity Conservation Act 1999* and the action could not be undertaken at a time or in a way to avoid contravening the provision.

Note 1: A defendant bears an evidential burden in relation to the matters mentioned in this section (see section 13.3 of the *Criminal Code*).

Note 2: This Part applies subject to any exemption that the person may have under section 188.

## Division 2—Offences

### 179 Requirements relating to prohibited vessels

- (1) A person (the **operator**) operating a prohibited vessel commits an offence of strict liability if the operator contravenes subsection (2), (3) or (4) in the Marine Park.

Penalty: 50 penalty units.

#### *Distance from, and speed near, cetaceans*

- (2) The operator must not allow the vessel to approach closer than 300 metres to a cetacean.
- (3) The operator must move the vessel, at a constant speed of less than 6 knots, away from a cetacean that is approaching so that the vessel remains at least 300 metres away from the cetacean.

Note: A boat travelling at a speed that is the equivalent of a brisk walking pace is not exceeding 6 knots.

#### *Limitation on use of vessel for certain activities*

- (4) The operator must ensure that the vessel is not used for a whale watching activity or a swimming-with-whales activity.

### 180 Other craft—caution zones near adult cetaceans

- (1) A person (the **operator**) operating a vessel that is not a prohibited vessel commits an offence of strict liability if the operator contravenes subsection (2), (3), (4) or (5) in the Marine Park.

Note: Section 181 contains special provisions for calves. Additional limitations apply in relation to whale protection areas (see section 187).

Penalty: 50 penalty units.

#### *Requirements for caution zones*

- (2) The operator must do the following within the caution zone for a cetacean (other than a calf):
- (a) operate the vessel at a constant speed of less than 6 knots and minimise noise;
  - (b) make sure the vessel does not drift or approach closer to the cetacean than:
    - (i) for a dolphin—50 metres; or
    - (ii) for a whale—100 metres;
  - (c) if the cetacean shows signs of being disturbed, immediately withdraw the vessel from the caution zone at a constant speed of less than 6 knots;
  - (d) if there is more than 1 person on the vessel—post a lookout for cetaceans;
  - (e) subject to paragraph (b), approach the cetacean only:
    - (i) from the rear, no closer than 30 degrees to its observed direction of travel; or

- (ii) by positioning the vessel ahead of the cetacean at more than 30 degrees from its observed direction of travel;
- (f) make sure the vessel does not restrict the path of the cetacean;
- (g) make sure the vessel is not used to pursue the cetacean.

Note 1: Subsections (4) and (5) apply if a cetacean approaches a vessel or comes within the limits mentioned in paragraph (2)(b).

Note 2: For an exemption to paragraph (2)(b), see subsection (6).

- (3) The operator must not enter the caution zone of a cetacean (other than a calf) if there are already 3 vessels in the caution zone.
- (4) If a whale (other than a calf) approaches the vessel or comes within the limits mentioned in paragraph (2)(b), the operator must:
  - (a) disengage the gears and let the whale approach; or
  - (b) reduce the speed of the vessel and proceed on a course away from the whale.
- (5) If a dolphin (other than a calf) approaches the vessel or comes within the limits mentioned in paragraph (2)(b), the person must not change the course or speed of the vessel suddenly.

*Exception*

- (6) Paragraph (2)(b) does not apply if the cetacean approached the vessel.

Note: A defendant bears an evidential burden in relation to the matters mentioned in subsection (6) (see section 13.3 of the *Criminal Code*).

## **181 Other craft—caution zones near calves**

- (1) A person (the **operator**) operating a vessel that is not a prohibited vessel commits an offence of strict liability if the operator contravenes subsection (2) or (3) in the Marine Park.

Penalty: 50 penalty units.

*Requirements for caution zones*

- (2) The operator must not allow the vessel to enter the caution zone of a calf.
- (3) If a calf appears within an area resulting in the vessel being within the caution zone of the calf, the operator must:
  - (a) immediately stop the vessel; and
  - (b) do any one or more of the following:
    - (i) turn off the vessel's engines;
    - (ii) disengage the gears;
    - (iii) withdraw the vessel from the caution zone at a constant speed of less than 6 knots so that the vessel remains at least 300 metres away from the calf.

*Exception*

- (4) Subsection (2) does not apply if the calf approached the vessel.

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Note: A defendant bears an evidential burden in relation to the matters mentioned in subsection (4) (see section 13.3 of the *Criminal Code*).

**182 Aircraft near cetaceans**

A person operating an aircraft commits an offence of strict liability if the person does any of the following in the Marine Park:

- (a) operates the aircraft (other than a helicopter or gyrocopter) at a height lower than 1,000 feet within a horizontal radius of 300 metres of a cetacean;
- (b) operates a helicopter or gyrocopter at a height lower than 1650 feet or within a horizontal radius of 500 metres of a cetacean;
- (c) allows the aircraft to approach a cetacean from head on;
- (d) if the aircraft can land on water—lands the aircraft on water so that the aircraft comes within a horizontal radius of 500 metres of a cetacean.

Penalty: 50 penalty units.

**183 No feeding of cetaceans**

- (1) A person commits an offence of strict liability if the person feeds or attempts to feed a cetacean in the Marine Park (including by throwing food or rubbish into the water near a cetacean).

Penalty: 50 penalty units.

*Exception*

- (2) Subsection (1) does not apply to the routine discarding of bycatch by a commercial fisher if the fisher makes reasonable efforts to avoid discarding bycatch near the cetacean.

Note: A defendant bears an evidential burden in relation to the matters mentioned in subsection (2) (see section 13.3 of the *Criminal Code*).

**184 No touching, or sudden movements near, cetaceans**

A person commits an offence of strict liability if the person does either of the following in the Marine Park:

- (a) touches a cetacean;
- (b) makes sudden movements within 2 metres of a cetacean.

Penalty: 50 penalty units.

**185 Requirements for swimming with cetaceans**

- (1) A person commits an offence if:
  - (a) a person enters the water (whether or not in the Marine Park); and
  - (b) the person's entry into the water occurs within:
    - (i) 100 metres of a whale; or
    - (ii) 50 metres of a dolphin; and
  - (c) the whale or dolphin is in the Marine Park.

Penalty: 50 penalty units.

- (2) Strict liability applies to paragraph (1)(c).
- (3) A person commits an offence of strict liability if the person, while in water in the Marine Park, approaches within 30 metres of a cetacean.

Penalty: 50 penalty units.

- (4) A person commits an offence of strict liability if:
  - (a) the person is in the water in the Marine Park; and
  - (b) a cetacean comes within 30 metres of the person; and
  - (c) the person:
    - (i) does not move slowly to avoid startling the cetacean; or
    - (ii) swims towards it.

Penalty: 50 penalty units.

### **186 Conducting swimming-with-whales activities without permission**

A person commits an offence of strict liability if:

- (a) the person conducts a tourist program in the Marine Park that consists, in whole or part, of a swimming-with-whales activity involving dwarf minke whales; and
- (b) the person does not hold a permission to conduct that activity.

Penalty: 50 penalty units.

### **187 Protection of whales in whale protection area**

- (1) A person commits an offence of strict liability if the person operates a vessel to approach within 300 metres of a whale in a whale protection area.

Penalty: 50 penalty units.

- (2) A person commits an offence of strict liability if the person operates a vessel in a whale protection area as a tourist program, or part of a tourist program, to conduct:
  - (a) a whale watching activity; or
  - (b) a swimming-with-whales activity.

Penalty: 50 penalty units.

## **Division 3—Exemption from this Part**

### **188 Exemption from this Part**

#### *Giving exemptions*

- (1) The Authority may, on application under section 189, give a written exemption from any or all of the provisions of this Part (subject to subsection (2)) to a person who holds a permission to conduct any of the following activities:
  - (a) undertaking research relating to cetaceans;
  - (b) undertaking photography, filming or sound recording of cetaceans;
  - (c) conducting a tourist program that consists of a swimming-with-whales activity or a whale watching activity;
  - (d) operating a vessel or aircraft in the Marine Park.

Note: A defendant bears an evidential burden in relation to the matters mentioned in subsection (1) (see section 13.3 of the *Criminal Code*).

- (2) The Authority must not give an exemption that relates to:
  - (a) the operation of a prohibited vessel; or
  - (b) the conduct of an activity in a whale protection area.
- (3) If:
  - (a) an exemption is given to a person under subsection (1); and
  - (b) the person holds a permission to conduct a tourist program that consists of a swimming-with-whales activity or a whale watching activity;an exemption from those provisions may also be given to any tourist participating in the tourist program.

#### *Application and variation of exemption*

- (4) An exemption may provide that it applies only in the circumstances, and subject to the conditions, set out in the exemption.
- (5) The Authority may, by written notice to the person given the exemption, vary the conditions attaching to the exemption.

#### *Limitation on exemptions*

- (6) An exemption relating to the operation of a vessel or aircraft in the Marine Park:
  - (a) may be given only in order to allow use of the vessel or aircraft to support activities authorised by a permission of a type mentioned in paragraph (1)(a), (b) or (c); and
  - (b) applies only while the vessel or aircraft is operating in the Marine Park to support those activities.
- (7) An exemption:
  - (a) does not continue in force when the permission to which it relates is not in force; and
  - (b) is in force only for the period specified in the exemption; and



- (c) if given under subsection (3), applies only while a tourist is participating in the tourist program.

*Effect of exemption*

- (8) An exemption has effect according to its terms.
- (9) An exemption granted to a holder of a permission applies in relation to a person authorised in accordance with section 118 by the holder of the permission in the same way as the exemption applies in relation to the holder of the permission.

## **189 Application for exemption**

*Who makes an application*

- (1) An application to the Authority for an exemption under section 188 must be made by a person (the **applicant**) who:
- (a) holds a permission referred to in that section; or
  - (b) has applied for such a permission if the Authority has not made a decision on the application.

*Content of application*

- (2) The application for the exemption must contain the following information:
- (a) the name and address of the applicant;
  - (b) contact details for the applicant, including telephone number and email address;
  - (c) the location of the area to be used by the applicant for the permission activities, including the name of any shoal, reef or island on or near which the use is proposed to take place;
  - (d) the period for which the exemption is sought;
  - (e) if the application is for an exemption relating to the operation of a vessel or aircraft in the Marine Park:
    - (i) the name of the person who holds, or has applied to hold, the permission to operate the vessel or aircraft; and
    - (ii) the permission number or (if no permission has been issued) the permission application registration number;
    - (iii) if the applicant has been engaged to operate the vessel or aircraft on behalf of another person who has been granted, or has applied for, a permission mentioned in paragraph 188(1)(a), (b) or (c)—the number of that permission or (if no permission has been issued) the name of the other person and the permission application registration number;
    - (iv) if the applicant operates the vessel on the applicant's own behalf—the name of the vessel, unique identifying features of the vessel, its registration code or number and the authority with which it is registered;
    - (v) if the applicant operates the aircraft on the applicant's own behalf—the type of aircraft and its registration mark.

Note: The Authority may require additional information under section 190.

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*Considering application*

- (3) In considering the application for the exemption, the Authority must take into account the following matters:
- (a) the need for orderly and proper management of the Marine Park;
  - (b) for an exemption relating to the operation of a vessel or aircraft in the Marine Park—whether the applicant has been engaged to operate the vessel or aircraft mentioned in the application on behalf of a person who has been granted, or has applied for, a permission mentioned in paragraph 188(1)(a), (b) or (c);
  - (c) whether the applicant for the exemption is a suitable person to be granted the exemption, having regard to:
    - (i) the applicant's history in relation to environmental matters; and
    - (ii) if the applicant is a body corporate—the history of the applicant's executive officers in relation to environmental matters; and
    - (iii) if the applicant is a subsidiary of a holding company—the history of the holding company and its executive officers in relation to environmental matters; and
    - (iv) whether the applicant owes any fee or other amount payable under the Act, this instrument or any other instrument made for the purposes of the Act; and
    - (v) any other relevant matter;
  - (d) any other matters the Authority considers relevant.

**190 Additional information**

- (1) For the purpose of assessing an application under section 189 for an exemption, the Authority may, in writing, request the applicant to give to the Authority specified additional information or a specified additional document.
- (2) The application is taken to have been withdrawn if the additional information or document has not been provided before the end of:
  - (a) 20 business days after the Authority gives the request to the applicant; or
  - (b) if the Authority extends that period in accordance with section 253—that extended period.

## Part 10—Compulsory pilotage

### 191 Simplified outline of this Part

This Part is made for the purposes of paragraph 66(2)(ua) of the Act and the definition of **compulsory pilotage area** in subsection 3(1) of the Act.

This Part prescribes the area that is the compulsory pilotage area for the purposes of Part VIIA of the Act. Under that Part, a ship must generally have a pilot while navigating in the compulsory pilotage area.

This Part also prescribes:

- (a) information that must be included in an application under section 59F of the Act for an exemption from the requirement to navigate with a pilot in the compulsory pilotage area; and
- (b) other rules relating to such an exemption.

### 192 Compulsory pilotage area

- (1) For the purposes of the definition of **compulsory pilotage area** in subsection 3(1) of the Act, the following parts of the Great Barrier Reef Region are prescribed:
  - (a) the inner route described in subsection (2);
  - (b) Hydrographer's Passage described in subsection (3);
  - (c) the Whitsundays compulsory pilotage area described in subsection (4).
- (2) The **inner route** is the waters bounded by:
  - (a) the Australian mainland; and
  - (b) the northern boundary of the Great Barrier Reef Region; and
  - (c) the outer eastern edge of the Great Barrier Reef; and
  - (d) the parallel 16°39.91'S.
- (3) The **Hydrographer's Passage** is the area bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

Hydrographer's Passage compulsory pilotage area	
Item	Description
1	The point 20°39.110'S 149°49.360'E
2	Easterly along the geodesic to 20°35.910'S 150°07.360'E
3	North-easterly along the geodesic to 20°28.310'S 150°18.060'E
4	North-westerly along the geodesic to 20°02.910'S 150°03.060'E
5	North-easterly along the geodesic to 19°54.910'S 150°16.560'E
6	Northerly along the geodesic to 19°39.910'S 150°10.560'E
7	South-easterly along the geodesic to 19°50.910'S 150°33.060'E
8	South-westerly along the geodesic to 20°01.410'S 150°25.860'E

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Hydrographer's Passage compulsory pilotage area	
Item	Description
9	South-westerly along the geodesic to 20°06.910'S 150°17.260'E
10	South-easterly along the geodesic to 20°19.910'S 150°27.060'E
11	South along the meridian 150°27.060'E to latitude 20°32.910'S
12	South-westerly along the geodesic to 20°41.510'S 150°11.660'E
13	South-westerly along the geodesic to 20°54.410'S 150°01.960'E
14	North-westerly along the geodesic to the starting point

- (4) The *Whitsundays compulsory pilotage area* is the area bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

Whitsundays compulsory pilotage area	
Item	Description
1	The northernmost point of Cape Gloucester mainland coastline at low water (at the point closest to 20°03.606'S 148°27.159'E)
2	North-westerly along the geodesic to 19°58.020'S 148°18.600'E
3	Northerly along the geodesic to 19°57.830'S 148°18.530'E
4	Easterly along the geodesic to 19°58.000'S 148°21.680'E
5	Easterly along the geodesic to 19°58.280'S 148°27.050'E
6	Easterly along the geodesic to 19°58.370'S 148°27.400'E
7	Easterly along the geodesic to 19°59.280'S 148°33.620'E
8	South-easterly along the geodesic to 20°00.820'S 148°37.480'E
9	Easterly along the geodesic to 20°02.170'S 148°53.070'E
10	South-easterly along the geodesic to 20°03.580'S 148°57.920'E
11	South-easterly along the geodesic to 20°14.420'S 149°10.470'E
12	South-easterly along the geodesic to 20°15.200'S 149°11.150'E
13	Southerly along the geodesic to 20°28.930'S 149°08.030'E
14	South-easterly along the geodesic to 20°31.200'S 149°09.070'E
15	South-easterly along the geodesic to 20°34.280'S 149°10.500'E
16	Westerly along the geodesic to 20°33.910'S 149°07.060'E
17	Westerly along the geodesic to 20°39.730'S 148°45.820'E
18	West along the parallel 20°39.730'S to its intersection of the mainland coastline at mean low water near Midge Point (at the point closest to 20°39.730'S 148°43.414'E)
19	Generally northerly, easterly, south-easterly and north-westerly along the mainland coastline at mean low water to the starting point

### 193 Exemption from requirement to navigate with a pilot—prescribed information

For the purposes of subsection 59F(2) of the Act, the following information is prescribed in relation to the application:

- (a) the name and address of the applicant;

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- (b) identification of the regulated ship by registered name, registered call sign and country of registration;
  - (c) description of the ship by type, maximum length, maximum width, maximum draft and maximum displacement;
  - (d) the proposed maximum draft of the ship during navigation in the compulsory pilotage area;
  - (e) details of:
    - (i) the design of the ship; and
    - (ii) the material of which the hull is constructed;
  - (f) details of:
    - (i) the geographic area of the compulsory pilotage area in which the ship will be navigated; and
    - (ii) the purpose of the navigation;
  - (g) details of the intended operations of the ship that are of relevance to the application and the schedule for those operations;
  - (h) details of operational navigational equipment with which the ship is fitted;
  - (i) in respect of the persons who will be the master, and the navigational watch keepers, of the ship at any time when it is in the compulsory pilotage area, details of:
    - (i) their maritime qualifications; and
    - (ii) their recent navigational experience in the compulsory pilotage area;
  - (j) details of:
    - (i) the maximum quantity of oil the ship is capable of carrying; and
    - (ii) the types, quantities and location in the ship of oil intended to be carried in the compulsory pilotage area;
  - (k) details of cargo on the ship, including, if hazardous goods are carried, the types and quantities of the hazardous goods.

#### **194 Minister may request further information**

- (1) If the Minister considers that the information contained in an application under section 59F of the Act is insufficient to enable a decision to be made in respect of the application, the Minister may, in writing, request the applicant to give such further information as is specified.
- (2) An application is taken to have lapsed if the further information is not given before the end of:
  - (a) 60 days after the Minister makes the request to the applicant; or
  - (b) if the Minister extends that period in accordance with section 253—that extended period.

#### **195 Exemption may be conditional**

For the purposes of paragraph 66(2)(ua) of the Act, an exemption granted under section 59F of the Act may be expressed to be conditional on the person granted the exemption complying with any requirements the Minister specifies to be necessary to attain the purpose of Part VIIA of the Act (compulsory pilotage).

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**196 Duty to notify if information given for exemption becomes inaccurate**

- (1) For the purposes of paragraph 66(2)(ua) of the Act, the master or owner of a ship for which an exemption is given under section 59F of the Act must inform the Minister, in writing, if information given to the Minister by the applicant for the exemption becomes inaccurate.
- (2) The master or owner must inform the Minister as soon as practicable after becoming aware of the inaccuracy.

**197 Termination of exemption in certain circumstances**

For the purposes of paragraph 66(2)(ua) of the Act, an exemption given under section 59F of the Act has no effect if:

- (a) a condition specified in relation to the grant of the exemption is contravened by the person to whom the exemption is granted; or
- (b) section 196 (duty to notify if information given for exemption becomes inaccurate) is contravened by the master or owner of the relevant ship.

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## Part 11—Bareboat operations

### 198 Simplified outline of this Part

This Part applies for the purposes of paragraphs 66(2)(f), (h), (i) and (o) and subsection 66(11) of the Act.

The Authority must keep a register of persons who are appropriately qualified to operate a bareboat in the Marine Park. The register may be included in the register of permissions etc. kept under section 173. A person must not display a bareboat identification number on a bareboat unless the person is the holder of an appropriate bareboat permission.

### 199 Register of appropriately qualified persons

- (1) The Authority must:
  - (a) keep a register (whether or not as part of the register kept under section 173) of persons appropriately qualified, under subsection (2) of this section, for bareboat operations in the Marine Park; and
  - (b) make the register publicly available on the Authority's website.
- (2) A person is ***appropriately qualified*** for a bareboat operation if:
  - (a) for a person who is a member of the senior staff or is responsible for briefing clients of the operation:
    - (i) the person holds a certificate evidencing that the person has successfully completed a course on communicating which has been adapted for briefing clients about bareboats in the Whitsunday Planning Area, or an equivalent course; and
    - (ii) the person holds a Restricted Radio Operator's Certificate; and
    - (iii) the recreational boating operator licensing requirements under the laws of Queensland are met; or
  - (b) for radio operators—the person holds:
    - (i) a certificate evidencing that the person has successfully completed a course on communicating which has been adapted for briefing clients about bareboats in the Whitsunday Planning Area, or an equivalent course; and
    - (ii) a Restricted Radio Operator's Certificate.

### 200 Offences—bareboat identification numbers

A person commits an offence of strict liability if:

- (a) the person displays on a vessel an identification number issued by the Authority for a bareboat operation; and
- (b) any of the following applies:
  - (i) the person is not the holder of a permission for the bareboat operation;
  - (ii) the person is the holder of a permission for the bareboat operation that is suspended;

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- (iii) the permission that the person holds does not allow that kind of vessel to be used for that kind of bareboat operation;
- (iv) the conditions to which the permission for the bareboat operation is subject do not require the person to display the identification number on the vessel.

Penalty: 50 penalty units.



## **Part 12—Fees**

### **Division 1—Simplified outline of this Part**

#### **201 Simplified outline of this Part**

This Part applies for the purposes of paragraphs 66(2)(k), (l) and (u) of the Act.

A person who applies for permission to carry out a commercial activity in the Marine Park may be required to pay a fee for the application. A fee is also payable for an application for an exemption from compulsory pilotage, to reinstate a suspended permission and for other applications and requests.

Certain fees may be waived.

## Division 2—Fees

### Subdivision A—Fees for fee-bearing applications

#### 202 Fees for fee-bearing applications

- (1) A fee is payable to the Authority, in accordance with this section, for a fee-bearing application for a permission to carry on an activity of a commercial nature in the Marine Park (including entering or using the Marine Park) that is an activity listed in column 1 of an item (the **relevant item**) of the table in subsection (6).

Note: The amount of a fee may be waived under section 209.

##### *General amount of fee*

- (2) The amount of the fee is specified in column 2 of the relevant item (subject to this section).

##### *Fee for permission to carry on same activity*

- (3) The amount of the fee is specified in column 3 of the relevant item if the application:
- (a) was made by a person who, at the time of the application, held another permission that was in force, as a result of an earlier fee-bearing application, to carry on the same activity in the same area; and
  - (b) was for permission to carry on the activity after the other permission ceases to be in force.

##### *Fee if activity covered by more than one item.*

- (4) If an activity is referred to in more than one item of the table in subsection (6), the amount of the fee is the higher of the fees specified for the activity.
- (5) However, if:
- (a) item 4 or 5 of the table specifies a fee for an activity; and
  - (b) another item of the table that applies because of a decision of the Authority under section 91 (Authority must decide on approach for assessment) relating to the activity specifies a lower fee for the activity;
- the amount of the fee is that lower fee.

##### *Table of fees for fee-bearing applications*

- (6) The following table sets out fees for fee-bearing applications.

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<b>Fees for fee-bearing applications</b>			
<b>Item</b>	<b>Column 1 Activity</b>	<b>Column 2 General amount (\$)</b>	<b>Column 3 Amount for permission to carry on same activity (\$)</b>
1	Activity that requires use of an aircraft or vessel having a maximum passenger capacity of:		
	(a) fewer than 25 passengers	770	770
	(b) 25 to 50 passengers	1,110	890
	(c) 51 to 100 passengers	2,010	1,230
	(d) 101 to 150 passengers	3,350	1,780
	(e) more than 150 passengers	5,600	2,240
2	Activity that requires the use of a facility or structure in the Marine Park	2,460	2,460
3	Activity whose relevant impacts are to be assessed by public information package under Subdivision B of Division 3 of Part 3	8,960	3,350
4	Activity whose relevant impacts are to be assessed by public environment report	44,860	44,860
5	Activity whose relevant impacts are to be assessed by environmental impact statement	121,170	121,170
6	Activity that is described in paragraph (3)(b), if:		5,600
	(a) none of items 1, 2, 3, 4 and 5 applies to the activity; and		
	(b) the impacts of the activity were assessed by public environment report or environmental impact statement (whether under this instrument, the <i>Environment Protection and Biodiversity Conservation Act 1999</i> or a law of Queensland)		
7	Activity not covered by items 1 to 6	770	770

Note: The amounts specified in this table are indexed under Division 3.

## 203 Notices of fees payable

- (1) The Authority must give a written notice under subsection (2) as soon as practicable after:
  - (a) receiving a fee-bearing application from a person; and
  - (b) making a decision on the approach to be used for assessing the relevant impacts of the proposed conduct.
- (2) The notice must:
  - (a) state the fee payable for the application; and
  - (b) state the day on which the notice is given; and
  - (c) require the person to pay, within 21 days after that day:
    - (i) the fee in full (unless subparagraph (ii) applies); or

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- (ii) if the relevant impacts of the activity are to be assessed by public environment report or environmental impact statement—the sum of \$10,000 in part payment of the fee.
- (3) If:
  - (a) a person makes a payment in accordance with subparagraph (2)(c)(ii) or paragraph (6)(b) in relation to the assessment of a fee-bearing application for permission to conduct an activity whose relevant impacts are to be assessed by public environment report or environmental impact statement; and
  - (b) the public environment report or environmental impact statement about the activity is made available in draft or final form;the Authority must give the person a notice in writing:
  - (c) stating the day on which the notice is given; and
  - (d) requiring the person to pay, within 21 days after that day, the amount of the fee that has not been paid.

*Applications that are withdrawn*

- (4) If an application for permission is withdrawn before the end of the 21 days referred to in paragraph (2)(c):
  - (a) no fee is payable for the application; and
  - (b) the amount of any fee paid for it is to be refunded.
- (5) Otherwise, an amount paid for an application is not to be refunded if the application is withdrawn, or otherwise ceases to have effect, after the amount is paid.

*Notice if decision on assessment approach is revoked and replaced*

- (6) The Authority must give a notice under subsection (7) if:
  - (a) after the Authority has given a person notice under subsection (2) or (3) relating to an application for a permission based on a decision that a particular approach (the **old approach**) be used to assess the relevant impacts of the proposed conduct, the Authority revokes the decision and decides that another approach (the **new approach**) must be used; and
  - (b) the fee (the **new fee**) payable under section 202 on the basis of the new approach exceeds the fee (the **old fee**) that was payable under that section on the basis of the old approach; and
  - (c) it is not the case that the old fee was set by item 4 of the table in subsection 202(4) and the new fee is set by item 5 of that table.

Note: If paragraph (c) is not met, subsection (1) continues to apply.

- (7) The Authority must give the person a notice in writing (the **new notice**) stating the day on which the new notice is given and requiring the person to pay, within 21 days after that day:
  - (a) the excess of the new fee over the amount of the old fee that has already been paid (unless paragraph (b) applies); or
  - (b) if the relevant impacts of the activity are to be assessed by public environment report or environmental impact statement:
    - (i) \$10,000 in part payment of the new fee; or

- (ii) if an amount of the old fee has already been paid—the excess of \$10,000 over that amount in part payment of the new fee.

Note: If paragraph (7)(b) applies, subsection (3) can apply later to allow the Authority to give notice requiring the person to pay the difference between the new fee and \$10,000.

## 204 Lapsing of application for permission

An application for permission lapses if an amount referred to in paragraph 203(2)(c) or 203(3)(d) or subsection 203(7) is not paid for the application within the 21 days referred to in that paragraph or subsection.

## Subdivision B—Fees for other applications and requests

### 205 Fees for other applications and requests

*Applications or requests for which fees are generally payable*

- (1) A fee is payable to the Authority, in accordance with this section, for an application or request described in column 1 of an item in the following table for a permission to carry on an activity of a commercial nature in the Marine Park (including entering or using the Marine Park).

Fees for other applications and requests		
Item	Column 1 Application or request	Column 2 Fee (\$)
1	Application under section 119 for approval to transfer a chargeable permission	630
2	Request under section 128 for the Authority to modify a condition of a permission	430
3	Application to the Authority for a change to a vessel or aircraft listed on a Vessel Notification Approval issued by the Authority for a permission	59
4	Lodgement of an expression of interest with the Authority for a special permission as mentioned in section 84	360
5	Application to the Authority for the replacement of an identification number, or the document evidencing an identification number, issued for the purposes of a permission to conduct a bareboat operation	59
6	Application to the Authority for the replacement of a document evidencing a permission granted by the Authority	59
7	Request to the Authority for information about any of the following in respect of a permission granted by the Authority: (a) the conditions to which the permission is subject; (b) whether the permission is in force; (c) the activities for which the permission has been granted	59
8	Request to the Authority to vary an application for a permission if, as a result of the variation: (a) the Authority must notify or renotify, under the <i>Native Title Act 1993</i> , a representative Aboriginal/Torres Strait Islander body, a registered native title body corporate or a registered native title claimant about the application; or	59

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Fees for other applications and requests		
Item	Column 1 Application or request	Column 2 Fee (\$)
	(b) an assessment, or an additional assessment, must be made under Part 3 in respect of the application	
9	Request to the Authority for a summary of documents, being a list of any or all of the following: (a) each permission granted by the Authority to the person making the request; (b) each application made by the person to the Authority	59
Note 1: The fee mentioned in item 8 for a request to vary an application is additional to any fee payable under section 202 for an assessment in respect of the application.		
Note 2: The amount of a fee may be waived under section 209.		

*Lapse of application or request if fee not paid within 10 business days*

- (2) The Authority must, as soon as practicable after receiving an application (except an expression of interest application for a special permission) or request that is not accompanied by a fee, give the person making the application a written notice that:
- (a) sets out the amount of the fee payable; and
  - (b) sets out the day on which the notice is given; and
  - (c) states that the application or request lapses if the fee is not paid to the Authority within 10 business days after that day.
- Note: The fee may be waived under subsection 209.
- (3) The application or request lapses if the specified fee is not paid in accordance with paragraph (2)(c). The application or request is reinstated if the Authority later waives the fee.

**Subdivision C—Other fees**

**206 Fee for application for exemption from compulsory pilotage**

- (1) A fee of \$750 is payable to the Authority for an application for a decision under section 59F of the Act (exemption from requirement to navigate with a pilot).
- (2) The Authority is not required to consider or further consider the application if the fee has not been paid.

**207 Reinstatement fee**

The reinstatement fee payable to the Authority for the purposes of paragraph 131(3)(b) is \$120.

## **Division 3—Miscellaneous provisions for fees under sections 202 and 205**

### **208 Indexation of fees under sections 202 and 205**

- (1) The fee under section 202 or 205 for an application, request or lodgement is an amount worked out in accordance with the formula:

$$\frac{\text{Fee} \times \text{CPI number}}{112.9}$$

where:

**CPI number** is the All Groups Consumer Price Index number for Brisbane published by the Australian Statistician in respect of the financial year ending immediately before the calendar year in which the application, request or lodgement is made.

**fee** is the fee determined in accordance with section 202 or 205 (as the case requires).

- (2) In working out an amount in accordance with the formula, ignore any part of the result that is less than:
- (a) for section 202—\$10; and
  - (b) for section 205—\$1.

### **209 Waiver of fees under sections 202 and 205**

The Authority may waive a fee that would otherwise be payable under section 202 or 205, or refund such a fee, for an application or request that involves minimal activity by the Authority to act on.

## **Part 13—Environmental management charges**

### **Division 1—Simplified outline of this Part**

#### **210 Simplified outline of this Part**

This Part applies for the purposes of Part VA of the Act.

An environmental management charge may be payable in relation to certain permissions (which are called chargeable permissions), such as a permission to operate a tourist activity or to operate certain commercial services.

An environmental management charge that relates to a tourist program or excursion is payable by a visitor who takes part in the program or excursion. The holder of a chargeable permission must collect environmental management charges from the visitors and give those charges to the Authority.

Other charges are payable quarterly by the holder of a chargeable permission.

This Part contains other rules relating to the charge (such as rules relating to record-keeping).



## **Division 2—Chargeable permissions and determining secondary services**

### **Subdivision A—Meaning of chargeable permission**

#### **211 Meaning of *chargeable permission***

For the purposes of the definition of *chargeable permission* in subsection 3(1) of the Act, a permission granted under this instrument is a *chargeable permission* if it is for any of the following kinds of activity:

- (a) the operation of a tourist program;
- (b) a commercial operation that primarily involves:
  - (i) the sale of goods or services from a vessel; or
  - (ii) vessel chartering for a purpose other than tourism; or
  - (iii) the construction or maintenance of a facility;
- (c) the operation of a land-based sewage outfall;
- (d) the establishment or operation of farming facilities for the culture of pearls or clams;
- (e) the construction and operation of a mooring.

### **Subdivision B—Determining secondary services**

#### **212 Secondary services**

- (1) A service that forms part of a tourist program is a secondary service if:
  - (a) every visitor who uses the service is likely to have been recorded as a visitor for another chargeable permission on the same day; and
  - (b) the Authority determines, under this section, that it is a secondary service.
- (2) A chargeable permission holder, or a person who has applied for a chargeable permission, may apply to the Authority for a determination that a service provided, or to be provided, as part of a tourist program by the applicant under the permission:
  - (a) is a secondary service; or
  - (b) in the case of an applicant for a chargeable permission—will be, if the permission is granted, a secondary service.
- (3) The application must be in writing and must set out, or be accompanied by, details of:
  - (a) the primary service provider who supplies, or proposes to supply, visitors to the program; and
  - (b) what percentage of visitors who use, or will use, the service are visitors who are liable to pay the standard tourist program charge; and
  - (c) how the applicant proposes to find out whether visitors who use the service are visitors who have paid the standard tourist program charge.

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- (4) The Authority may ask the applicant in writing to give the Authority any other information reasonably necessary to enable the Authority to consider the application.
- (5) The Authority must determine the application within 28 days after:
  - (a) the Authority receives the application; or
  - (b) if the Authority asks the applicant to give it other information under subsection (4)—the day the information is given to the Authority.

**213 Notice of decision**

- (1) After the Authority makes, or refuses to make, a determination under section 212, the Authority must give the applicant written notice of the decision.
- (2) A notice of a refusal to make the determination must set out:
  - (a) the reasons for the decision; and
  - (b) a statement to the effect that the applicant may apply:
    - (i) to the Authority under section 64 of the Act for reconsideration of the decision; and
    - (ii) if the applicant is dissatisfied with a decision on reconsideration—to the Administrative Appeals Tribunal under section 64A of the Act for review of the decision on reconsideration.

*Numbering of secondary services*

- (3) The Authority must give a unique number to a secondary service.
- (4) A notice of a decision to make a determination under section 212 in relation to a secondary service must include the unique number of the service.

*Failure to comply with section*

- (5) A failure to comply with this section does not affect the validity of the decision.

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**Division 3—Amount of charges and payment****Subdivision A—Standard tourist program charges****214 Meaning of *takes part* in a tourist program**

A visitor *takes part* in a tourist program if the visitor participates (wholly or partly) in the excursions or activities provided in the Marine Park by the permission holder who provides the program.

**215 Liability for standard tourist program charge**

A standard tourist program charge is (subject to sections 216 and 218) payable by each visitor who takes part in a tourist program provided under a chargeable permission that is, or includes, a primary service for each day, or part of a day, that the visitor takes part in the program.

**216 Visitors who do not have to pay charge**

- (1) Charge is not payable under this Subdivision by a visitor who takes part in a tourist program on a day if:
  - (a) on the same day, the visitor has used a service for which the full amount of the standard tourist program charge is payable by the visitor; and
  - (b) the visitor, or the holder of the chargeable permission under which the service was provided, has evidence (in the form of a dated receipt or dated ticket) that the visitor has paid the charge.
- (2) Charge is not payable under this Subdivision by a visitor who takes part in a tourist program provided under a chargeable permission on a day if the visitor only takes part in the program on the day by:
  - (a) using any non-motorised beach equipment for which the holder of the permission is liable to pay charge under item 1 of the table in subsection 223(1); or
  - (b) using a dinghy for which the holder of the permission is liable to pay charge under item 2 of the table in subsection 223(1); or
  - (c) using any motorised water sport equipment for which the holder of the permission is liable to pay charge under item 3 of the table in subsection 223(1); or
  - (d) being accommodated in a floating hotel, in relation to which the holder of the permission is liable to pay charge under item 5 of the table in subsection 223(1); or
  - (e) berthing a vessel at a marina, in relation to which the holder of the permission is liable to pay charge under item 6 of the table in subsection 223(1); or
  - (f) participating in one or more excursions to an underwater observatory, in relation to which the holder of the permission is liable to pay charge under item 7 of the table in subsection 223(1); or
  - (g) participating in one or more excursions to which item 1 of the table in subsection 224(1) applies.

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**217 Full day amount**

- (1) For the purposes of section 39C of the Act, the amount of the standard tourist program charge that is payable for a day in a charge year is the full day amount for the year, except as provided by sections 218, 219 and 220 of this instrument.

Note: Sections 218, 219 and 220 deal with tours that are longer than 3 days or less than 3 hours, or tours that arrive late or depart early.

- (2) The **full day amount** for a charge year, being the second charge year after the current charge year, is the greater of:
- (a) \$4.00; and
  - (b) the amount worked out under subsections (3) and (4).
- (3) Work out the following amount (the **charge increase**) for a charge year, being the second charge year after the current charge year:

$$\left( \$4.00 \times \frac{\text{CPI for the quarter ending 31 December in the current charge year}}{\text{CPI for the quarter ending 31 December 1997}} \right) - \text{Standard tourist program charge for a day in the current charge year}$$

Note: For example, if the full day amount for the charge year beginning 1 April 2019 is being worked out in February 2018 of the charge year beginning 1 April 2017, the formula takes into account:

- (a) CPI for the quarter ending 31 December 2017; and
  - (b) the standard tourist program charge for the charge year beginning 1 April 2017.
- (4) The **full day amount** for a charge year, being the second charge year after the current charge year, is:
- (a) the same as the full day amount (the **previous full day amount**) for the current charge year if the charge increase for the second charge year is negative or less than \$0.40; and
  - (b) \$0.50 more than the previous full day amount if the charge increase for the second charge year is \$0.40 or more but less than \$0.90; and
  - (c) \$1.00 more than the previous full day amount if the charge increase for the second charge year is \$0.90 or more but less than \$1.40; and
  - (d) \$1.50 more than the previous full day amount if the charge increase for the second charge year is \$1.40 or more.

**218 Tours that are longer than 3 days**

For a tour that takes longer than 3 continuous days, a standard tourist program charge is not payable in relation to any day after the third day.

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**219 Tours that are 3 hours or less**

- (1) For the purposes of section 39C of the Act, the amount of the standard tourist program charge that is payable for a tour that takes 3 hours or less on a day in a charge year is the part day amount for the year.
- (2) The *part day amount* for a charge year is half the full day amount for the charge year.

**220 Tours that arrive late or depart early**

- (1) The amount of a standard tourist program charge for a tour (except a tour covered by section 218 or 219) on a day in a charge year is the part day amount for the year if:
  - (a) the day is the first day of the tour and the tour enters the Marine Park after 5 pm on that day; or
  - (b) the day is the last day of the tour and the tour leaves the Marine Park before 6 am on that day.
- (2) For the purposes of this section, a tour that begins or ends at a jetty, wharf or similar structure that is within or partly within the Marine Park:
  - (a) enters the Marine Park when it leaves the structure; or
  - (b) leaves the Marine Park when it arrives at the structure.

**221 When charge is payable**

- (1) A charge is payable under this Subdivision by a visitor who takes part in a tourist program to the holder of the chargeable permission under which the program is provided.
- (2) The charge is payable to the holder, on behalf of the Commonwealth, at the following time:
  - (a) on each day that the visitor takes part in the program (unless paragraph (b) applies);
  - (b) for charge in respect of a tourist program consisting of a tour to which section 218 applies (tours that take longer than 3 days)—on the first day that the visitor takes part in the tour.

**222 Offences—altering ticket etc.**

- (1) A person commits an offence of strict liability if the person:
  - (a) alters the date on a receipt or ticket relating to a tourist program; or
  - (b) adds a date to a receipt or ticket relating to a tourist program that does not bear a date.

Penalty: 50 penalty units.

- (2) A person commits an offence if:
  - (a) the person uses a receipt or ticket relating to a tourist program as evidence for the purposes of subsection 216(1); and
  - (b) the person knows, or has reason to believe, that the receipt or ticket has been altered (including by adding a date).

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Penalty: 50 penalty units.

- (3) Strict liability applies to the physical element in paragraph (2)(a) that the evidence is evidence for the purposes of subsection 216(1).

**Subdivision B—Other charges**

**223 Charges payable by the holder of a chargeable permission**

- (1) For the purposes of section 39C of the Act, a charge is payable for a quarter by the holder of a chargeable permission that permits any of the following in the quarter:
- (a) the hiring of equipment or dinghies, as specified in column 1 of item 1, 2 or 3 of the following table, for use in the Marine Park;
  - (b) an activity specified in column 1 of item 4, 5, 6, 7, 9 or 10 of the following table that is undertaken in the Marine Park;
  - (c) the operation of a land-based outfall that results in discharge of sewage into the Marine Park, as specified in item 8 of the following table.

The amount of the charge is specified in column 2 of the item of the following table.

<b>Other charges payable by the holder of a chargeable permission</b>		
<b>Item</b>	<b>Column 1 Activity</b>	<b>Column 2 Amount</b>
1	The hiring of non-motorised beach equipment	(a) if the holder holds one permission that allows the hiring of no more than 5 pieces of equipment at a single location any time during a quarter—\$12.00 for the quarter; or (b) if the holder holds one permission that allows the hiring of more than 5 pieces of equipment at a single location at any time during a quarter—\$25.00 for the quarter; or (c) if the holder holds 2 or more permissions that allow the hiring of equipment at a single location at any time during the quarter—\$25.00 for the quarter
2	The hiring of dinghies	(a) if the holder holds one or more permissions that allow the hiring of no more than 5 dinghies at a single location at any time during a quarter—\$50.00 for the quarter; or (b) if the holder holds one or more permissions that allow the hiring of more than 5 dinghies at a single location at any time during a quarter—\$12.00 for the quarter for each dinghy that the permission allows to be hired
3	The hiring of motorised water sport equipment (except dinghies)	(a) if the equipment is jet boats designed to carry no more than 2 persons—\$25.00 for the quarter; or (b) if the equipment includes no jet boats—\$62.00 for the quarter; or (c) if the equipment is: <ul style="list-style-type: none"><li>(i) jet boats and other motorised equipment; or</li><li>(ii) jet boats designed to carry more than 2 persons;</li></ul> \$87 for the quarter

## Section 223

<b>Other charges payable by the holder of a chargeable permission</b>		
<b>Item</b>	<b>Column 1 Activity</b>	<b>Column 2 Amount</b>
4	The operation of a pontoon	(a) if the horizontal surface area of the pontoon is no more than 40 square metres—\$90.00 for the quarter; or (b) if the horizontal surface area of the pontoon is more than 40 square metres—\$180.00 for the quarter
5	The operation of a floating hotel that is moored, for at least 60 days in a quarter: (a) at one place; or (b) not further than 20 nautical miles from any other place in the Marine Park at which it has been moored	\$280.00 for the quarter
6	The construction or operation of a marina	\$380.00 for the quarter
7	The operation of an underwater observatory that is not attached to a pontoon	\$130.00 for the quarter
8	The operation of a land-based outfall for discharging sewage	(a) if the sewage has received tertiary treatment—\$400.00 for the quarter; or (b) if the sewage has not received tertiary treatment—\$400.00 plus the additional amount worked out under subsection (2) for the quarter
9	The sale of goods or services from a vessel except if: (a) the sale is carried on primarily during an operation occurring from the vessel in respect of which a charge applies under Subdivision A, any of items 4 to 7 of this table or item 3 of the table in subsection 224(1); or (b) the vessel is used primarily for the provision of goods or services to commercial fishing vessels	\$30.00 for the quarter for each metre of the overall length of the vessel
10	The construction or operation of farming facilities for the culture of pearls or clams	(a) for a parcel of facilities of no more than 10 hectares—\$500.00 for the quarter; and (b) for each additional parcel of 10 hectares or less—\$200.00 for the quarter

Note: For when charge is payable, see section 225.

*Charge for discharge of sewage*

- (2) For the purposes of paragraph (b) of column 2 of item 8 of the table, the additional amount is worked out using the following formula:

**Section 224**

$$\$4.00 \times \left( \frac{\text{Total number of megalitres of sewage discharged in the quarter}}{\text{Concentration in milligrams per litre of all forms of nitrogen assessed to be discharged in the quarter}} + \frac{\text{Concentration in milligrams per litre of all forms of phosphorous assessed to be discharged in the quarter}}{\text{Concentration in milligrams per litre of all forms of phosphorous assessed to be discharged in the quarter}} \right)$$

- (3) For the purpose of subsection (2), an assessment must be made only in accordance with samples of discharge analysed by a laboratory registered under the rules of the National Association of Testing Authorities for analyses of that kind.
- (4) The holder of the permission to operate the land-based outfall for discharging sewage must provide the results of the analysis to the Authority in accordance with paragraph 230(b).

**Note:** A holder may commit an offence against paragraph 230(b) if the holder does not provide the results in accordance with that paragraph.

**224 Charges payable by visitors**

- (1) For the purposes of section 39C of the Act, a charge is payable by a visitor who participates in an activity specified in column 1 of an item of the following table that is undertaken in the Marine Park in a quarter. The amount of the charge is the amount specified in column 2 of the item.

<b>Charges payable by visitors</b>		
<b>Item</b>	<b>Column 1 Activity</b>	<b>Column 2 Amount</b>
1	One of the following excursions provided under a chargeable permission (subject to subsections (2) and (3)): (a) a semi-submersible, or glass-bottomed, boat excursion; (b) a sightseeing aircraft excursion	\$0.40 for each excursion
2	A tourist program that is provided under a chargeable permission and involves an excursion to visit Lady Elliot Island (subject to subsection (3))	\$2.00 for each day, or part of a day, that the visitor visits the island
3	The charter of a vessel provided under a chargeable permission for a commercial purpose unrelated to tourism	\$2.00 for each visitor (other than a crew member) carried on the vessel

- (2) For the purposes of item 1 of the table, if a visitor participates in:  
(a) 2 or more semi-submersible, or glass-bottomed, boat excursions; or  
(b) 2 or more sightseeing aircraft excursions;  
that are provided under the same permission on the same day, a charge is only payable for the first excursion by the visitor in relation to those excursions.
- (3) For the purposes of items 1 and 2 of the table, a charge is not payable by a visitor for an excursion if the excursion is provided under the chargeable permission



under which the visitor is liable to pay a standard tour program charge under section 215.

*Payment of charge*

- (4) A charge is payable under this section by a visitor to the holder of the relevant permission on behalf of the Commonwealth on the day, or the first day, the visitor becomes liable to pay the charge.

## **Subdivision C—Payment and overpayment**

### **225 When charges under section 223 are payable**

A charge under section 223 (charges payable by the holder of a chargeable permission) is payable by the holder of the permission to the Authority, on behalf of the Commonwealth, in April, July, October and January in respect of the exercise of the permission in the preceding quarter.

### **226 When collected amounts are payable**

A collected amount in respect of a chargeable permission is payable by the holder of the permission to the Authority, on behalf of the Commonwealth, in whichever of April, July, October or January is the month after the quarter in which the amount is collected.

Note: The holder of a chargeable permission who does not collect charge is liable to pay a penalty amount equal to the amount of the charge (see section 39FA of the Act).

### **227 Payment on cessation or transfer of permission**

- (1) This section requires amounts to be paid by a person (the **payer**) if:
- (a) a chargeable permission held by the payer ceases to be in force on a day (the **change day**); or
  - (b) the payer transfers the payer's interest in a chargeable permission to another person on a day (also the **change day**).
- (2) The following is payable by the payer to the Authority, on behalf of the Commonwealth, within 30 days after the change day:
- (a) any charge that the payer is liable to pay in respect of the exercise of the permission after the end of the preceding quarter and before the end of the change day;
  - (b) any amounts collected by the payer, from a visitor who is liable to pay charge in relation to the permission, after the end of the preceding quarter and before the end of the change day;
  - (c) any amount of late payment penalty that, under section 39G of the Act, the payer is liable to pay in relation to the permission, including any amount that accrues after the change day.
- (3) For the purposes of subsection (1), a permission to which subsection 116(1) (certain permissions to continue in force) applies is taken not to have ceased to be in force unless, and until, the application for the further permission:
- (a) is taken to be withdrawn under Part 3; or

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**Division 3** Amount of charges and payment

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- (b) lapses under section 204; or
- (c) is refused.

- (4) For the purposes of paragraph (1)(b), charge payable in respect of the day on which a transfer occurs is taken to be an amount equal to the average charge payable in respect of each other day in the period referred to in paragraph (2)(a).

Note: The holder of a chargeable permission who does not collect charge is liable to pay a penalty amount equal to the amount of the charge (see section 39FA of the Act).

**228 Overpayment of charge by holder of chargeable permission**

If the Authority determines that the holder of a chargeable permission has paid more charge than the holder is liable to pay, the next amount of charge that the holder is liable to pay is reduced by the amount of the overpayment (unless the Authority has already refunded the overpayment).

## **Division 4—Record-keeping and returns etc.**

### **229 Record-keeping etc.**

- (1) The holder of a chargeable permission commits an offence of strict liability if the holder contravenes subsection (2), (3), (4) or (5).

Penalty: 50 penalty units.

*Records to be kept for 2 years*

- (2) If the chargeable permission is covered by section 215, or is for an activity described in any of items 4 to 7 of the table in subsection 223(1) or an item of the table in subsection 224(1), the holder of the chargeable permission must record the following:
- (a) each day on which the permission is used by the holder;
  - (b) whether or not charge is incurred or collected;
  - (c) the information that the Authority requires the holder to keep for the purpose of working out, for a quarter:
    - (i) the charge payable by the holder for the quarter; and
    - (ii) the charge that the holder was required to collect during the quarter.
- (3) The holder of the chargeable permission must keep a receipt or ticket used to obtain an exemption under section 216 for 2 years after the day of the receipt or ticket.

*How and where records must be kept*

- (4) The information must be recorded by the holder of the chargeable permission, in a logbook supplied to the holder by the Authority or in a form approved by the Authority, and kept:
- (a) in the holder's booking office; or
  - (b) if the holder's permission allows the visiting of more than 5 different locations in the Marine Park (for a purpose other than the delivery of transfer passengers), access to each of which requires the use of a vessel—in the vessel used for the part of the program to which the information relates; or
  - (c) in any other place approved by the Authority.
- (5) The information must be kept by the holder of the chargeable permission to enable inspection by an inspector at the holder's booking office for at least 2 years after the quarter to which the information relates.

### **230 Returns**

The holder of a chargeable permission commits an offence of strict liability if the holder does not give the Authority, in each April, July, October and January, in relation to the preceding quarter:

- (a) except if paragraph (b) applies:
  - (i) a charge return, in a form approved by the Authority; or

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- (ii) a copy of the part of the logbook supplied to the holder by the Authority, or the form approved by the Authority, for the recording of the information; or
- (b) for a chargeable permission for operating a land-based outfall for discharging sewage (see item 8 of the table in subsection 223(1))—a return, in a form approved by the Authority, that sets out:
  - (i) the total volume of sewage generated during the quarter; and
  - (ii) the total volume of sewage discharged at the land-based outfall during the quarter; and
  - (iii) the information determined by the laboratory referred to in subsection 223(3) that discloses the level of treatment the sewage has received before discharge.

Penalty: 50 penalty units.

**231 Custody and banking of collected amounts**

- (1) The holder of a chargeable permission may deposit a collected amount into an account, maintained by the holder with a bank, until the amount is due for payment to the Authority on behalf of the Commonwealth.
- (2) The holder of the chargeable permission is entitled to any interest derived from the deposit of the amount.

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## Part 14—Plan of management enforcement provisions

### 232 Simplified outline of this Part

This Part applies for the purposes of paragraph 66(2)(ba) and subsection 66(11) of the Act.

A person may commit a strict liability offence under this Part for contravening certain Plans of Management.

### 233 Contravention of the Shoalwater Bay (Dugong) Plan of Management 1997

A person commits an offence of strict liability if the person contravenes subclause 6.2, 6.4 or 8.1 or clause 7 of the *Shoalwater Bay (Dugong) Plan of Management 1997*, as in force from time to time.

Note: Clauses 6, 7 and 8 of the Plan restrict the use of nets, the collecting of dugongs and interference with dugongs.

Penalty: 50 penalty units.

### 234 Contravention of the Plan of Management for Cairns Area, Hinchinbrook or Whitsundays

A person commits an offence of strict liability if the person contravenes a provision of Part 2 of:

- (a) the *Cairns Area Plan of Management 1998*, as in force from time to time; or
- (b) the *Hinchinbrook Plan of Management 2004*, as in force from time to time; or
- (c) the *Whitsundays Plan of Management 1998*, as in force from time to time.

Note 1: Part 2 of the Plans of Management contain enforcement provisions.

Note 2: See also section 10.5 of the *Criminal Code* (lawful authority).

Penalty: 50 penalty units.

## Part 15—Notification and review of decisions

### 235 Simplified outline of this Part

This Part applies for the purposes of paragraphs 66(2)(b), (u) and (v) and subsection 64(5) of the Act.

Decisions prescribed by this Part are reconsidered internally in accordance with section 64 of the Act, and reviewed by the Administrative Appeals Tribunal in accordance with section 64A of the Act.

The Authority must publish notice of certain decisions on its website.

This Part prescribes certain time limits relating to reviewable decisions (such as the period within which an application for review of a reviewable decision must be made and when a decision on the application must be made).

### 236 Reviewable decisions

The following decisions are **reviewable decisions** for the purposes of paragraph 64(3)(d) of the Act:

- (a) a decision to accredit or revoke the accreditation of an educational or research institution under section 13 or a harvest fishery under section 14;
- (b) a decision mentioned in subsection 83(4) of this instrument (person not required to be declared an entitled person);
- (c) a decision under Part 3 (permissions) on an application for the grant of a permission, except:
  - (i) a decision under section 77 whether the application was made in accordance with section 76; or
  - (ii) a decision as to which assessment approach must be used for assessing the relevant impacts of the proposed conduct; or
  - (iii) a decision to grant or refuse a permission to camp on a Commonwealth island; or
  - (iv) a decision on an EPBC referral deemed application;
- (d) a decision under Part 3:
  - (i) to suspend or revoke a permission; or
  - (ii) to modify a condition of a permission; or
  - (iii) to impose a condition on a permission;except to the extent that it relates to a permission granted in respect of a decision mentioned in subparagraph (c)(iii) or (iv) or a decision under section 129 (modification of conditions or suspension of permission—pending investigation);
- (e) any of the following decisions under Part 4 (Traditional Use of Marine Resources Agreements (TUMRAs)):
  - (i) a decision on an application for accreditation of a TUMRA;

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- (ii) a decision on an application to approve the modification of an accredited TUMRA or to modify a condition of the accreditation of a TUMRA;
- (iii) a decision to suspend or revoke the accreditation of a TUMRA;
- (iv) a decision to modify a condition of accreditation of a TUMRA;
- (v) a decision to impose a condition on the accreditation of a TUMRA;
- (f) a decision on an application for an exemption under subsection 188(1);
- (g) a decision for the grant of a Hinchinbrook authorisation;
- (h) a decision by the Authority under section 212 that a service or proposed service is not, or will not be, a secondary service.

**237 Notice of certain decisions**

- (1) The Authority must publish on the Authority's website a notice of any of the following kinds of decisions by the Authority as soon as practicable after making the decision:
  - (a) a decision under Part 3 (permissions) on an application (including an EPBC referral deemed application) for the grant of a permission, except:
    - (i) a decision under section 77 whether the application was made in accordance with section 76; and
    - (ii) a decision as to which assessment approach must be used for assessing the relevant impacts of the proposed conduct; and
    - (iii) a decision to grant or refuse a permission to camp on a Commonwealth island;
  - (b) a decision under Part 3:
    - (i) to suspend or revoke a permission; or
    - (ii) to modify a condition of a permission; or
    - (iii) on an application to transfer a permission; or
    - (iv) to impose a condition on a permission;
  - (c) any of the following decisions under Part 4 (Traditional Use of Marine Resources Agreements (TUMRAs)):
    - (i) a decision on an application for accreditation of a TUMRA;
    - (ii) a decision on an application to approve a modification of an accredited TUMRA or to modify a condition of the accreditation of a TUMRA;
    - (iii) a decision to suspend or revoke the accreditation of a TUMRA;
    - (iv) a decision to modify a condition of accreditation of a TUMRA;
    - (v) a decision to impose a condition on the accreditation of a TUMRA;
  - (d) a decision under subsection 188(1) on an application for an exemption from one or more provisions of Part 9 (interacting with cetaceans).
- (2) The Authority may also give a person affected by the decision a written notice of the decision.
- (3) A failure to comply with subsection (1) about a decision does not affect the validity of the decision.

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### 238 Contents of a notice

- (1) A notice published under subsection 237(1) or given to a person under subsection 237(2) must state:
  - (a) a person whose interests are affected by a decision referred to in section 236 may obtain from the Authority a statement of reasons for the decision, and ask the Authority to reconsider the decision; and
  - (b) that a person at whose request the Authority has reconsidered the decision may apply, subject to the *Administrative Appeals Tribunal Act 1975*, to the AAT for review of the decision made by the Authority after reconsideration.
- (2) A failure to comply with subsection (1) does not affect the validity of the relevant decision.

### 239 Reconsideration of reviewable decisions

#### *Time limits for making requests*

- (1) For the purposes of paragraph 64(5)(a) of the Act, a person must request a reconsideration of a reviewable decision within 15 business days after:
  - (a) for a decision relating to an emergency direction under subsection 61ACA(2) of the Act—the decision is published on the Authority’s website; or
  - (b) for a decision relating to a direction under subsection 61AEA(2) of the Act—a copy of the direction is given to the person; or
  - (c) for a decision of the Minister or Authority, prescribed by this or any other instrument, for the purposes of paragraph 64(3)(c) or (d) of the Act—after the decision is made.

#### *Matters to be included in requests*

- (2) For the purposes of paragraph 64(5)(b) of the Act, the request must set out the reasons why the Minister or the Authority (as the case requires) should reconsider the decision.

#### *Time limits for reconsidering decisions*

- (3) For the purposes of paragraph 64(5)(c) of the Act, the Minister or Authority (as the case requires) must reconsider the decision within 30 business days after receiving the request.

#### *When a decision on reconsideration takes effect*

- (4) For the purposes of paragraph 64(5)(d) of the Act, a decision on reconsideration takes effect:
  - (a) for a decision relating to an emergency direction under subsection 61ACA(2) of the Act—when the decision on reconsideration is published on the Authority’s website; or
  - (b) for a decision relating to a direction under subsection 61AEA(2)—when the Minister gives the person requesting the reconsideration written notice of the Minister’s decision on reconsideration; or



- (c) for a decision of the Minister or Authority, prescribed by this or any other instrument, for the purposes of paragraph 64(3)(c) or (d) of the Act—when the Minister or Authority gives the person requesting the reconsideration written notice of the decision on reconsideration.

## **Part 16—Inspector's powers**

### **Division 1—Simplified outline of this Part**

#### **240 Simplified outline of this Part**

This Part is made for the purposes of paragraph 66(2)(c) of the Act.

An inspector may give a direction to a person who is in, or has recently been in, or may enter, the Marine Park. A person must comply with the direction. An inspector may also require a person to leave the Marine Park if the inspector reasonably believes that the person has committed or may commit an offence.

A person who is alleged to have committed certain offences (called infringement notice offences) may pay a monetary penalty specified in an infringement notice, instead of having the matter dealt with by a court.

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## **Division 2—Powers to give directions etc.**

### **241 Power of inspector to give directions**

- (1) For the purpose of ensuring that the Act, this instrument, and any other instrument made for the purposes of the Act, are complied with, an inspector may, in accordance with this section, give reasonable directions to any person:
  - (a) who is within the Marine Park; or
  - (b) who is outside the Marine Park and who the inspector believes on reasonable grounds may enter, or who has recently entered and left, the Marine Park.
- (2) The direction may be given orally, in writing, by radio or by any other appropriate means of communication.
- (3) The inspector must:
  - (a) identify the inspector's position as an inspector when giving the direction; and
  - (b) produce the inspector's identity card at the first practicable opportunity to the person to whom the direction is given.

Note: Identity cards are issued to inspectors under section 45 of the Act.

- (4) A person commits an offence of strict liability if the person contravenes a direction given to the person under subsection (1).

Penalty: 50 penalty units.

### **242 Powers of inspector to require person to leave the Marine Park or produce permission etc.**

*Inspector may require a person to leave the Marine Park*

- (1) An inspector may require any person in the Marine Park to leave the Marine Park or the zone or location within the Marine Park where the person is found for a specified period that is reasonable in all the circumstances if the inspector reasonably suspects the person has committed an offence against the Act, this instrument, or any other instrument made for the purposes of the Act.

*Inspector may require production of permission etc.*

- (2) An inspector may require any person to produce:
  - (a) a permission, permit or authority under the Act, this instrument or a zoning plan; or
  - (b) evidence of such a permission, permit or authority;if the inspector reasonably suspects the person of having done an act in respect of which the person is required to hold the permission, permit or authority.

*Offence*

- (3) A person commits an offence of strict liability if the person fails to comply with a requirement made of the person under subsection (1) or (2).

**Part 16** Inspector's powers

**Division 2** Powers to give directions etc.

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Penalty: 50 penalty units.

## Division 3—Infringement notices

### 243 Infringement notice offences and infringement notice penalties

*Infringement notice offences in this instrument*

- (1) An offence against a provision of this instrument mentioned in column 1 of an item in the following table is an ***infringement notice offence***. The penalty (the ***infringement notice penalty***) for the offence is the penalty mentioned in column 2 of the item.

Infringement notice offences and infringement notice penalties		
Item	Column 1 Provision	Column 2 Infringement notice penalty in penalty units
1	section 58 (commercial activities on Low Island)	10
2	section 60 (Conservation Park Zone—fishing offence)	4
3	section 61 (Marine National Park Zone—fishing and collecting offence)	10
4	section 135 (requirement to produce permission for inspection)	1
5	section 136 (notification of change in beneficial ownership)	10
6	subsection 168(1) (certain animals not to be taken onto Commonwealth islands)	2
7	section 169 (littering prohibited)	2
8	section 170 (mooring buoy must display mooring reference number)	3
9	subsections 171(1), (2), (3) and (4) (public mooring and infrastructure not to be removed, misused or damaged)	3
10	subsection 179(1) in relation to a contravention of subsection 179(4) (requirements relating to prohibited vessels)	10
11	subsection 180(1) (other craft—caution zones near adult cetaceans)	10
12	subsection 181(1) (other craft—caution zones near calves)	10
13	section 182 (aircraft near cetaceans)	10
14	subsection 183(1) (no feeding of cetaceans)	10
15	section 184 (no touching, or sudden movements near, cetaceans)	10
16	subsection 185(1), (2) or (3) (requirements for swimming with cetaceans)	10
17	section 186 (conducting swimming-with-whales activities without permission)	10
18	subsection 187(1) or (2) (protection of whales in whale protection area)	10
19	section 200 (offences—bareboat identification numbers)	5
20	subsection 222(1) or (2) (offence—altering ticket etc.)	7
21	section 229 (record-keeping etc.)	5
22	section 230 (returns)	2

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Infringement notice offences and infringement notice penalties		
Item	Column 1 Provision	Column 2 Infringement notice penalty in penalty units
23	section 234 (contravention of the Plan of Management for Cairns Area, Hinchinbrook or Whitsundays)	3
24	subsection 241(4) (contravention of directions)	10
25	subsection 242(3) (contravention of requirements of inspector)	10

*Infringement notice offences in the Act*

- (2) An offence against subsection 38BA(3) (conduct in the Marine Park Zone) or 38EA(4) (conduct contravening permission or authority) of the Act is ***an infringement notice offence***. The ***infringement notice penalty*** for the offence is:
- (a) for an offence against subsection 38BA(3) of the Act—12 penalty units; and
  - (b) for an offence against subsection 38EA(4) of the Act—4 penalty units.

**244 When an infringement notice may be given**

- (1) If an inspector believes on reasonable grounds that a person has committed an infringement notice offence, the inspector may give the person an infringement notice for the alleged contravention.
- (2) The infringement notice must be given within 12 months after the day on which the contravention is alleged to have taken place.
- (3) A single infringement notice must relate only to a single contravention of a single provision unless subsection (4) applies.
- (4) An inspector may give a person a single infringement notice relating to multiple contraventions of a single provision if:
  - (a) the provision requires the person to do a thing within a particular period or before a particular time; and
  - (b) the person fails or refuses to do that thing within that period or before that time; and
  - (c) the failure or refusal occurs on more than one day; and
  - (d) each contravention is constituted by the failure or refusal on one of those days.

Note: For continuing offences, see subsection 4K(2) of the *Crimes Act 1914*.

**245 Matters to be included in an infringement notice**

- (1) An infringement notice must:
  - (a) be identified by a unique number; and
  - (b) state the day on which it is given; and
  - (c) state the name of the person to whom the notice is given; and

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- (d) state the name and contact details of the person who gave the notice, and that the person is an inspector for the purposes of issuing the infringement notice; and
  - (e) give brief details of the alleged contravention, or each alleged contravention, to which the notice relates, including:
    - (i) the provision that was allegedly contravened; and
    - (ii) the maximum penalty that a court could impose for each contravention, if the provision were contravened; and
    - (iii) the time (if known) and day of, and the place of, each alleged contravention; and
  - (f) state the amount that is payable under the notice (see section 243); and
  - (g) give an explanation of how payment of the amount is to be made; and
  - (h) state that, if the person to whom the notice is given pays the amount within the period specified in section 246, then (unless the notice is withdrawn), the person will not be liable to be prosecuted in a court for the alleged contravention; and
  - (i) state that payment of the amount is not an admission of guilt; and
  - (j) state that the person may apply to the Authority to have the period in which to pay the amount extended; and
  - (k) state that the person may choose not to pay the amount and, if the person does so, the person may be prosecuted in a court for the alleged contravention; and
  - (l) set out how the notice can be withdrawn; and
  - (m) state that if the notice is withdrawn, the person may be prosecuted in a court for the alleged contravention; and
  - (n) state that the person may make written representations to the Authority seeking the withdrawal of the notice.
- (2) An infringement notice may contain any other information that the inspector or the Authority considers necessary.

## 246 When infringement notice penalty must be paid

An infringement notice penalty must be paid before the end of:

- (a) 28 days after the infringement notice is given (the **28-day period**); or
- (b) if an application for a further period for payment is granted under section 247—the end of the further period; or
- (c) if an application for a further period for payment is refused under section 247—the later of:
  - (i) 10 days after the day of the notice of the refusal; and
  - (ii) the 28-day period.

## 247 Extension of time to pay

- (1) A person to whom an infringement notice has been given may apply in writing to the Authority requesting a further period for payment of the infringement notice penalty (whether before or after the 28 days mentioned in section 246).

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- (2) An application made after the end of the 28 days must include a statement explaining why the alleged offender could not deal with the notice within that period.
- (3) On receiving an application, the Authority must:
  - (a) grant or refuse a further period; and
  - (b) give the person written notice of the decision; and
  - (c) if the decision is a refusal—state in the notice the reasons for refusal and the period in which the infringement notice penalty must be paid.
- (4) The Authority may extend the period for payment of an infringement notice more than once.

## **248 Withdrawal of an infringement notice**

### *Representations seeking withdrawal of notice*

- (1) A person to whom an infringement notice has been given may make written representations to the Authority seeking the withdrawal of the notice.

### *Withdrawal of notice*

- (2) The Authority may withdraw an infringement notice given to a person (whether or not the person has made written representations seeking the withdrawal).
- (3) When deciding whether or not to withdraw an infringement notice (the **relevant infringement notice**), the Authority:
  - (a) must take into account any written representations seeking the withdrawal that were given by the person to the Authority; and
  - (b) may take into account the following:
    - (i) whether a court has previously imposed a penalty on the person for a contravention of the Act, this instrument or another instrument made for the purposes of the Act;
    - (ii) the circumstances of the alleged contravention;
    - (iii) whether the person has paid an amount, stated in an earlier infringement notice, for a contravention of a provision of the Act, this instrument, or another instrument made for the purposes of the Act, constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the contravention in the relevant infringement notice;
    - (iv) any other matter the Authority considers relevant.

### *Notice of withdrawal*

- (4) Notice of the withdrawal of the infringement notice must be given to the person. The withdrawal notice must state:
  - (a) the person's name and address; and
  - (b) the day the infringement notice was given; and
  - (c) the identifying number of the infringement notice; and
  - (d) that the infringement notice is withdrawn; and
  - (e) that the person may be prosecuted in a court for the alleged contravention.



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*Refund of amount if infringement notice withdrawn*

- (5) If:
- (a) the Authority withdraws the infringement notice; and
  - (b) the person has already paid the amount stated in the notice;
- the Commonwealth must refund to the person an amount equal to the amount paid.

**249 Effect of payment of amount**

- (1) If the person to whom an infringement notice for an alleged contravention of a provision is given pays the amount stated in the notice before the end of the period referred to in section 246:
- (a) any liability of the person for the alleged contravention is discharged; and
  - (b) the person may not be prosecuted in a court for the alleged contravention; and
  - (c) the person is not regarded as having admitted guilt for the alleged contravention; and
  - (d) the person is not regarded as having been convicted of the alleged offence.
- (2) Subsection (1) does not apply if the notice has been withdrawn.

**250 Effect of this Part**

This Part does not:

- (a) require an infringement notice to be given to a person for an alleged contravention of an infringement notice provision; or
- (b) affect the liability of a person for an alleged contravention of an infringement notice provision if:
  - (i) the person does not comply with an infringement notice given to the person for the contravention; or
  - (ii) an infringement notice is not given to the person for the contravention; or
  - (iii) an infringement notice is given to the person for the contravention and is subsequently withdrawn; or
- (c) prevent the giving of 2 or more infringement notices to a person for an alleged contravention of an infringement notice provision; or
- (d) limit a court's discretion to determine the amount of a penalty to be imposed on a person who is found to have contravened an infringement notice provision.

## Part 17—Miscellaneous

### 251 Simplified outline of this Part

This Part deals with miscellaneous provisions:

- (a) such as decisions made by computers; and
- (b) the power of the Authority to extend periods to do things.

### 252 Use of computer programs to make decisions etc.

- (1) The Authority may arrange for the use, under the control of the Authority, of computer programs for any purposes for which the Authority is required or permitted to make a decision (however described), or give a notice, under Part 3 or 12.

Note: Exercising the power to waive a fee under Part 12 is an example of making a decision.

- (2) The Authority is taken to have made a decision, or given a notice, that was made or given by the operation of a computer program under an arrangement made under subsection (1).
- (3) If the Authority is satisfied that a decision made, or notice given, by the operation of a computer program under an arrangement under subsection (1) is incorrect:
- (a) the Authority must substitute for it another decision or notice; and
  - (b) the decision or notice as substituted is taken, for the purposes of this instrument, to have been given or made at the time the original decision or notice was made or given.

### 253 Extending periods

- (1) This section applies if:
- (a) either:
    - (i) a person is requested or required (however described) under a provision of this instrument to do a thing before the end of a period (the *original period*); or
    - (ii) the Authority or Minister is required to do a thing under a provision of this instrument in relation to a person before the end of a period (the *original period*); and
  - (b) the provision refers to the period being extended under this section.
- (2) Before the end of the original period:
- (a) if the Minister requests or requires a person to do a thing, or a person is required to do a thing—the Minister; and
  - (b) otherwise—the Authority;
- may extend the period by giving the person written notice of the extension.

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- (3) Without limiting subsection (2), if the Authority or Minister must give the person a notice in order to request or require the person to do the thing, the extension of the original period may be in that notice.

**254 Form of identity card**

For the purposes of subsection 45(1) of the Act, the following form of identity card is prescribed:



**Australian Government**

**Identity Card**

The person whose name, signature and photograph appear on this card is an inspector under the *Great Barrier Reef Marine Park Act 1975* and the *Environment Protection and Biodiversity Conservation Act 1999*.

(*affix photograph*)

Name:

Identification No:

Dated:

Signature

Officer  
Issued by the  
Great Barrier Reef Marine Park Authority

**Part 18** Application, saving and transitional provisions

**Division 1** Simplified outline of this Part

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**Part 18—Application, saving and transitional provisions**

**Division 1—Simplified outline of this Part**

**255 Simplified outline of this Part**

<p>This Part deals with application, savings and transitional provisions relating to the making, or amendment, of this instrument.</p>
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## **Division 2—Application, saving and transitional provisions relating to the making of this instrument**

### **256 References to old regulations**

- (1) In this Division, the *old regulations* are the *Great Barrier Reef Marine Park Regulations 1983*.
- (2) To avoid doubt, a reference to a thing done under the old regulations may be a thing done under a previous version of the old regulations.

Note: For example, an application for a permission made before 4 October 2017 (when the *Great Barrier Reef Marine Park Amendment (Permission System) Regulations 2017* commenced) that was not completed before the commencement of this section would be completed under the version of the old regulations in force immediately before 4 October 2017 (see regulation 207 of the old regulations).

### **257 Things done under the old regulations**

#### *Incomplete processes*

- (1) Despite the repeal of the old regulations, those regulations continue to apply, after the commencement of this instrument, as if they had not been repealed, in relation to any process begun (including by application or request) before the commencement of this section under:
  - (a) a provision of the Act, to the extent that those regulations relate to the provision; or
  - (b) a provision of those regulations; or
  - (c) a provision of any other instrument made for the purposes of the Act, to the extent that those regulations relate to that provision;if, immediately before that commencement, that process has not been completed.

#### *Things done or omissions before commencement*

- (2) In relation to any thing done or omitted to be done before the commencement of this section, the repeal of the old regulations does not affect:
  - (a) any right, privilege, obligation or liability acquired, accrued or incurred under:
    - (i) those regulations; or
    - (ii) any other legislative instrument made for the purposes of the Act; or
    - (iii) the Act;as a result of the thing done or the omission; or
  - (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against:
    - (i) those regulations; or
    - (ii) any other legislative instrument made for the purposes of the Act; or
    - (iii) the Act;as a result of the thing done or the omission; or
  - (c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

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Any investigation, legal proceeding or remedy may be instituted, continued or enforced, and any penalty, forfeiture or punishment may be imposed, as if the old regulations had not been repealed.

*Instruments in force before commencement*

- (3) Despite the repeal of the old regulations, an instrument that is in force under those regulations immediately before the commencement of this section is taken to remain in force, after that commencement, for the purposes of this section.

*Relationship with section 7 of the Acts Interpretation Act 1901*

- (4) This section does not limit the effect of section 7 of the *Acts Interpretation Act 1901* (as it applies as a result of paragraph 13(1)(a) of the *Legislation Act 2003*).

*Relationship with this Part*

- (5) To avoid doubt, the old regulations apply only to the extent required for the purposes of completing the process referred to in subsection (1).

**Note:** The effect of this subsection is that, for example, the old regulations apply in relation to a review by the Administrative Appeals Tribunal of a decision before the commencement of this section to grant a permission if the decision on the review has not been made before that commencement. However, conditions of the permission could later be modified under Division 8 of Part 3 of this instrument as a result of section 261.

**258 Accreditation of institutions and harvest fisheries**

- (1) An accreditation under regulation 7 or 8 of the old regulations, that is in force immediately before the commencement of this subsection, is taken, after that commencement, to be an accreditation under section 13 or 14 (as the case requires) of this instrument.
- (2) An accreditation granted under regulation 7 or 8 of the old regulations (as it continues in force under subsection 257(1) of this instrument) after the commencement of this instrument is taken, after the accreditation is granted, to be an accreditation in force under section 13 or 14 (as the case requires) of this instrument.

**259 Limited impact research (extractive)**

- (1) Section 20 of, and Schedule 6 to, this instrument apply in relation to the calendar year beginning on 1 January 2020, and later calendar years.
- (2) Despite the repeal of the old regulations, regulation 19 of those regulations continues to apply after the commencement of this section in relation to the calendar year beginning 1 January 2019 as if those regulations had not been repealed.

**260 Directions given following notification**

- (1) Section 57 of this instrument applies in relation to any direction given under that section after the commencement of this section, whether in relation to a notification given before or after that commencement.

- (2) A direction given under regulation 72 of the old regulations that is in force immediately before that commencement is taken to be in force under section 57 of this instrument.

## **261 Permissions**

- (1) A permission granted under Part 2A of the old regulations that is in force immediately before the commencement of this section is taken, after that commencement, to be a permission in force under Part 3 of this instrument.
- (2) Any authority given under the permission that is in force in accordance with regulation 88ZF of the old regulations immediately before that commencement is taken to be in force in accordance with section 118 of this instrument.
- (3) A permission granted under Part 2A of the old regulations (as it continues in force under subsection 257(1) of this instrument) after the commencement of this instrument is taken, after the permission is granted, to be a permission in force under Part 3 of this instrument.
- (4) Division 8 of Part 3 (modification, suspension and revocation of permissions) of this instrument applies, subject to section 257, in relation to any conduct or omission, whether occurring before or after the commencement of this section.

## **262 Changes in beneficial ownership**

Section 125 applies in relation to any changes of beneficial ownership of a company that occur after the commencement of this section.

## **263 TUMRAs**

- (1) The accreditation (including a certificate of accreditation) of a TUMRA that is in force under Part 2B of the old regulations immediately before the commencement of this section, is taken, after that commencement, to be an accreditation (and a certificate of accreditation) in force under Part 4 of this instrument.
- (2) The accreditation (including a certificate of accreditation) of a TUMRA given under Part 2B of the old regulations (as they continue in force under subsection 257(1) of this instrument) after the commencement of this instrument is taken, after the accreditation (and the certificate) is given, to be an accreditation (and certificate) in force under Part 4 of this instrument.
- (3) Division 4 of Part 4 (modification, suspension and revocation relating to TUMRAs) of this instrument applies, subject to section 257, in relation to any conduct or omission, whether occurring before or after the commencement of this section.

## **264 Offences and civil penalty provisions**

An offence or civil penalty provision in:

- (a) this instrument; or
- (b) any other instrument made for the purposes of the Act, to the extent that it relates to a matter prescribed in this instrument; or

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(c) the Act, to the extent that it relates to a matter prescribed in this instrument; applies in relation to any conduct engaged in or omission that occurs after the commencement of this instrument.

**265 Registers**

Despite the repeal of regulations 114 and 124 of the old regulations, the Registers in force under those regulations immediately before the commencement of this section continue in force after that commencement as if those regulations had not been repealed.

**266 Application of section 176**

- (1) Section 176 applies to the Great Barrier Reef Outlook Report for 2024 and later such reports.
- (2) Despite the repeal of regulation 116A of the old regulations, that regulation continues to apply, after the commencement of this instrument, in relation to the Great Barrier Reef Outlook Report for 2019.

**267 Exemptions from Part 9**

- (1) An exemption under regulation 117K of the old regulations that is in force immediately before the commencement of this section is taken, after that time, to be in force under section 188 of this instrument.
- (2) An exemption under regulation 117K of the old regulations that is given after the commencement of this section (as that regulation continues in force under subsection 257(1) of this instrument) is taken, after it is given, to be in force under section 188 of this instrument.
- (3) A reference to a provision of the old regulations in an exemption given before the commencement of this section is taken, after that commencement, to be a reference to the equivalent provision of this instrument.

**268 Compulsory pilotage**

- (1) Section 196 applies in relation to any inaccuracies arising after this instrument commences (whether in relation to an exemption given before or after the commencement of this section).
- (2) Section 197 applies in relation to any contravention that occurs after this instrument commences (whether in relation to an exemption given before or after the commencement of this section).

**269 Application of fees**

*Fees generally*

- (1) Sections 202, 205 and 206 apply in relation to any fee that is payable in relation to any application, request or lodgement made after the commencement of this instrument.



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Note: Fees may remain payable under the old regulations in relation to processes begun before this section commences (see section 257).

*Reinstatement fees*

- (2) Section 207 applies in relation to any reinstatement fee that becomes payable as a result of a suspension that begins after the commencement of this instrument.

*Indexation*

- (3) Section 208 applies in relation to fees that are payable in relation to any application, request or lodgement made on or after 1 January 2020.

*Waiver of fees*

- (4) Section 209 applies in relation to any fee (whether the fee became payable before or after the commencement of this section) as if a reference in that section to sections 202 and 205 included a reference to regulations 128 and 134 of the old regulations.

## **270 Determination of secondary services**

- (1) A determination that is in force under regulation 137 of the old regulations immediately before the commencement of this section is taken, after that commencement, to be in force under section 212 of this instrument.
- (2) A determination that is made under regulation 137 of the old regulations after the commencement of this section (as that regulation continues in force under subsection 257(1) of this instrument) is taken, after it is made, to be in force under section 212 of this instrument.

## **271 Chargeable permissions**

- (1) Subdivision A of Division 3 of Part 13 applies in relation to tourist programs begun after the commencement of this section.
- (2) Subdivision B of Division 3 of Part 13 applies in relation to quarters that commence on or after 1 April 2019.

*When charges and collected amounts are payable*

- (3) Sections 225 and 226 apply in relation to charges or collected amounts that are payable in or after 1 April 2019.

*Cessation or transfer of permissions*

- (4) Section 227 applies in relation to transfers of permissions, or permissions that cease to be in force, after the commencement of this section.

*Overpayments*

- (5) Section 228 applies in relation to any overpayment (whether it is determined by the Authority, or relates to an overpayment, before or after the commencement of this section).

## Section 272

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### **272 Record keeping and returns**

#### *Record keeping*

- (1) Section 229 applies in relation to receipts, tickets and other records that become required to be kept under that section after the commencement of this section.
- (2) Despite the repeal of regulation 166 of the old regulations, that regulation continues to apply, after the commencement of this section, in relation to any record that was first required to be kept under that regulation before that commencement, for 2 years after the record was first required to be kept.

#### *Returns*

- (3) Section 230 applies in relation to returns and logbooks relating to the quarter beginning on 1 April 2019 and later quarters.
- (4) Despite the repeal of regulation 167 of the old regulations, that regulation continues to apply, after the commencement of this section, in relation to quarters that end before that commencement as if that regulation had not been repealed.

### **273 Review of decisions**

- (1) Part 15 applies (subject to subsection (2)) in relation to decisions made under this instrument after the commencement of this section.
- (2) Despite the repeal of Part 13 of the old regulations, that Part continues to apply, after the commencement of this section, in relation to decisions made under those regulations (as that Part is continued in force under subsection 257(1) of this instrument) after that commencement.

**Note:** Part 13 of the old regulations also applies in relation to review of a decision made before commencement that has not been completed by commencement (see section 257).

- (3) This section applies despite any other section of this instrument (except section 257).

#### *Relationship with this Part*

- (4) To avoid doubt, Part 13 of the old regulations applies only to the extent required for the purposes of the reconsideration or review of a decision referred to in subsection (2).

### **274 Infringement notices**

- (1) Division 3 of Part 16 applies in relation to any infringement notices given after the commencement of this section (whether the conduct to which the infringement notice relates occurred before or after that commencement).
- (2) For conduct occurring before that commencement, section 243 applies after that commencement as if a reference in that section to a provision of this instrument were a reference to the equivalent provision of the old regulations.

**275 Form of identity cards**

- (1) Section 254 applies in relation to any identity card issued after the commencement of this instrument.
- (2) Despite the repeal of regulation 206 of the old regulations, that regulation continues to apply, after the commencement of this instrument, in relation to identity cards issued before that commencement.

Clause 1

## Schedule 1—Designated anchorages

Note: See the definition of *designated anchorage* in subsection 5(1).

### Part 1—Far Northern Management Area

#### 1 Far Northern Management area

A designated anchorage mentioned in a heading in the following table is the area bounded by the line starting at the point described in the first item of the table directly under that heading and running sequentially as described in the remaining items under that heading.

Far Northern Management Area	
Item	Description
<b>Boydong Cays South-easterly Wind Designated Anchorage</b>	
1	The point 11°28.605'S 143°00.790'E
2	North-easterly along the geodesic to 11°28.490'S 143°00.905'E
3	South-easterly along the geodesic to 11°28.643'S 143°01.057'E
4	South-westerly along the geodesic to 11°28.757'S 143°00.943'E
5	North-westerly along the geodesic to the starting point
<b>Piper Islands South-easterly Wind Designated Anchorage</b>	
6	The point 12°14.204'S 143°13.250'E
7	North-easterly along the geodesic to 12°14.090'S 143°13.364'E
8	South-easterly along the geodesic to 12°14.243'S 143°13.517'E
9	South-westerly along the geodesic to 12°14.357'S 143°13.403'E
10	North-westerly along the geodesic to the starting point
<b>Piper Islands North-westerly Wind Designated Anchorage (weather alternative)</b>	
11	The point 12°14.957'S 143°12.843'E
12	North-easterly along the geodesic to 12°14.843'S 143°12.957'E
13	South-easterly along the geodesic to 12°14.995'S 143°13.110'E
14	South-westerly along the geodesic to 12°15.110'S 143°12.995'E
15	North-westerly along the geodesic to the starting point
<b>Night Island South-easterly Wind Designated Anchorage</b>	
16	The point 13°10.271'S 143°33.983'E
17	North-easterly along the geodesic to 13°10.157'S 143°34.099'E
18	South-easterly along the geodesic to 13°10.309'S 143°34.252'E
19	South-westerly along the geodesic to 13°10.424'S 143°34.137'E
20	North-westerly along the geodesic to the starting point
<b>Morris Island South-easterly Wind Designated Anchorage</b>	
21	The point 13°29.305'S 143°42.890'E
22	North-easterly along the geodesic to 13°29.190'S 143°43.004'E
23	South-easterly along the geodesic to 13°29.343'S 143°43.157'E

<b>Far Northern Management Area</b>	
<b>Item</b>	<b>Description</b>
24	South-westerly along the geodesic to 13°29.457'S 143°43.043'E
25	North-westerly along the geodesic to the starting point
<b>Creech Reef South-easterly Wind Designated Anchorage</b>	
26	The point 13°37.358'S 144°04.636'E
27	North-easterly along the geodesic to 13°37.244'S 144°04.750'E
28	South-easterly along the geodesic to 13°37.397'S 144°04.903'E
29	South-westerly along the geodesic to 13°37.511'S 144°04.788'E
30	North-westerly along the geodesic to the starting point
<b>Pipon Island South-easterly Wind Designated Anchorage</b>	
31	The point 14°06.805'S 144°30.190'E
32	North-easterly along the geodesic to 14°06.690'S 144°30.304'E
33	South-easterly along the geodesic to 14°06.843'S 144°30.457'E
34	South-westerly along the geodesic to 14°06.957'S 144°30.342'E
35	North-westerly along the geodesic to the starting point
<b>Flinders Island Group Wongal Beach Designated Anchorage</b>	
36	The point 14°08.305'S 144°14.990'E
37	North-easterly along the geodesic to 14°08.190'S 144°15.104'E
38	South-easterly along the geodesic to 14°08.343'S 144°15.257'E
39	South-westerly along the geodesic to 14°08.457'S 144°15.143'E
40	North-westerly along the geodesic to the starting point
<b>Flinders Island Group Stokes Bay Designated Anchorage (weather alternative)</b>	
41	The point 14°09.007'S 144°12.888'E
42	North-easterly along the geodesic to 14°08.892'S 144°13.003'E
43	South-easterly along the geodesic to 14°09.045'S 144°13.155'E
44	South-westerly along the geodesic to 14°09.159'S 144°13.041'E
45	North-westerly along the geodesic to the starting point
<b>Bathurst Bay/Cape Melville South-easterly Wind Designated Anchorage</b>	
46	The point 14°10.705'S 144°25.890'E
47	North-easterly along the geodesic to 14°10.590'S 144°26.005'E
48	South-easterly along the geodesic to 14°10.743'S 144°26.157'E
49	South-westerly along the geodesic to 14°10.857'S 144°26.043'E
50	North-westerly along the geodesic to the starting point
<b>Ingram Island South-easterly Wind Designated Anchorage</b>	
51	The point 14°24.505'S 144°52.290'E
52	North-easterly along the geodesic to 14°24.390'S 144°52.405'E
53	South-easterly along the geodesic to 14°24.543'S 144°52.557'E
54	South-westerly along the geodesic to 14°24.657'S 144°52.443'E
55	North-westerly along the geodesic to the starting point

## Part 2—Cairns/Cooktown management area

### 2 Cairns planning area

A designated anchorage mentioned in a heading in the following table is the following area or point:

- (a) the area (other than an area of drying reef) bounded by the line starting at the point described in the first item of the table directly under that heading and running sequentially as described in the remaining items under that heading;
- (b) the area (other than an area of drying reef) or point described in the item directly under that heading.

Cairns planning area	
Item	Description
<b>Lizard Island Designated Anchorage</b>	
1	The intersection of the Lizard Island (14-116a) coastline at mean low water and the parallel 14°40.136'S (at the point closest to 14°40.136'S 145°26.677'E)
2	North-westerly along the geodesic to 14°39.710'S 145°26.264'E
3	North-easterly along the geodesic to the intersection of the Lizard Island (14-116a) coastline at mean low water and the parallel 14°39.185'S (at the point closest to 14°39.185'S 145°27.040'E)
4	Generally southerly then south-easterly then south-westerly along the Lizard Island (14-116a) coastline at mean low water to the starting point
Ribbon Reef No. 5 (15-038) Location Designated Anchorage	
5	The area within the 500 metre line of Ribbon Reef No. 5 (15-038)
Ribbon Reef No. 2 (15-075a) Location Designated Anchorage	
6	The area within the 500 metre line of Ribbon Reef No. 2 (15-075a)
Agincourt Reef (15-096) Designated Anchorage	
7	The point 15°57.252'S 145°47.571'E
Norman Reef (16-030) South-Easterly Wind Designated Anchorage	
8	The point 16°24.887'S 145°58.709'E
Norman Reef (16-030) North-Westerly Wind Designated Anchorage	
9	The point 16°26.654'S 146°00.696'E
Moore Reef (16-071) Designated Anchorage	
10	The point 16°50.984'S 146°10.601'E

## **Part 3—Townsville/Whitsunday management area**

### **3 Dunk Island**

The designated anchorage mentioned in a heading in the following table is the area described in the item directly under that heading.

<b>Dunk Island</b>	
<b>Item</b>	<b>Description</b>
<b>Dunk Island Designated Anchorage</b>	
1	The area within 200 metres of the point 17°55.998'S 146°07.500'E

### **4 Hinchinbrook planning area**

A designated anchorage mentioned in a heading in the following table is the area described in the item directly under that heading.

<b>Hinchinbrook planning area</b>	
<b>Item</b>	<b>Description</b>
<b>Cape Richards Designated Anchorage</b>	
1	The area within 250 metres of the point 18°11.700'S 146°12.700'E
<b>Hecate Point Designated Anchorage</b>	
2	The area within 500 metres of the point 18°14.000'S 146°03.500'E

### **5 Whitsunday planning area**

A designated anchorage mentioned in a heading in the following table is:

- (a) the area bounded by the line starting at the point described in the first item of the table directly under that heading and running sequentially as described in the remaining items under that heading; or
- (b) the area or point described in the item directly under that heading.

<b>Whitsunday planning area</b>	
<b>Item</b>	<b>Description</b>
<b>Hardy Reef Designated Anchorage</b>	
1	The area within 200 metres of the point 19°44.450'S 149°08.400'E
<b>South Hayman Designated Anchorage</b>	
2	The point 20°04.200'S 148°53.400'E
3	South-westerly along the geodesic to 20°04.700'S 148°53.200'E
4	North-westerly along the geodesic to 20°04.280'S 148°52.270'E
5	North-easterly along the geodesic to 20°03.900'S 148°52.510'E
6	South-easterly along the geodesic to the starting point

**Schedule 1** Designated anchorages**Part 3** Townsville/Whitsunday management area

## Clause 5

**Whitsunday planning area****Item Description****Funnel Bay Designated Anchorage**

- |    |  |
|----|--|
| 7  | The point 20°12.080'S 148°42.973'E                       |
| 8  | Easterly along the geodesic to 20°12.878'S 148°44.985'E  |
| 9  | Southerly along the geodesic to 20°14.627'S 148°44.207'E |
| 10 | Westerly along the geodesic to 20°13.830'S 148°42.195'E  |
| 11 | Northerly along the geodesic to the starting point       |

**Cid Harbour Designated Anchorage**

- |    |   |
|----|---|
| 12 | The point 20°14.300'S 148°56.000'E                            |
| 13 | Southerly along the geodesic to 20°15.000'S 148°56.200'E      |
| 14 | South along the meridian 148°56.200'E to latitude 20°15.700'S |
| 15 | West along the parallel 20°15.700'S to longitude 148°55.800'E |
| 16 | North-westerly along the geodesic to 20°14.300'S 148°55.200'E |
| 17 | East along the parallel 20°14.300'S to the starting point     |

**Port Molle Designated Anchorage**

- |    |   |
|----|---|
| 18 | The point 20°19.000'S 148°50.100'E                            |
| 19 | South-easterly along the geodesic to 20°19.800'S 148°50.600'E |
| 20 | West along the parallel 20°19.800'S to longitude 148°50.000'E |
| 21 | North-westerly along the geodesic to 20°19.000'S 148°49.500'E |
| 22 | East along the parallel 20°19.000'S to the starting point     |

**Fitzalan Passage Designated Anchorage**

- |    |   |
|----|---|
| 23 | The point 20°18.890'S 148°56.520'E                            |
| 24 | South-easterly along the geodesic to 20°19.310'S 148°56.800'E |
| 25 | South-westerly along the geodesic to 20°19.500'S 148°56.470'E |
| 26 | North-westerly along the geodesic to 20°19.090'S 148°56.190'E |
| 27 | North-easterly along the geodesic to the starting point       |

**Turtle Bay Designated Anchorage**

- |    |   |
|----|---|
| 28 | The point 20°19.500'S 149°01.000'E                            |
| 29 | South along the meridian 149°01.000'E to latitude 20°20.000'S |
| 30 | West along the parallel 20°20.000'S to longitude 148°59.500'E |
| 31 | North along the meridian 148°59.500'E to latitude 20°19.500'S |
| 32 | East along the parallel 20°19.500'S to the starting point     |

**South East Hamilton Designated Anchorage**

- |    |  |
|----|--|
| 33 | The area within 200 metres of the point 20°22.100'S 148°59.250'E |
|----|--|

**South Hamilton Designated Anchorage**

- |    |  |
|----|--|
| 34 | The area within 200 metres of the point 20°22.900'S 148°57.700'E |
|----|--|

**North West Dent Island Designated Anchorage**

- |    |  |
|----|--|
| 35 | The area within 200 metres of the point 20°20.600'S 148°54.900'E |
|----|--|



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## **Part 4—Mackay/Capricorn management area**

### **6 Mackay/Capricorn management area**

A designated anchorage mentioned in a heading in the following table is the area described in the item directly under that heading.

<b>Mackay/Capricorn management area</b>	
<b>Item</b>	<b>Description</b>
<b>Great Keppel Island Designated Anchorage</b>	
1	The area enclosed between the coastal line and the coastal 1 kilometre line of Great Keppel Island (23-012b)
<b>Wistari Reef Designated Anchorage</b>	
2	The area enclosed between the reef edge and the 1 kilometre line of Wistari Reef (23-053)
<b>Lady Elliot Island Designated Anchorage</b>	
3	The area enclosed between the coastal line and the coastal 1 kilometre line of Lady Elliot Island (24-008)

## Schedule 2—Superyacht anchorages

Note: See the definition of *superyacht anchorage* in subsection 5(1).

### 1 Superyacht anchorages with capacity for one superyacht

- (1) A superyacht anchorage mentioned in column 1 of an item of the following table is the area, within the distance specified in column 2 of the item, of the point mentioned in column 3 of the item.

Superyacht anchorages with capacity for one superyacht			
Item	Column 1 Superyacht anchorage	Column 2 Distance	Column 3 Description of point
1	Blue Pearl Bay, Hayman Island	250 m	The point 20°02.538'S 148°52.476'E
2	Bona Bay, Gloucester Island	250 m	The point 20°02.350'S 148°26.252'E
3	Border Island East	250 m	The point 20°09.916'S 149°02.744'E
4	Burning Point, Shaw Island	250 m	The point 20°30.033'S 149°02.845'E
5	Cape Conway/Repulse Bay	250 m	The point 20°31.858'S 148°52.728'E
6	Cateran Bay, Border Island	250 m	The point 20°08.918'S 149°01.806'E
7	Chance Bay, Whitsunday Island	250 m	The point 20°18.832'S 149°02.349'E
8	Gap Beach, Lindeman Islands	250 m	The point 20°25.685'S 149°02.692'E
9	Grassy Island	250 m	The point 20°08.526'S 148°35.807'E
10	Henning and Whitsunday Islands passage	250 m	The point 20°18.515'S 148°55.754'E
11	Luncheon Bay, Hook Island	250 m	The point 20°03.670'S 148°56.025'E
12	Macona Inlet, Hook Island	150 m	The point 20°09.323'S 148°55.574'E
13	Neck Bay, Shaw Island	150 m	The point 20°27.501'S 149°04.529'E
14	Roberta Bay, Shaw Island	250 m	The point 20°29.507'S 149°05.375'E
15	Scrub Hen Beach, Whitsunday Island	250 m	The point 20°10.251'S 148°57.066'E
16	Thomas Island	250 m	The point 20°33.236'S 149°07.446'E
17	Tongue Bay, Whitsunday Island	100 m	The point 20°13.916'S 149°01.171'E
18	Turtle Bay, Whitsunday Island	250 m	The point 20°18.933'S 148°59.631'E
19	Woodwark Bay	250 m	The point 20°11.187'S 148°39.939'E

- (2) The capacity of the superyacht anchorage is one superyacht.

### 2 Superyacht anchorages with capacity of 2 superyachts

- (1) A superyacht anchorage specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially as described in the remaining items under that heading.

## Clause 2

**Superyacht anchorages with capacity of 2 superyachts**

<b>Item</b>	<b>Description</b>
<b>Stonehaven Anchorage, Hook Island superyacht anchorage</b>	
1	The point 20°05.507'S 148°53.644'E
2	East along the parallel 20°05.507'S to longitude 148°53.916'E
3	South along the meridian 148°53.916'E to latitude 20°06.073'S
4	West along the parallel 20°06.073'S to longitude 148°53.644'E
5	North along the meridian 148°53.644'E to the starting point
<b>Whitehaven Beach South, Whitsunday Island superyacht anchorage</b>	
6	The point 20°16.699'S 149°03.195'E
7	East along the parallel 20°16.699'S to longitude 149°03.516'E
8	South along the meridian 149°03.516'E to latitude 20°17.279'S
9	West along the parallel 20°17.279'S to longitude 149°03.075'E
10	North-westerly along the geodesic to the point 20°17.041'S 149°02.789'E
11	North-easterly along the geodesic to the starting point

(2) The capacity of the superyacht anchorage is 2 superyachts.

## Clause 1

**Schedule 3—No-anchoring areas**

Note: See the definition of *no-anchoring area* in subsection 5(1).

**1 No-anchoring areas**

A no-anchoring area specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially as described in the remaining items under the heading.

<b>No-anchoring areas</b>	
<b>Item</b>	<b>Description</b>
<b>Bait Reef no-anchoring area</b>	
1	The point 19°48.420'S 149°03.644'E
2	East along the parallel 19°48.420'S to longitude 149°03.803'E
3	South-easterly along the geodesic to the point 19°49.285'S 149°04.680'E
4	South along the meridian 149°04.680'E to latitude 19°49.381'S
5	West along the parallel 19°49.381'S to longitude 149°04.072'E
6	North-westerly along the geodesic to the point 19°49.202'S 149°03.836'E
7	Northerly along the geodesic to the point 19°48.592'S 149°03.644'E
8	North along the meridian 149°03.644'E to the starting point
<b>Black Island no-anchoring area</b>	
9	The point 20°04.809'S 148°53.429'E
10	South-easterly along the geodesic to the intersection of the Black Island (20-017) coastline at mean low water and the parallel 20°04.869'S (at the point closest to 20°04.869'S 148°53.488'E)
11	Generally southerly along the Black Island (20-017) coastline at mean low water to the intersection of the Black Island (20-017) coastline at mean low water and the parallel 20°05.128'S (at the point closest to 20°05.128'S 148°53.493'E)
12	Westerly along the geodesic to the reef protection marker (at the point closest to 20°05.111'S 148°53.427'E)
13	Northerly along the geodesic to the reef protection marker (at the point closest to 20°04.975'S 148°53.419'E)
14	Northerly along the geodesic to the starting point
<b>Blue Pearl Bay, Hayman Island no-anchoring area</b>	
15	The intersection of the Hayman Island (20-014) coastline at mean low water and the meridian 148°52.697'E (at the point closest to 20°02.892'S 148°52.697'E)
16	Northerly along the geodesic to the reef protection marker (at the point closest to 20°02.851'S 148°52.700'E)
17	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°02.788'S 148°52.830'E)
18	Northerly along the geodesic to the reef protection marker (at the point closest to 20°02.625'S 148°52.865'E)
19	Northerly along the geodesic to the reef protection marker (at the point closest to 20°02.482'S

<b>No-anchoring areas</b>	
<b>Item</b>	<b>Description</b>
	148°52.872'E)
20	Northerly along the geodesic to the reef protection marker (at the point closest to 20°02.267'S 148°52.798'E)
21	North-easterly along the geodesic to the intersection of the Hayman Island (20-014) coastline at mean low water and the parallel 20°02.210'S (at the point closest to 20°02.210'S 148°52.832'E)
22	Generally southerly then south-westerly then north-westerly along the Hayman Island (20-014) coastline at mean low water to the starting point
<b>Butterfly Bay, Hook Island no-anchoring area</b>	
23	The intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°04.317'S (at the point closest to 20°04.317'S 148°55.200'E)
24	Easterly along the geodesic to the reef protection marker (at the point closest to 20°04.351'S 148°55.435'E)
25	Easterly along the geodesic to the reef protection marker (at the point closest to 20°04.362'S 148°55.539'E)
26	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°04.308'S 148°55.605'E)
27	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°04.420'S 148°55.755'E)
28	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°04.295'S 148°55.873'E)
29	Northerly along the geodesic to the reef protection marker (at the point closest to 20°04.141'S 148°55.938'E)
30	North-easterly along the geodesic to the intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°04.119'S (at the point closest to 20°04.119'S 148°55.977'E)
31	Generally south-westerly then north-westerly then southerly then north-westerly along the Hook Island (20-028) coastline at mean low water to the starting point
<b>Cateran Bay, Border Island no-anchoring area</b>	
32	The intersection of the Border Island (20-067) coastline at mean low water and the meridian 149°01.825'E (at the point closest to 20°09.321'S 149°01.825'E)
33	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°09.303'S 149°01.835'E)
34	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°09.411'S 149°01.999'E)
35	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°09.315'S 149°02.083'E)
36	Northerly along the geodesic to the reef protection marker (at the point closest to 20°09.135'S 149°02.155'E)
37	North-easterly along the geodesic to the intersection of the Border Island (20-067) coastline at mean low water and the parallel 20°09.124'S (at the point closest to 20°09.124'S 149°02.178'E)
38	Generally southerly then north-westerly along the Border Island (20-067) coastline at mean low water to the starting point
<b>Dumbell Island no-anchoring area</b>	

**Schedule 3** No-anchoring areas

## Clause 1

**No-anchoring areas**

<b>Item</b>	<b>Description</b>
39	The point 20°10.268'S 149°00.599'E
40	South-easterly along the geodesic to the intersection of the Dumbell Island (20-068) coastline at mean low water and the meridian 149°00.610'E (at the point closest to 20°10.296'S 149°00.610'E)
41	Generally south-westerly along the Dumbell Island (20-068) coastline at mean low water to the intersection of the Dumbell Island (20-068) coastline at mean low water and the parallel 20°10.431'S (at the point closest to 20°10.431'S 149°00.320'E)
42	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°10.337'S 149°00.339'E)
43	Easterly along the geodesic to the reef protection marker (at the point closest to 20°10.326'S 149°00.471'E)
44	North-easterly along the geodesic to the starting point
<b>False Nara, Hook Island no-anchoring area</b>	
45	The intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°10.181'S (at the point closest to 20°10.181'S 148°53.272'E)
46	Northerly along the geodesic to the reef protection marker (at the point closest to 20°10.052'S 148°53.225'E)
47	North-westerly along the geodesic to the reef protection marker (at the point closest to 20°09.978'S 148°53.185'E)
48	Westerly along the geodesic to the reef protection marker (at the point closest to 20°09.945'S 148°53.059'E)
49	North-westerly along the geodesic to the intersection of the Hook Island (20-028) coastline at mean low water and the meridian 148°52.949'E (at the point closest to 20°09.764'S 148°52.949'E)
50	Generally north-easterly then southerly along the Hook Island (20-028) coastline at mean low water to the starting point
<b>Langford Island no-anchoring area</b>	
51	The intersection of the Langford Island (20-019b) coastline at mean low water and the meridian 148°52.376'E (at the point closest to 20°04.661'S 148°52.376'E)
52	Easterly along the geodesic to the reef protection marker (at the point closest to 20°04.667'S 148°52.437'E)
53	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°04.788'S 148°52.634'E)
54	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°04.917'S 148°52.824'E)
55	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°05.032'S 148°53.002'E)
56	South-westerly along the geodesic to the intersection of the Langford Island/Spit (20-019c) coastline at mean low water and the parallel 20°05.090'S (at the point closest to 20°05.090'S 148°52.964'E)
57	Generally north-westerly along the Langford Island (20-019b) and Langford Island/Spit (20-019c) coastlines at mean low water to the starting point
<b>Luncheon Bay, Hook Island no-anchoring area</b>	
58	The intersection of the Hook Island (20-028) coastline at mean low water and the meridian 148°56.645'E (at the point closest to 20°03.800'S 148°56.645'E)

<b>No-anchoring areas</b>	
<b>Item</b>	<b>Description</b>
59	North along the meridian 148°56.645'E to the reef protection marker (at the point closest to 20°03.780'S 148°56.645'E)
60	Easterly along the geodesic to the reef protection marker (at the point closest to 20°03.787'S 148°56.715'E)
61	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°03.868'S 148°56.818'E)
62	Easterly along the geodesic to the reef protection marker (at the point closest to 20°03.855'S 148°57.059'E)
63	North-easterly along the geodesic to the intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°03.751'S (at the point closest to 20°03.751'S 148°57.181'E)
64	Generally south-westerly then north-westerly along the Hook Island (20-028) coastline at mean low water to the starting point
<b>Manta Ray Bay, Hook Island no-anchoring area</b>	
65	The point 20°03.559'S 148°57.181'E
66	East along the parallel 20°03.559'S to the intersection of the Hook Island (20-028) coastline at mean low water and the meridian 148°57.501'E (at the point closest to 20°03.559'S 148°57.501'E)
67	Generally southerly then westerly then south-westerly along the Hook Island (20-028) coastline at mean low water to the intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°03.751'S (at the point closest to 20°03.751'S 148°57.181'E)
68	North along the meridian 148°57.181'E to the starting point
<b>Maureen's Cove, Hook Island no-anchoring area</b>	
69	The intersection of the Hook Island (20-028) coastline at mean low water and the meridian 148°56.012'E (at the point closest to 20°04.103'S 148°56.012'E)
70	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°04.080'S 148°56.045'E)
71	Easterly along the geodesic to the reef protection marker (at the point closest to 20°04.117'S 148°56.148'E)
72	Easterly along the geodesic to the reef protection marker (at the point closest to 20°04.081'S 148°56.347'E)
73	Northerly along the geodesic to the reef protection marker (at the point closest to 20°03.906'S 148°56.372'E)
74	North-easterly along the geodesic to the intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°03.861'S (at the point closest to 20°03.861'S 148°56.430'E)
75	Generally southerly then westerly along the Hook Island (20-028) coastline at mean low water to the starting point
<b>North Stonehaven Bay, Hook Island no-anchoring area</b>	
76	The intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°05.216'S (at the point closest to 20°05.216'S 148°54.334'E)
77	Southerly along the geodesic to the reef protection marker (at the point closest to 20°05.253'S 148°54.325'E)
78	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°05.340'S 148°54.407'E)

**Schedule 3** No-anchoring areas

## Clause 1

**No-anchoring areas**

<b>Item</b>	<b>Description</b>
79	Southerly along the geodesic to the reef protection marker (at the point closest to 20°05.478'S 148°54.410'E)
80	Southerly along the geodesic to the reef protection marker (at the point closest to 20°05.687'S 148°54.422'E)
81	Southerly along the geodesic to the intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°05.792'S (at the point closest to 20°05.792'S 148°54.379'E)
82	Generally north-easterly then northerly then north-westerly along the Hook Island (20-028) coastline at mean low water to the starting point
<b>Pinnacle Bay, Hook Island no-anchoring area</b>	
83	The intersection of the Hook Island (20-028) coastline at mean low water and the meridian 148°57.539'E (at the point closest to 20°03.551'S 148°57.539'E)
84	Easterly along the geodesic to the reef protection marker (at the point closest to 20°03.548'S 148°57.562'E)
85	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°03.620'S 148°57.665'E)
86	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°03.565'S 148°57.818'E)
87	East along the parallel 20°03.565'S to longitude 148°57.897'E
88	South-westerly along the geodesic to the intersection of the Hook Island (20-028) coastline at mean low water and the meridian 148°57.837'E (at the point closest to 20°03.671'S 148°57.837'E)
89	Generally south-westerly then westerly then northerly along the Hook Island (20-028) coastline at mean low water to the starting point
<b>South Stonehaven Bay, Hook Island no-anchoring area</b>	
90	The intersection of the Hook Island (20-028) coastline at mean low water and the parallel 20°05.823'S (at the point closest to 20°05.823'S 148°54.375'E)
91	Southerly along the geodesic to the reef protection marker (at the point closest to 20°05.903'S 148°54.392'E)
92	South-easterly along the geodesic to the reef protection marker (at the point closest to 20°06.035'S 148°54.490'E)
93	South-westerly along the geodesic to the reef protection marker (at the point closest to 20°06.178'S 148°54.364'E)
94	Westerly along the geodesic to the reef protection marker (at the point closest to 20°06.201'S 148°54.185'E)
95	Westerly along the geodesic to the reef protection marker (at the point closest to 20°06.215'S 148°54.122'E)
96	South-westerly along the geodesic to the reef protection marker (at the point closest to 20°06.303'S 148°54.015'E)
97	South-westerly along the geodesic to the intersection of the Hook Island (20-028) coastline at mean low water and the meridian 148°53.968'E (at the point closest to 20°06.356'S 148°53.968'E)
98	Generally south-easterly then north-easterly then north-westerly along the Hook Island (20-028) coastline at mean low water to the starting point
<b>Sunlovers Bay, Daydream Island no-anchoring area</b>	



**No-anchoring areas**

<b>Item</b>	<b>Description</b>
99	The intersection of the Daydream Island (20-035) coastline at mean low water and the parallel 20°15.174'S (at the point closest to 20°15.174'S 148°48.764'E)
100	North-westerly along the geodesic to the reef protection marker (at the point closest to 20°15.146'S 148°48.742'E)
101	North-easterly along the geodesic to the reef protection marker (at the point closest to 20°15.053'S 148°48.799'E)
102	South-easterly along the geodesic to the intersection of the Daydream Island (20-035) coastline at mean low water and the meridian 148°48.817'E (at the point closest to 20°15.066'S 148°48.817'E)
103	Generally south-westerly along the Daydream Island (20-035) coastline at mean low water to the starting point

Note: The Bait Reef and Manta Ray Bay, Hook Island no-anchoring areas are unmarked no-anchoring areas.

## Schedule 4—Whale protection area

Note: See the definition of *whale protection area* in subsection 5(1).

### 1 Whale protection area

The *whale protection area* is the area bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

Whale protection area	
Item	Description
1	The intersection of the mainland coastline at mean low water and the meridian 148°27.183'E (at the point closest to 20°03.602'S 148°27.183'E)
2	North-westerly along the geodesic to 19°58.025'S 148°18.597'E
3	Easterly along the geodesic to 19°57.960'S 148°52.796'E
4	South along the meridian 148°52.796'E to the intersection of the 1 nautical mile line of Hayman Island (20-014) and the meridian 148°52.796'E (at the point closest to 20°01.183'S 148°52.796'E)
5	Generally south-easterly along the 1 nautical mile line of Hayman Island (20-014) to the intersection of the 1 nautical mile line of Hayman Island (20-014) and the 1 nautical mile line of Hook Island (20-028) (at the point closest to 20°02.785'S 148°54.921'E)
6	Generally easterly along the 1 nautical mile line of Hook Island (20-028) to the intersection of the 1 nautical mile line of Hook Island (20-028) and the 1 nautical mile line of Unnamed Rock (20-028c) (at the point closest to 20°02.607'S 148°57.896'E)
7	Generally south-easterly along the 1 nautical mile line of Unnamed Rock (20-028c) to the intersection of the 1 nautical mile line of Unnamed Rock (20-028c) and the 1 nautical mile line of Double Rock (North) (20-018a) and Double Rock (South) (20-018b) (at the point closest to 20°03.379'S 148°58.928'E)
8	Generally southerly along the 1 nautical mile line of Double Rock (North) (20-018a) and Double Rock (South) (20-018b) to the intersection of the 1 nautical mile line of Double Rock (North) (20-018a) and Double Rock (South) (20-018b) and the 1 nautical mile line of Hook Island (20-028) (at the point closest to 20°05.325'S 148°58.559'E)
9	Generally southerly along the 1 nautical mile line of Hook Island (20-028) to the intersection of the 1 nautical mile line of Hook Island (20-028) and the 1 nautical mile line of Whitsunday Island (20-041a) (at the point closest to 20°08.319'S 148°57.870'E)
10	Generally south-easterly along the 1 nautical mile line of Whitsunday Island (20-041a) to the intersection of the 1 nautical mile line of Whitsunday Island (20-041a) and the 1 nautical mile line of Dumbell Island (20-068) (at the point closest to 20°09.577'S 148°59.759'E)
11	Generally north-easterly along the 1 nautical mile line of Dumbell Island (20-068) to the intersection of the 1 nautical mile line of Dumbell Island (20-068) and the 1 nautical mile line of Border Island (20-067) (at the point closest to 20°09.362'S 149°00.210'E)
12	Generally easterly along the 1 nautical mile line of Border Island (20-067) to the intersection of the 1 nautical mile line of Border Island (20-067) and the 1 nautical mile line of Jester Rock (20-088) (at the point closest to 20°08.391'S 149°03.279'E)
13	Generally north-easterly then south-easterly along the 1 nautical mile line of Jester Rock (20-088) to the intersection of the 1 nautical mile line of Jester Rock (20-088) and the 1 nautical mile line of Deloraine Island (20-089) (at the point closest to 20°08.799'S)

<b>Whale protection area</b>	
<b>Item</b>	<b>Description</b>
	149°05.372'E)
14	Generally southerly then westerly along the 1 nautical mile line of Deloraine Island (20-089) to the intersection of the 1 nautical mile line of Deloraine Island (20-089) and the 1 nautical mile line of Border Island (20-067) (at the point closest to 20°10.266'S 149°03.599'E)
15	Generally south-westerly along the 1 nautical mile line of Border Island (20-067) to the intersection of the 1 nautical mile line of Border Island (20-067) and the meridian 149°02.405'E (at the point closest to 20°11.996'S 149°02.405'E)
16	Southerly along the geodesic to the intersection of the 1 nautical mile line of Esk Island (20-070) and the meridian 149°02.427'E (at the point closest to 20°12.881'S 149°02.427'E)
17	Generally south-easterly along the 1 nautical mile line of Esk Island (20-070) to the intersection of the 1 nautical mile line of Esk Island (20-070) and the parallel 20°14.561'S (at the point closest to 20°14.561'S 149°03.525'E)
18	South-easterly along the geodesic to the intersection of the 1 nautical mile line of U/N Island (20-077) and the meridian 149°04.025'E (at the point closest to 20°14.968'S 149°04.025'E)
19	Generally easterly along the 1 nautical mile line of U/N Island (20-077) to the intersection of the 1 nautical mile line of U/N Island (20-077) and the 1 nautical mile line of Haslewood Island (20-078a) (at the point closest to 20°14.653'S 149°05.094'E)
20	Generally easterly along the 1 nautical mile line of Haslewood Island (20-078a) to the intersection of the 1 nautical mile line of Haslewood Island (20-078a) and the meridian 149°07.054'E (at the point closest to 20°14.499'S 149°07.054'E)
21	North-easterly along the geodesic to the intersection of the 1 nautical mile line of Wirrainbeia Island (20-073) and the parallel 20°14.258'S (at the point closest to 20°14.258'S 149°07.427'E)
22	Generally northerly along the 1 nautical mile line of Wirrainbeia Island (20-073) to the intersection of the 1 nautical mile line of Wirrainbeia Island (20-073) and the 1 nautical mile line of Ireby Island (20-071) (at the point closest to 20°13.794'S 149°07.435'E)
23	Generally northerly then easterly along the 1 nautical mile line of Ireby Island (20-071) to the intersection of the 1 nautical mile line of Ireby Island (20-071) and the 1 nautical mile line of Sillago Island (20-072) (at the point closest to 20°13.104'S 149°09.510'E)
24	Generally south-easterly along the 1 nautical mile line of Sillago Island (20-072) to the intersection of the 1 nautical mile line of Sillago Island (20-072) and the 1 nautical mile line of Edward Island (20-075a) (at the point closest to 20°13.527'S 149°10.544'E)
25	Generally south-easterly along the 1 nautical mile line of Edward Island (20-075a) to the intersection of the 1 nautical mile line of Edward Island (20-075a) and the 1 nautical mile line of Yiundalla Island (20-075c) (at the point closest to 20°14.368'S 149°11.573'E)
26	Generally southerly along the 1 nautical mile line of Yiundalla Island (20-075c) to the intersection of the 1 nautical mile line of Yiundalla Island (20-075c) and the 1 nautical mile line of Buddibuddi Island (20-075b) (at the point closest to 20°16.314'S 149°10.956'E)
27	Generally westerly along the 1 nautical mile line of Buddibuddi Island (20-075b) to the intersection of the 1 nautical mile line of Buddibuddi Island (20-075b) and the 1 nautical mile line of Edward Island (20-075a) (at the point closest to 20°16.100'S 149°10.054'E)
28	Generally north-westerly along the 1 nautical mile line of Edward Island (20-075a) to the intersection of the 1 nautical mile line of Edward Island (20-075a) and the 1 nautical mile line of Harold Island (20-074a) (at the point closest to 20°15.684'S 149°09.420'E)
29	Generally westerly along the 1 nautical mile line of Harold Island (20-074a) to the intersection of the 1 nautical mile line of Harold Island (20-074a) and the meridian 149°08.894'E (at the point closest to 20°15.613'S 149°08.894'E)

#### Schedule 4 Whale protection area

##### Clause 1

Whale protection area	
Item	Description
30	South-westerly along the geodesic to the intersection of the 1 nautical mile line of Workington Island (20-079) and the parallel 20°15.858'S (at the point closest to 20°15.858'S 149°08.491'E)
31	Generally southerly along the 1 nautical mile line of Workington Island (20-079) to the intersection of the 1 nautical mile line of Workington Island (20-079) and the 1 nautical mile line of U/N Island (20-078h) (at the point closest to 20°17.372'S 149°07.836'E)
32	Generally south-westerly along the 1 nautical mile line of U/N Island (20-078h) to the intersection of the 1 nautical mile line of U/N Island (20-078h) and the 1 nautical mile line of Lupton Island (20-078b) (at the point closest to 20°17.518'S 149°07.720'E)
33	Generally south-westerly along the 1 nautical mile line of Lupton Island (20-078b) to the intersection of the 1 nautical mile line of Lupton Island (20-078b) and the 1 nautical mile line of Nicolson Island (20-081) (at the point closest to 20°18.331'S 149°06.925'E)
34	Generally south-westerly along the 1 nautical mile line of Nicolson Island (20-081) to the intersection of the 1 nautical mile line of Nicolson Island (20-081) and the 1 nautical mile line of Haslewood Island (20-078a) (at the point closest to 20°19.340'S 149°05.103'E)
35	Generally westerly along the 1 nautical mile line of Haslewood Island (20-078a) to the intersection of the 1 nautical mile line of Haslewood Island (20-078a) and the 1 nautical mile line of Nunga Island (20-082b) (at the point closest to 20°19.334'S 149°04.976'E)
36	Generally westerly along the 1 nautical mile line of Nunga Island (20-082b) to the intersection of the 1 nautical mile line of Nunga Island (20-082b) and the 1 nautical mile line of Frith Rock (20-804) (at the point closest to 20°19.606'S 149°03.789'E)
37	Generally westerly along the 1 nautical mile line of Frith Rock (20-804) to the intersection of the 1 nautical mile line of Frith Rock (20-804) and the 1 nautical mile line of U/N Island (20-041d) (at the point closest to 20°19.635'S 149°03.491'E)
38	Generally south-westerly along the 1 nautical mile line of U/N Island (20-041d) to the intersection of the 1 nautical mile line of U/N Island (20-041d) and the meridian 149°02.910'E (at the point closest to 20°19.913'S 149°02.910'E)
39	South-westerly along the geodesic to the intersection of the 1 nautical mile line of Surprise Rock (20-083) and the parallel 20°20.555'S (at the point closest to 20°20.555'S 149°02.295'E)
40	Generally south-westerly along the 1 nautical mile line of Surprise Rock (20-083) to the intersection of the 1 nautical mile line of Surprise Rock (20-083) and the meridian 149°01.558'E (at the point closest to 20°22.316'S 149°01.558'E)
41	Southerly along the geodesic to the intersection of the 1 nautical mile line of Pentecost Island (20-085) and the meridian 149°01.575'E (at the point closest to 20°22.577'S 149°01.575'E)
42	Generally easterly then south-easterly then southerly along the 1 nautical mile line of Pentecost Island (20-085) to the intersection of the 1 nautical mile line of Pentecost Island (20-085) and the parallel 20°24.302'S (at the point closest to 20°24.302'S 149°03.251'E)
43	Easterly along the geodesic to the intersection of the 1 nautical mile line of Maher Island (20-405) and the parallel 20°24.631'S (at the point closest to 20°24.631'S 149°04.298'E)
44	Generally easterly along the 1 nautical mile line of Maher Island (20-405) to the intersection of the 1 nautical mile line of Maher Island (20-405) and the 1 nautical mile line of Baynham Island (20-091) (at the point closest to 20°25.022'S 149°06.683'E)
45	Generally southerly along the 1 nautical mile line of Baynham Island (20-091) to the intersection of the 1 nautical mile line of Baynham Island (20-091) and the 1 nautical mile line of Comston Island (20-093) (at the point closest to 20°26.788'S 149°07.151'E)
46	Generally south-easterly along the 1 nautical mile line of Comston Island (20-093) to the

<b>Whale protection area</b>	
<b>Item</b>	<b>Description</b>
	intersection of the 1 nautical mile line of Comston Island (20-093) and the 1 nautical mile line of Mansell Island (20-096) (at the point closest to 20°26.834'S 149°07.224'E)
47	Generally south-easterly then south-westerly along the 1 nautical mile line of Mansell Island (20-096) to the intersection of the 1 nautical mile line of Mansell Island (20-096) and the meridian 149°08.026'E (at the point closest to 20°29.977'S 149°08.026'E)
48	Generally southerly along the geodesic to the intersection of the 1 nautical mile line of Thomas Island (20-034a) and the parallel 20°31.746'S (at the point closest to 20°31.746'S 149°08.014'E)
49	Generally south-easterly along the 1 nautical mile line of Thomas Island (20-034a) to the intersection of the 1 nautical mile line of Thomas Island (20-034a) and the 1 nautical mile line of Fairlight Rock (20-035) (at the point closest to 20°31.901'S 149°08.185'E)
50	Generally south-easterly along the 1 nautical mile line of Fairlight Rock (20-035) to the intersection of the 1 nautical mile line of Fairlight Rock (20-035) and the parallel 20°33.169'S (at the point closest to 20°33.169'S 149°09.055'E)
51	Westerly along the geodesic to 20°39.169'S 148°45.825'E
52	North along the meridian 148°45.825'E to the intersection of the mainland coastline at mean low water and the meridian 148°45.825'E (at the point closest to 20°28.791'S 148°45.825'E)
53	Generally north-easterly then south-easterly then north-westerly along the mainland coastline at mean low water to the intersection of the mainland coastline at mean low water and the meridian 148°44.017'E (at the point closest to 20°15.216'S 148°44.017'E)
54	North-westerly along the geodesic to the intersection of the mainland coastline at mean low water and the meridian 148°40.870'E (at the point closest to 20°13.880'S 148°40.870'E)
55	North-westerly along the mainland coastline at mean low water to the starting point

## Schedule 5—Special Management Areas

### Part 1—Species Conservation (Dugong Protection) SMAs

Note: See section 44.

#### 1 Species Conservation (Dugong Protection) SMAs

A Species Conservation (Dugong Protection) SMA, or a part of a Species Conservation (Dugong Protection) SMA, specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially as described in the remaining items under the heading.

Species Conservation (Dugong Protection) SMA	
Item	Description
<b>Part 1 of the Hinchinbrook Island Area Species Conservation (Dugong Protection) SMA</b>	
1	The intersection of the mainland coastline at mean low water and the parallel 18°12.809'S (at the point closest to 18°12.809'S 146°00.778'E)
2	North-easterly along the geodesic to 18°08.493'S 146°09.898'E
3	East along the parallel 18°08.493'S to the intersection of the coastal 500 metre line around the Brook Islands at mean low water and the parallel 18°08.493'S (at the point closest to 18°08.493'S 146°16.291'E)
4	Generally northerly then south-easterly along the coastal 500 metre line around the Brook Islands at mean low water to the intersection of the coastal 500 metre line around the Brook Islands at mean low water and the meridian 146°18.298'E (at the point closest to 18°09.813'S 146°18.298'E)
5	Southerly along the geodesic to the intersection of the coastal 500 metre line around Eva Island (18-013b) at mean low water and the meridian 146°19.148'E (at the point closest to 18°13.651'S 146°19.148'E)
6	Generally easterly then south-westerly along the coastal 500 metre line around Eva Island (18-013b) at mean low water to the intersection of the coastal 500 metre line around Eva Island (18-013b) at mean low water and the meridian 146°19.700'E (at the point closest to 18°14.650'S 146°19.700'E)
7	Southerly along the geodesic to the intersection of the Hinchinbrook Island (18-014) coastline at mean low water and the parallel 18°25.173'S (at the point closest to 18°25.173'S 146°21.460'E)
8	Generally northerly then southerly then westerly along the Hinchinbrook Island (18-014) coastline at mean low water to the intersection of the Hinchinbrook Island (18-014) coastline at mean low water and the Marine Park boundary (at the point closest to 18°14.816'S 146°04.238'E)
9	West along the Marine Park boundary to the intersection of the mainland coastline at mean low water and the parallel 18°14.816'S (at the point closest to 18°14.816'S 146°00.983'E)
10	Generally northerly along the mainland coastline at mean low water to the starting point
<b>Part 2 of the Hinchinbrook Island Area Species Conservation (Dugong Protection) SMA</b>	

<b>Species Conservation (Dugong Protection) SMA</b>	
<b>Item</b>	<b>Description</b>
11	The intersection of the Hinchinbrook Island (18-014) coastline at mean low water and the parallel 18°25.176'S (at the point closest to 18°25.176'S 146°21.460'E)
12	Southerly along the geodesic to the intersection of the Marine Park boundary and the meridian 146°22.827'E (at the point closest to 18°29.986'S 146°22.827'E)
13	Westerly along the Marine Park boundary to the intersection of the mainland coastline at mean low water and the meridian 146°19.059'E (at the point closest to 18°31.109'S 146°19.059'E)
14	North along the Marine Park boundary to the intersection with the Hinchinbrook Island (18-014) coastline at mean low water and the meridian 146°19.059'E (at the point closest to 18°29.349'S 146°19.059'E)
15	North-easterly along the Hinchinbrook Island (18-014) coastline at mean low water to the starting point
<b>Lucinda to Allingham—Halifax Bay Species Conservation (Dugong Protection) SMA</b>	
16	The intersection of the Marine Park boundary and the parallel 18°34.709'S (at the point closest to 18°34.709'S 146°23.378'E)
17	Southerly along the geodesic to 18°37.593'S 146°23.098'E
18	South-westerly along the geodesic to 18°42.393'S 146°21.131'E
19	West along the parallel 18°42.393'S to the intersection of the mainland coastline at mean low water and the parallel 18°42.393'S (at the point closest to 18°42.393'S 146°18.046'E)
20	Northerly along the mainland coastline at mean low water to the intersection of the Marine Park boundary and the parallel 18°34.709'S (at the point closest to 18°34.709'S 146°20.449'E)
21	East along the Marine Park boundary to the starting point
<b>Part 1 of the Cleveland Bay—Magnetic Island Species Conservation (Dugong Protection) SMA</b>	
22	The intersection of the mainland coastline at mean low water and the parallel 19°10.708'S (at the point closest to 19°10.708'S 146°39.060'E)
23	Easterly along the geodesic to the intersection of the coastal 500 metre line around Magnetic Island (19-009) at mean low water and the parallel 19°07.779'S (at the point closest to 19°07.779'S 146°46.469'E)
24	Generally easterly along the coastal 500 metre line around Magnetic Island (19-009) at mean low water to the intersection of the coastal 500 metre line around Magnetic Island (19-009) at mean low water and the meridian 146°50.045'E (at the point closest to 19°06.028'S 146°50.045'E)
25	Easterly along the geodesic to the intersection of the coastal 500 metre line around Magnetic Island (19-009) and the meridian 146°51.765'E (at the point closest to 19°05.859'S 146°51.765'E)
26	Generally south-easterly along the coastal 500 metre line around Magnetic Island (19-009) at mean low water to the intersection of the coastal 500 metre line around Magnetic Island (19-009) at mean low water and the parallel 19°06.879'S (at the point closest to 19°06.879'S 146°53.357'E)
27	South-easterly along the geodesic to the intersection of the Marine Park boundary and the meridian 146°54.690'E (at the point closest to 19°07.599'S 146°54.690'E)
28	Generally westerly then south-westerly along the Marine Park boundary to the intersection of the mainland coastline at mean low water and the meridian 146°47.465'E (at the point closest

**Schedule 5** Special Management Areas  
**Part 1** Species Conservation (Dugong Protection) SMAs

Clause 1

**Species Conservation (Dugong Protection) SMA**

Item	Description
	to 19°14.435'S 146°47.465'E)
29	Generally northerly then westerly along the mainland coastline at mean low water to the starting point

**Part 2 of the Cleveland Bay—Magnetic Island Species Conservation (Dugong Protection) SMA**

30	The intersection of the Marine Park boundary and the meridian 146°58.286'E (at the point closest to 19°09.539'S 146°58.286'E)
31	South-easterly along the geodesic to the intersection of the northern tip of the mainland coastline at mean low water near Cape Cleveland and the meridian 147°00.828'E (at the point closest to 19°10.910'S 147°00.828'E)
32	Generally south-westerly along the mainland coastline at mean low water to the intersection of the mainland coastline at mean low water and the meridian 146°51.465'E (at the point closest to 19°16.975'S 146°51.465'E)
33	North-easterly along the Marine Park boundary to the starting point

**Bowling Green Bay Species Conservation (Dugong Protection) SMA**

34	The intersection of the mainland coastline at mean low water near Cape Cleveland and the meridian 147°00.891'E (at the point closest to 19°10.920'S 147°00.891'E)
35	Easterly along the geodesic to the intersection of the mainland coastline at mean low water near Cape Bowling Green and the meridian 147°23.495'E (at the point closest to 19°18.137'S 147°23.495'E)
36	Generally southerly then westerly then north-westerly along the mainland coastline at mean low water to the starting point

**Upstart Bay Species Conservation (Dugong Protection) SMA**

37	The intersection of the mainland coastline at mean low water near Beach Hill and the parallel 19°43.525'S (at the point closest to 19°43.525'S 147°35.273'E)
38	Easterly along the geodesic to the intersection of the mainland coastline at mean low water near Cape Upstart and the parallel 19°42.403'S (at the point closest to 19°42.403'S 147°45.156'E)
39	Generally southerly then north-westerly along the mainland coastline at mean low water to the starting point

**Edgecumbe Bay—Bowen Species Conservation (Dugong Protection) SMA**

40	The intersection of the mainland coastline at mean low water and the meridian 148°11.962'E (at the point closest to 19°56.849'S 148°11.962'E)
41	Easterly along the geodesic to the intersection of Gloucester Island (20-003) coastline at mean low water and the meridian 148°27.061'E (at the point closest to 19°58.300'S 148°27.061'E)
42	South-westerly then southerly along the Gloucester Island (20-003) coastline at mean low water to the intersection of the Gloucester Island (20-003) coastline at mean low water and the meridian 148°27.430'E (at the point closest to 20°03.136'S 148°27.430'E)
43	South-westerly along the geodesic to the intersection of the mainland coastline at mean low water and the meridian 148°27.188'E (at the point closest to 20°03.624'S 148°27.188'E)
44	Generally southerly then westerly then north-westerly along the mainland coastline at mean low water to the intersection of mainland coastline at mean low water and the Marine Park boundary (at the point closest to 20°04.408'S 148°16.622'E)
45	Generally easterly then northerly then westerly along the Marine Park boundary to the



<b>Species Conservation (Dugong Protection) SMA</b>	
<b>Item</b>	<b>Description</b>
	intersection of the mainland coastline at mean low water and the parallel 20°00.708'S (at the point closest to 20°00.708'S 148°16.102'E)
46	Generally northerly then north-westerly along the mainland coastline at mean low water to the starting point
<b>Repulse Bay Species Conservation (Dugong Protection) SMA</b>	
47	The intersection of the mainland coastline at mean low water and the meridian 148°45.870'E (at the point closest to 20°28.839'S 148°45.870'E)
48	Generally north-easterly then southerly along the mainland coastline at mean low water to the intersection of the mainland coastline at mean low water and the meridian 148°49.776'E (at the point closest to 20°30.132'S 148°49.776'E)
49	Westerly along the geodesic to 20°30.141'S 148°45.847'E
50	Northerly along the geodesic to the starting point
<b>Stewart Peninsula—Newry Islands—Ball Bay Species Conservation (Dugong Protection) SMA</b>	
51	The intersection of the mainland coastline at mean low water and the parallel 20°44.908'S (at the point closest to 20°44.908'S 148°46.663'E)
52	East along the parallel 20°44.908'S to longitude 148°50.763'E
53	South-easterly along the geodesic to 20°51.924'S 148°59.813'E
54	South along the meridian 148°59.813'E to the intersection of the mainland coastline at mean low water and the parallel 20°53.625'S (at the point closest to 20°53.625'S 148°59.813'E)
55	Generally westerly then north-westerly along the mainland coastline at mean low water to the starting point
<b>Ball Bay—Sand Bay Species Conservation (Dugong Protection) SMA</b>	
56	The intersection of the mainland coastline at mean low water at Ball Bay and the meridian 148°59.813'E (at the point closest to 20°53.625'S 148°59.813'E)
57	North along the meridian 148°59.813'E to latitude 20°51.924'S
58	South-easterly along the geodesic to 20°56.724'S 149°06.846'E
59	South-westerly along the geodesic to the intersection of the mainland coastline at mean low water and the meridian 149°05.763'E (at the point closest to 20°58.774'S 149°05.763'E)
60	Generally westerly then northerly along the mainland coastline at mean low water to the starting point
<b>Llewellyn Bay Species Conservation (Dugong Protection) SMA</b>	
61	The intersection of the mainland coastline at mean low water and the meridian 149°19.840'E (at the point closest to 21°24.643'S 149°19.840'E)
62	Easterly along the geodesic to 21°27.024'S 149°27.763'E
63	Southerly along the geodesic to 21°30.574'S 149°28.979'E
64	Westerly along the geodesic to 21°29.124'S 149°24.413'E
65	Westerly along the geodesic to the intersection of the mainland coastline at mean low water and the meridian 149°20.630'E (at the point closest to 21°28.565'S 149°20.630'E)
66	Generally westerly then northerly along the mainland coastline at mean low water to the starting point
<b>Ince Bay (Cape Palmerston—Allom Point) Species Conservation (Dugong Protection) SMA</b>	

**Schedule 5** Special Management Areas  
**Part 1** Species Conservation (Dugong Protection) SMAs

Clause 1

**Species Conservation (Dugong Protection) SMA**

Item	Description
67	The intersection of the mainland coastline at mean low water and the meridian 149°20.630'E (at the point closest to 21°28.565'S 149°20.630'E)
68	Easterly along the geodesic to 21°29.124'S 149°24.413'E
69	Easterly along the geodesic to 21°30.574'S 149°28.979'E
70	Southerly along the geodesic to the intersection of the mainland coastline at mean low water and the meridian 149°28.968'E (at the point closest to 21°31.935'S 149°28.968'E)
71	Generally southerly then north-westerly along the mainland coastline at mean low water to the starting point

**Clairview Bluff—Carmilla Creek Species Conservation (Dugong Protection) SMA**

72	The intersection of the mainland coastline at mean low water and the parallel 21°54.324'S (at the point closest to 21°54.324'S 149°27.864'E)
73	East along the parallel 21°54.324'S to longitude 149°33.063'E
74	South-easterly along the geodesic to 21°57.807'S 149°35.813'E
75	South along the meridian 149°35.813'E to latitude 22°01.657'S
76	Southerly along the geodesic to 22°10.474'S 149°36.779'E
77	Westerly along the geodesic to the intersection of the mainland coastline at mean low water and the parallel 22°10.450'S (at the point closest to 22°10.450'S 149°34.022'E)
78	Northerly along the mainland coastline at mean low water to the starting point

**Shoalwater Bay Species Conservation (Dugong Protection) SMA**

79	The intersection of mainland coastline at mean low water and the parallel 22°19.550'S (at the point closest to 22°19.550'S 150°11.575'E)
80	North-easterly along the geodesic to the intersection of the Swan Island (22-062) coastline at mean low water and the parallel 22°19.308'S (at the point closest to 22°19.308'S 150°12.145'E)
81	Generally south-easterly then north-easterly along the Swan Island (22-062) coastline at mean low water to the intersection of the Swan Island (22-062) coastline at mean low water and the parallel 22°19.168'S (at the point closest to 22°19.168'S 150°12.477'E)
82	North-easterly along the geodesic to the intersection of the Townshend Island (22-805) coastline at mean low water and the meridian 150°28.724'E (at the point closest to 22°12.283'S 150°28.724'E)
83	Generally southerly then easterly along the Townshend Island (22-805) coastline at mean low water to the intersection of the Townshend Island (22-805) coastline at mean low water and the parallel 22°17.753'S (at the point closest to 22°17.753'S 150°33.680'E)
84	Southerly along the geodesic to the intersection of the mainland coastline at mean low water near Reef Point and the meridian 150°33.980'E (at the point closest to 22°18.950'S 150°33.980'E)
85	Generally southerly then north-westerly along the mainland coastline at mean low water to the starting point

**Port Clinton (Reef Point—Cape Clinton) Species Conservation (Dugong Protection) SMA**

86	The intersection of the mainland coastline at mean low water near Reef Point and the meridian 150°33.980'E (at the point closest to 22°18.950'S 150°33.980'E)
87	Northerly along the geodesic to the intersection of the Townshend Island (22-805) coastline at mean low water and the parallel 22°17.753'S (at the point closest to 22°17.753'S

<b>Species Conservation (Dugong Protection) SMA</b>	
<b>Item</b>	<b>Description</b>
	150°33.680'E)
88	Easterly along the geodesic to 22°19.590'S 150°39.596'E
89	South-easterly along the geodesic to 22°21.507'S 150°41.229'E
90	Southerly along the geodesic to 22°22.340'S 150°41.529'E
91	South-easterly along the geodesic to 22°24.873'S 150°43.262'E
92	South-easterly along the geodesic to 22°26.907'S 150°45.428'E
93	Southerly along the geodesic to 22°31.890'S 150°47.346'E
94	Southerly along the geodesic to the intersection of the mainland coastline at mean low water near Cape Clinton and the parallel 22°32.231'S (at the point closest to 22°32.231'S 150°47.326'E)
95	Generally north-westerly along the mainland coastline at mean low water to the starting point
<b>Part 1 of the Port of Gladstone—Rodds Bay Species Conservation (Dugong Protection) SMA</b>	
96	The intersection of the Facing Island (23-061) coastline at mean low water and the meridian 151°19.953'E (at the point closest to 23°45.219'S 151°19.953'E)
97	Generally south-westerly along the Facing Island (23-061) coastline at mean low water to the intersection of the Facing Island (23-061) coastline at mean low water and the Marine Park boundary (at the point closest to 23°45.346'S 151°19.813'E)
98	Westerly along the Marine Park boundary to the intersection of the Marine Park boundary and the meridian 151°19.567'E (at the point closest to 23°45.340'S 151°19.567'E)
99	Easterly along the geodesic to the starting point
<b>Part 2 of the Port of Gladstone—Rodds Bay Species Conservation (Dugong Protection) SMA</b>	
100	The intersection of the Facing Island (23-061) coastline at mean low water and the parallel 23°51.876'S (at the point closest to 23°51.876'S 151°23.667'E)
101	South-easterly along the geodesic to the intersection of the Marine Park boundary and the parallel 23°52.173'S (at the point closest to 23°52.173'S 151°24.241'E)
102	South-westerly along the Marine Park boundary to the intersection of the Facing Island (23-061) coastline at mean low water and the parallel 23°52.526'S (at the point closest to 23°52.526'S 151°23.317'E)
103	Generally north-easterly along the Facing Island (23-061) coastline at mean low water to the starting point
<b>Part 3 of the Port of Gladstone—Rodds Bay Species Conservation (Dugong Protection) SMA</b>	
104	The intersection of the Marine Park boundary and the meridian 151°30.695'E (at the point closest to 23°55.522'S 151°30.695'E)
105	South-easterly along the geodesic to the intersection of the mainland coastline at mean low water and the meridian 151°36.814'E (at the point closest to 23°58.697'S 151°36.814'E)
106	Generally southerly along the mainland coastline at mean low water to the intersection of the mainland coastline at mean low water and the Marine Park boundary (at the point closest to 24°00.515'S 151°36.203'E)
107	South-westerly along the Marine Park boundary to the intersection of the Hummock Hill Island (24-801) coastline at mean low water and the parallel 24°02.036'S (at the point closest to 24°02.036'S 151°32.748'E)

Clause 2

**Species Conservation (Dugong Protection) SMA**

Item	Description
108	Generally north-westerly along the Hummock Hill Island (24-801) coastline at mean low water to the intersection of the Marine Park boundary and the meridian 151°26.535'E (at the point closest to 23°59.499'S 151°26.535'E)
109	North-easterly along the Marine Park boundary to the starting point

**2 Conditions of set mesh net use in certain offshore waters**

Subsection 44(3) (conditions of set mesh net use in certain offshore waters) applies to those waters that:

- (a) are specified in a heading in the following table bounded by the line starting at the point described in the first item directly under the heading and running sequentially in the remaining items under the heading; and
- (b) are offshore waters.

**Offshore waters where additional conditions for set mesh use apply**

Item	Description
<b>Offshore waters within Edgumbe Bay—Bowen Species Conservation (Dugong Protection) SMA</b>	
1	The intersection of the mainland coastline at mean low water and the meridian 148°13.468'E (at the point closest to 19°57.873'S 148°13.468'E)
2	East along the parallel 19°57.873'S to longitude 148°13.900'E
3	South-easterly along the geodesic to 19°58.823'S 148°14.542'E
4	Easterly along the geodesic to 19°58.871'S 148°15.159'E
5	Northerly along the geodesic to 19°58.187'S 148°15.316'E
6	East along the parallel 19°58.187'S to longitude 148°15.867'E
7	South-easterly along the geodesic to 19°58.962'S 148°16.333'E
8	Southerly along the geodesic to 19°59.543'S 148°16.400'E
9	South-westerly along the geodesic to 20°00.354'S 148°16.194'E
10	South-easterly along the geodesic to the intersection of the Marine Park boundary and the meridian 148°16.405'E (at the point closest to 20°00.710'S 148°16.405'E)
11	West along the Marine Park boundary to the intersection of the mainland coastline at mean low water and the parallel 20°00.710'S (at the point closest to 20°00.710'S 148°16.090'E)
12	Generally north-westerly along the mainland coastline at mean low water to the starting point
<b>Offshore waters within Edgumbe Bay—Bowen Species Conservation (Dugong Protection) SMA</b>	
13	The intersection of the mainland coastline at mean low water near Adelaide Point and the meridian 148°16.683'E (at the point closest to 20°04.410'S 148°16.683'E)
14	East along the Marine Park boundary to the intersection of the Marine Park boundary and the meridian 148°18.256'E (at the point closest to 20°04.410'S 148°18.256'E)
15	South along the meridian 148°18.256'E to latitude 20°04.926'S
16	South-westerly along the geodesic to 20°05.197'S 148°18.046'E
17	West along the parallel 20°05.197'S to longitude 148°17.436'E

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**Offshore waters where additional conditions for set mesh use apply**

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<b>Item</b>	<b>Description</b>
18	North-westerly along the geodesic to the intersection of the mainland coastline at mean low water and the parallel 20°04.818'S (at the point closest to 20°04.818'S 148°17.197'E)
19	Generally north-westerly along the mainland coastline at mean low water to the starting point

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**Offshore waters within Edgumbe Bay—Bowen Species Conservation (Dugong Protection) SMA**

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20	The point 20°05.719'S 148°18.597'E
21	East along the parallel 20°05.719'S to longitude 148°18.913'E
22	South-easterly along the geodesic to 20°05.938'S 148°19.302'E
23	South along the meridian 148°19.302'E to latitude 20°06.300'S
24	South-westerly along the geodesic to 20°06.548'S 148°19.103'E
25	West along the parallel 20°06.548'S to longitude 148°18.283'E
26	North along the meridian 148°18.283'E to latitude 20°06.023'S
27	Generally north-easterly along the geodesic to the starting point

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**Offshore waters within Edgumbe Bay—Bowen Species Conservation (Dugong Protection) SMA**

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28	The intersection of the mainland coastline at mean low water and the meridian 148°19.830'E (at the point closest to 20°08.359'S 148°19.830'E)
29	North-westerly along the geodesic to 20°08.069'S 148°19.717'E
30	North-easterly along the geodesic to 20°07.904'S 148°20.074'E
31	South-easterly along the geodesic to 20°08.307'S 148°20.660'E
32	Southerly along the geodesic to 20°08.542'S 148°20.678'E
33	South-westerly along the geodesic to the intersection of the mainland coastline at mean low water and the parallel 20°09.080'S (at the point closest to 20°09.080'S 148°20.435'E)
34	Generally north-westerly along the mainland coastline at mean low water to the starting point

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**Offshore waters within Edgumbe Bay—Bowen Species Conservation (Dugong Protection) SMA**

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35	The intersection of the mainland coastline at mean low water and the meridian 148°27.198'E (at the point closest to 20°03.603'S 148°27.198'E)
36	North-easterly along the geodesic to 20°03.391'S 148°27.303'E
37	North-westerly along the geodesic to 20°03.281'S 148°27.121'E
38	South-westerly along the geodesic to 20°03.520'S 148°26.095'E
39	South along the meridian 148°26.095'E to latitude 20°05.482'S
40	East along the parallel 20°05.482'S to the intersection of the mainland coastline at mean low water and the parallel 20°05.482'S (at the point closest to 20°05.482'S 148°26.497'E)
41	Generally north-easterly along the mainland coastline at mean low water to the starting point

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**Offshore waters within Repulse Bay Species Conservation (Dugong Protection) SMA**

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42	The intersection of the mainland coastline at mean low water and the parallel 20°29.493'S (at the point closest to 20°29.493'S 148°49.500'E)
43	West along the parallel 20°29.493'S to longitude 148°49.161'E
44	South-westerly along the geodesic to 20°29.672'S 148°49.021'E
45	Southerly along the geodesic to 20°29.837'S 148°49.006'E

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**Schedule 5** Special Management Areas  
**Part 1** Species Conservation (Dugong Protection) SMAs

Clause 2

**Offshore waters where additional conditions for set mesh use apply**

Item	Description
46	South-easterly along the geodesic to 20°29.991'S 148°49.091'E
47	South-easterly along the geodesic to 20°30.133'S 148°49.239'E
48	East along the parallel 20°30.133'S to the intersection of the mainland coastline at mean low water and the meridian 148°49.775'E (at the point closest to 20°30.133'S 148°49.775'E)
49	Generally north-westerly along the mainland coastline at mean low water to the starting point

**Offshore waters within Ball Bay—Sand Bay Species Conservation (Dugong Protection) SMA**

50	The intersection of the mainland coastline at mean low water at Ball Bay and the meridian 148°59.813'E (at the point closest to 20°53.625'S 148°59.813'E)
51	North along the meridian 148°59.813'E to latitude 20°53.291'S
52	South-easterly along the geodesic to 20°53.342'S 148°59.967'E
53	South-easterly along the geodesic to 20°53.630'S 149°00.202'E
54	Southerly along the geodesic to 20°53.944'S 149°00.186'E
55	South-westerly along the geodesic to 20°54.115'S 149°00.089'E
56	South-easterly along the geodesic to 20°54.495'S 149°00.439'E
57	East along the parallel 20°54.495'S to longitude 149°00.969'E
58	North-easterly along the geodesic to 20°53.893'S 149°01.191'E
59	North-easterly along the geodesic to 20°53.825'S 149°01.362'E
60	South along the meridian 149°01.362'E to the intersection of the mainland coastline at mean low water and the parallel 20°54.249'S (at the point closest to 20°54.249'S 149°01.362'E)
61	Generally southerly then westerly then north-westerly along the mainland coastline at mean low water to the starting point

**Offshore waters within Ball Bay—Sand Bay Species Conservation (Dugong Protection) SMA**

62	The intersection of the mainland coastline at mean low water and the meridian 149°02.788'E (at the point closest to 20°54.210'S 149°02.788'E)
63	North-westerly along the geodesic to 20°53.954'S 149°02.541'E
64	Easterly along the geodesic to 20°53.924'S 149°02.744'E
65	South-easterly along the geodesic to 20°54.253'S 149°03.225'E
66	Southerly along the geodesic to 20°54.557'S 149°03.215'E
67	South-westerly along the geodesic to 20°54.816'S 149°02.956'E
68	South-easterly along the geodesic to 20°55.239'S 149°03.130'E
69	North-easterly along the geodesic to 20°54.981'S 149°03.486'E
70	Easterly along the geodesic to 20°55.039'S 149°03.855'E
71	South-easterly along the geodesic to 20°55.243'S 149°04.087'E
72	South-westerly along the geodesic to 20°55.752'S 149°03.963'E
73	South-westerly along the geodesic to 20°56.011'S 149°03.730'E
74	South-westerly along the geodesic to 20°56.195'S 149°02.979'E
75	North-westerly along the geodesic to 20°56.100'S 149°02.470'E
76	North-westerly along the geodesic to 20°55.908'S 149°02.349'E
77	North-easterly along the geodesic to the intersection of the mainland coastline at mean low

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**Offshore waters where additional conditions for set mesh use apply**

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<b>Item</b>	<b>Description</b>
	water and the parallel 20°55.724'S (at the point closest to 20°55.724'S 149°02.576'E)
78	Generally easterly then north-westerly along the mainland coastline at mean low water to the starting point

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**Offshore waters within Llewellyn Bay Species Conservation (Dugong Protection) SMA**

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79	The intersection of the mainland coastline at mean low water and the meridian 149°19.840'E (at the point closest to 21°24.643'S 149°19.840'E)
80	Easterly along the geodesic to 21°24.766'S 149°20.251'E
81	South-easterly along the geodesic to 21°25.524'S 149°20.539'E
82	Southerly along the geodesic to 21°25.894'S 149°20.503'E
83	South-westerly along the geodesic to 21°26.267'S 149°20.227'E
84	Westerly along the geodesic to 21°26.212'S 149°19.872'E
85	North-westerly along the geodesic to 21°25.759'S 149°19.492'E
86	North-easterly along the geodesic to the intersection of the mainland coastline at mean low water and the meridian 149°19.644'E (at the point closest to 21°25.520'S 149°19.644'E)
87	Generally south-easterly then northerly along the mainland coastline at mean low water to the starting point

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**Offshore waters within Port of Gladstone—Rodds Bay Species Conservation (Dugong Protection) SMA**

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88	The intersection of the Facing Island (23-061) coastline at mean low water and the parallel 23°51.876'S (at the point closest to 23°51.876'S 151°23.667'E)
89	South-easterly along the geodesic to 23°52.013'S 151°23.932'E
90	South-westerly along the geodesic to 23°52.210'S 151°23.770'E
91	South-westerly along the geodesic to 23°52.299'S 151°23.631'E
92	Southerly along the geodesic to the intersection of the Marine Park boundary and the parallel 23°52.410'S (at the point closest to 23°52.410'S 151°23.623'E)
93	South-westerly along the Marine Park boundary to the intersection of the Facing Island (23-061) coastline at mean low water and the parallel 23°52.526'S (at the point closest to 23°52.526'S 151°23.317'E)
94	Generally north-easterly along the Facing Island (23-061) coastline at mean low water to the starting point

---

### **3 No netting (other than bait netting) area within Bowling Green Bay Species Conservation (Dugong Protection) SMA**

The area in which no netting (within the ordinary meaning of the expression), other than bait netting (within the meaning of this instrument), may be carried out under subsection 44(4) is the area within Bowling Green Bay Species Conservation (Dugong Protection) SMA bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

Clause 4

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**No netting (other than bait netting) area within Bowling Green Bay Species Conservation (Dugong Protection) SMA**

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Item	Description
1	The point 19°23.282'S 147°15.684'E
2	East along the parallel 19°23.282'S to longitude 147°23.581'E
3	South along the meridian 147°23.581'E to latitude 19°23.985'S
4	West along the parallel 19°23.985'S to longitude 147°15.684'E
5	North along the meridian 147°15.684'E to the starting point

---

**4 Restricted netting area within Bowling Green Bay Species Conservation (Dugong Protection) SMA**

The area in which mesh nets must be used in accordance with subsections 44(5) and (6) is the area within Bowling Green Bay Species Conservation (Dugong Protection) SMA bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

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**Restricted netting area within Bowling Green Bay Species Conservation (Dugong Protection) SMA**

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Item	Description
1	The point 19°23.985'S 147°15.684'E
2	East along the parallel 19°23.985'S to longitude 147°23.581'E
3	South along the meridian 147°23.581'E to the intersection of the mainland coastline at mean low water and the meridian 147°23.581'E (at the point closest to 19°25.119'S 147°23.581'E)
4	Westerly along the mainland coastline at mean low water to the intersection of the mainland coastline at mean low water and the meridian 147°15.684'E (at the point closest to 19°25.673'S 147°15.684'E)
5	North along the meridian 147°15.684'E to the starting point

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## Part 2—Seasonal Closure (Offshore Ribbon Reefs)

Note: See section 45.

### 5 Seasonal Closure (Offshore Ribbon Reefs) SMAs

- (1) A Seasonal Closure (Offshore Ribbon Reefs) SMA specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially in the remaining items under the heading.

Seasonal Closure (Offshore Ribbon Reefs) SMA	
Item	Description
<b>Day Reef (14-089) Seasonal Closure (Offshore Ribbon Reefs) SMA</b>	
1	The point 14°26.393'S 145°32.329'E
2	South-easterly along the geodesic to 14°29.879'S 145°35.407'E
3	South-westerly along the geodesic to 14°31.641'S 145°33.543'E
4	Westerly along the geodesic to 14°31.458'S 145°32.208'E
5	North-westerly along the geodesic to 14°31.379'S 145°32.060'E
6	Easterly along the geodesic to 14°31.297'S 145°33.491'E
7	North-easterly along the geodesic to 14°30.952'S 145°33.960'E
8	Northerly along the geodesic to 14°30.363'S 145°33.897'E
9	North-westerly along the geodesic to 14°28.210'S 145°32.101'E
10	Westerly along the geodesic to 14°28.173'S 145°31.252'E
11	South-westerly along the geodesic to 14°28.386'S 145°30.877'E
12	Northerly along the geodesic to 14°27.761'S 145°31.128'E
13	North-easterly along the geodesic to the starting point
<b>Ribbon No. 10 Reef (14-146) Seasonal Closure (Offshore Ribbon Reefs) SMA</b>	
14	The point 14°39.402'S 145°39.530'E
15	East along the parallel 14°39.402'S to longitude 145°41.808'E
16	South-easterly along the geodesic to 14°41.983'S 145°43.512'E
17	Southerly along the geodesic to 14°44.737'S 145°44.329'E
18	Southerly along the geodesic to 14°51.997'S 145°45.742'E
19	Southerly along the geodesic to 14°55.703'S 145°44.650'E
20	West along the parallel 14°55.703'S to longitude 145°42.438'E
21	Easterly along the geodesic to 14°55.549'S 145°42.861'E
22	North-easterly along the geodesic to 14°55.224'S 145°43.256'E
23	Northerly along the geodesic to 14°54.309'S 145°43.677'E
24	Northerly along the geodesic to 14°53.183'S 145°44.030'E
25	Northerly along the geodesic to 14°52.154'S 145°44.157'E
26	Northerly along the geodesic to 14°50.703'S 145°44.058'E
27	Northerly along the geodesic to 14°49.184'S 145°43.692'E

**Schedule 5** Special Management Areas  
**Part 2** Seasonal Closure (Offshore Ribbon Reefs)

Clause 5

<b>Seasonal Closure (Offshore Ribbon Reefs) SMA</b>	
<b>Item</b>	<b>Description</b>
28	Northerly along the geodesic to 14°46.774'S 145°43.284'E
29	Northerly along the geodesic to 14°45.888'S 145°43.044'E
30	Northerly along the geodesic to 14°44.983'S 145°42.903'E
31	North-westerly along the geodesic to 14°44.518'S 145°42.558'E
32	Northerly along the geodesic to 14°44.211'S 145°42.453'E
33	Northerly along the geodesic to 14°42.576'S 145°42.216'E
34	North-westerly along the geodesic to 14°42.156'S 145°41.946'E
35	North-westerly along the geodesic to 14°43.000'S 145°41.635'E
36	North-westerly along the geodesic to 14°41.556'S 145°41.124'E
37	Northerly along the geodesic to 14°40.843'S 145°40.909'E
38	Westerly along the geodesic to 14°40.719'S 145°40.566'E
39	North-westerly along the geodesic to 14°40.422'S 145°40.355'E
40	Northerly along the geodesic to 14°39.806'S 145°40.156'E
41	North-westerly along the geodesic to 14°39.601'S 145°39.978'E
42	North-westerly along the geodesic to the starting point
<b>Ribbon No. 7 Reef (15-026), Ribbon No. 6 Reef (15-032), Unnamed Reef (15-034) Seasonal Closure (Offshore Ribbon Reefs) SMA</b>	
43	The point 15°19.836'S 145°47.063'E
44	Westerly along the geodesic to 15°20.448'S 145°44.976'E
45	North-easterly along the geodesic to 15°20.074'S 145°45.329'E
46	North-easterly along the geodesic to 15°19.268'S 145°45.951'E
47	Easterly along the geodesic to 15°19.236'S 145°46.147'E
48	North-easterly along the geodesic to 15°19.106'S 145°46.344'E
49	Northerly along the geodesic to 15°18.858'S 145°46.425'E
50	North-westerly along the geodesic to 15°18.225'S 145°46.114'E
51	North-westerly along the geodesic to 15°18.096'S 145°45.872'E
52	West along the parallel 15°18.096'S to longitude 145°45.449'E
53	North-easterly along the geodesic to 15°17.716'S 145°45.736'E
54	Northerly along the geodesic to 15°17.574'S 145°45.768'E
55	Northerly along the geodesic to 15°16.821'S 145°45.575'E
56	Northerly along the geodesic to 15°16.427'S 145°45.585'E
57	Northerly along the geodesic to 15°15.720'S 145°45.359'E
58	Northerly along the geodesic to 15°15.581'S 145°45.348'E
59	North-westerly along the geodesic to 15°15.444'S 145°45.135'E
60	Westerly along the geodesic to 15°15.390'S 145°44.871'E
61	North-westerly along the geodesic to 15°15.120'S 145°44.721'E
62	North along the meridian 145°44.721'E to latitude 15°14.119'S
63	North-easterly along the geodesic to 15°13.817'S 145°45.078'E
64	Northerly along the geodesic to 15°13.509'S 145°45.114'E
65	North-westerly along the geodesic to 15°13.346'S 145°45.002'E

<b>Seasonal Closure (Offshore Ribbon Reefs) SMA</b>	
<b>Item</b>	<b>Description</b>
66	Northerly along the geodesic to 15°12.864'S 145°44.952'E
67	North-easterly along the geodesic to 15°12.551'S 145°45.221'E
68	Northerly along the geodesic to 15°12.146'S 145°45.234'E
69	North-westerly along the geodesic to 15°11.859'S 145°44.645'E
70	North-westerly along the geodesic to 15°11.402'S 145°44.417'E
71	Easterly along the geodesic to 15°11.400'S 145°45.000'E
72	East along the parallel 15°11.400'S to longitude 145°47.063'E
73	South along the meridian 145°47.063'E to the starting point

*Areas described by reference to the Zoning Plan*

- (2) Each area described in Part 4 of Schedule 1 to the Zoning Plan in accordance with the following table is a Seasonal Closure (Offshore Ribbon Reefs) SMA having as its name the name of the area followed by the words 'Seasonal Closure (Offshore Ribbon Reefs) SMA'.

<b>Areas described by reference to the Zoning Plan</b>		
<b>Item</b>	<b>Area</b>	<b>Zone Number</b>
1	Ribbon Reef No. 5 Patches (15-042) and inter-reefal areas	B-15-3007
2	Ribbon Reef No. 2 and 3 inter-reefal areas	B-15-3008

## Part 3—No Dories Detached (Offshore Ribbon Reefs) SMAs

Note: See section 46.

### 6 No Dories Detached (Offshore Ribbon Reefs) SMAs

A No Dories Detached (Offshore Ribbon Reefs) SMA specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially in the remaining items under the heading.

No Dories Detached (Offshore Ribbon Reefs) SMAs	
Item	Description
<b>Yonge Reef (14-138) and No Name Reef (14-139) No Dories Detached (Offshore Ribbon Reefs) SMA</b>	
1	The point 14°33.073'S 145°38.224'E
2	South-easterly along the geodesic to 14°39.402'S 145°41.808'E
3	West along the parallel 14°39.402'S to longitude 145°39.530'E
4	South-westerly along the geodesic to 14°39.905'S 145°38.514'E
5	South-easterly along the geodesic to 14°39.943'S 145°38.534'E
6	South-easterly along the geodesic to 14°40.021'S 145°38.684'E
7	South-easterly along the geodesic to 14°40.176'S 145°38.879'E
8	Easterly along the geodesic to 14°40.188'S 145°39.098'E
9	South-westerly along the geodesic to 14°40.993'S 145°38.508'E
10	North-westerly along the geodesic to 14°37.571'S 145°36.771'E
11	Northerly along the geodesic to 14°37.046'S 145°36.595'E
12	Northerly along the geodesic to 14°35.982'S 145°36.240'E
13	Northerly along the geodesic to 14°34.989'S 145°35.910'E
14	North-westerly along the geodesic to 14°34.910'S 145°35.848'E
15	North-easterly along the geodesic to the starting point
<b>No. 10 Patches (No. 3) (14-153a) and No. 10 Patches (No. 4) (14-153b) No Dories Detached (Offshore Ribbon Reefs) SMA</b>	
16	The point 14°57.135'S 145°43.767'E
17	West along the parallel 14°57.135'S to longitude 145°42.136'E
18	South-westerly along the geodesic to 14°58.323'S 145°41.493'E
19	West along the parallel 14°58.323'S to longitude 145°40.127'E
20	North along the meridian 145°40.127'E to latitude 14°55.985'S
21	East along the parallel 14°55.985'S to longitude 145°40.353'E
22	South along the meridian 145°40.353'E to latitude 14°56.062'S
23	South-easterly along the geodesic to 14°56.203'S 145°40.479'E
24	Easterly along the geodesic to 14°56.250'S 145°40.646'E
25	Easterly along the geodesic to 14°56.264'S 145°40.830'E
26	Easterly along the geodesic to 14°56.172'S 145°41.235'E

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**No Dorries Detached (Offshore Ribbon Reefs) SMAs**

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<b>Item</b>	<b>Description</b>
27	North-easterly along the geodesic to 14°56.097'S 145°41.412'E
28	North-easterly along the geodesic to 14°55.978'S 145°41.511'E
29	Easterly along the geodesic to 14°55.977'S 145°41.793'E
30	North-easterly along the geodesic to 14°55.703'S 145°41.988'E
31	East along the parallel 14°55.703'S to longitude 145°42.438'E
32	East along the parallel 14°55.703'S to longitude 145°44.650'E
33	South-westerly along the geodesic to the starting point

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## Part 4—Restricted Access SMAs

Note: See section 47.

### 7 Restricted Access SMAs

- (1) A Restricted Access SMA specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially in the remaining items under the heading.

Restricted Access SMAs	
Item	Description
<b>MacLennan Cay Reef (11-070) Restricted Access SMA</b>	
1	The point 11°18.820'S 143°48.282'E
2	East along the parallel 11°18.820'S to longitude 143°49.041'E
3	South along the meridian 143°49.041'E to latitude 11°19.684'S
4	West along the parallel 11°19.684'S to longitude 143°48.282'E
5	North along the meridian 143°48.282'E to the starting point
<b>Moulter Cay Reef (11-130) Restricted Access SMA</b>	
6	The point 11°23.800'S 144°01.157'E
7	South-easterly along the geodesic to 11°24.556'S 144°01.847'E
8	South-westerly along the geodesic to 11°25.045'S 144°01.340'E
9	North-westerly along the geodesic to 11°24.230'S 144°00.629'E
10	North-easterly along the geodesic to the starting point
<b>Raine Island Reef (11-243) Restricted Access SMA</b>	
11	The point 11°34.879'S 144°02.080'E
12	South-easterly along the geodesic to 11°35.518'S 144°02.908'E
13	South-westerly along the geodesic to 11°36.074'S 144°02.411'E
14	North-westerly along the geodesic to 11°35.452'S 144°01.610'E
15	North-easterly along the geodesic to the starting point

#### *Areas described by reference to the Zoning Plan*

- (2) Each area described in Part 5 of Schedule 1 to the Zoning Plan in accordance with the following table is a Restricted Access SMA having as its name the name of the area followed by the words 'Restricted Access SMA'.

Areas described by reference to the Zoning Plan		
Item	Area	Zone Number
1	Australian Institute of Marine Science	SR-19-2008
2	One Tree Island Reef (23-055)	SR-23-2010

## Part 5—Public Appreciation SMAs

Note: See section 48.

### 8 Public Appreciation SMAs

- (1) A Public Appreciation SMA specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially in the remaining items under the heading.

Public Appreciation SMAs	
Item	Description
<b>Fitzroy Island Reef (CP-16-4039) Public Appreciation SMA</b>	
1	The point 16°54.601'S 145°59.760'E
2	East along the parallel 16°54.601'S to longitude 146°00.444'E
3	South along the meridian 146°00.444'E to latitude 16°55.291'S
4	South-westerly along the geodesic to the intersection of the Little Fitzroy Island (16-055a) coastline at mean low water and the meridian 146°00.420'E (at the point closest to 16°55.302'S 146°00.420'E)
5	Generally south-westerly along the Little Fitzroy Island (16-055a) coastline at mean low water to the intersection of the Little Fitzroy Island (16-055a) coastline at mean low water and the meridian 146°00.376'E (at the point closest to 16°55.419'S 146°00.376'E)
6	South-westerly along the geodesic to the intersection of the Fitzroy Island (16-054a) coastline at mean low water and the parallel 16°55.539'S (at the point closest to 16°55.539'S 146°00.286'E)
7	Generally northerly then westerly then southerly along the Fitzroy Island (16-054a) coastline at mean low water to the intersection of the Fitzroy Island (16-054a) coastline at mean low water the meridian 145°59.316'E (at the point closest to 16°56.617'S 145°59.316'E)
8	South-westerly along the geodesic to 16°57.000'S 145°59.124'E
9	Northerly along the geodesic to 16°55.740'S 145°58.620'E
10	North-easterly along the geodesic to the starting point
<b>Dunk Island Reef (CP-17-4045) Public Appreciation SMA</b>	
11	The point 17°55.323'S 146°08.697'E
12	Easterly along the geodesic to 17°55.444'S 146°09.338'E
13	South-easterly along the geodesic to 17°56.887'S 146°10.904'E
14	Southerly along the geodesic to 17°58.236'S 146°11.037'E
15	South-westerly along the geodesic to 17°58.509'S 146°10.732'E
16	North-westerly along the geodesic to 17°58.285'S 146°10.236'E
17	North-westerly along the geodesic to 17°57.530'S 146°09.033'E
18	North-westerly along the geodesic to 17°56.175'S 146°07.767'E
19	North-easterly along the geodesic to the starting point
<b>Bedarra Island Reef (CP-17-4045) Public Appreciation SMA</b>	
20	The point 17°59.567'S 146°08.798'E

**Schedule 5** Special Management Areas  
**Part 5** Public Appreciation SMAs

Clause 8

<b>Public Appreciation SMAs</b>	
<b>Item</b>	<b>Description</b>
21	East along the parallel 17°59.567'S to longitude 146°09.339'E
22	Southerly along the geodesic to 18°00.221'S 146°09.606'E
23	Southerly along the geodesic to 18°00.856'S 146°09.598'E
24	Westerly along the geodesic to 18°00.848'S 146°08.925'E
25	North-westerly along the geodesic to 18°00.613'S 146°08.484'E
26	North-westerly along the geodesic to 18°00.334'S 146°08.221'E
27	Northerly along the geodesic to 17°59.916'S 146°08.310'E
28	North-easterly along the geodesic to the starting point
<b>Whitsundays Public Appreciation SMA</b>	
29	The point 20°02.086'S 148°52.803'E
30	East along the parallel 20°02.086'S to longitude 148°54.194'E
31	Easterly along the geodesic to 20°04.327'S 149°03.672'E
32	South along the meridian to 149°03.672'E to latitude 20°14.280'S
33	East along the parallel 20°14.280'S to longitude 149°08.004'E
34	South along the meridian 149°08.004'E to latitude 20°17.511'S
35	South-westerly along the geodesic to 20°23.280'S 149°02.281'E
36	Southerly along the geodesic to the intersection of the Lindeman Island (20-090) coastline at mean low water and the parallel 20°25.922'S (at the point closest to 20°25.922'S 149°02.334'E)
37	Generally southerly then easterly along the Lindeman Island (20-090) coastline at mean low water to the intersection of the Lindeman Island (20-090) coastline at mean low water and the parallel 20°26.268'S (at the point closest to 20°26.268'S 149°03.270'E)
38	Easterly along the geodesic to 20°26.272'S 149°04.236'E
39	South along the meridian 149°04.236'E to latitude 20°27.668'S
40	South-westerly along the geodesic to 20°29.633'S 149°00.081'E
41	Westerly along the geodesic to the intersection of the mainland coastline at mean low water and the parallel 20°28.718'S (at the point closest to 20°28.718'S 148°54.722'E)
42	Generally north-westerly along the mainland coastline at mean low water to the intersection of the mainland coastline at mean low water and the parallel 20°14.126'S (at the point closest to 20°14.126'S 148°46.127'E)
43	North-westerly along the geodesic to 20°07.140'S 148°42.124'E
44	North along the meridian 148°42.124'E to latitude 20°06.362'S
45	North-easterly along the geodesic to 20°05.760'S 148°42.904'E
46	East along the parallel 20°05.760'S to longitude 148°43.743'E
47	Easterly along the geodesic to the starting point
<b>Brampton Island—West (CP-20-4091) Public Appreciation SMA</b>	
48	The point 20°47.388'S 149°15.681'E
49	East along the parallel 20°47.388'S to longitude 149°16.179'E
50	South along the meridian 149°16.179'E to the intersection of the Brampton Island (20-270b) coastline at mean low water and the meridian 149°16.179'E (at the point closest to 20°48.025'S 149°16.179'E)



<b>Public Appreciation SMAs</b>	
<b>Item</b>	<b>Description</b>
51	Generally westerly along the Brampton Island (20-270b) coastline at mean low water to the intersection of the Brampton Island (20-270b) coastline at mean low water and the meridian 149°15.681'E (at the point closest to 20°48.052'S 149°15.681'E)
52	North along the meridian 149°15.681'E to the starting point
<b>Brampton Island—East (CP-20-4091) Public Appreciation SMA</b>	
53	The intersection of the Carlisle Island (20-270a) coastline at mean low water and the meridian 149°18.007'E (at the point closest to 20°48.283'S 149°18.007'E)
54	South-westerly along the geodesic to the intersection of the Brampton Island (20-270b) coastline at mean low water and the parallel 20°48.872'S (at the point closest to 20°48.872'S 149°17.519'E)
55	Generally westerly then north-westerly then north-easterly along the Brampton Island (20-270b) coastline at mean low water to the intersection of the Brampton Island (20-270b) coastline at mean low water and the parallel 20°48.390'S (at the point closest to 20°48.390'S 149°17.058'E)
56	North-easterly along the geodesic to the intersection of the Carlisle Island (20-270a) coastline at mean low water and the meridian 149°17.267'E (at the point closest to 20°48.180'S 149°17.267'E)
57	Generally north-easterly then southerly along the Carlisle Island (20-270a) coastline at mean low water to the starting point
<b>Heron Reef (CP-23-4104) Public Appreciation SMA</b>	
58	The point 23°25.062'S 151°57.184'E
59	East along the parallel 23°25.062'S to longitude 152°00.745'E
60	South along the meridian 152°00.745'E to latitude 23°28.678'S
61	West along the parallel 23°28.678'S to longitude 151°57.184'E
62	North along the meridian 151°57.184'E to the starting point
<b>Wistari Reef (CP-23-4106) Public Appreciation SMA</b>	
63	The point 23°25.800'S 151°53.100'E
64	South along the meridian 151°53.100'E to latitude 23°30.000'S
65	West along the parallel 23°30.000'S to longitude 151°49.287'E
66	North along the meridian 151°49.287'E to latitude 23°27.345'S
67	North-easterly along the geodesic to the starting point
<b>Cape Upstart (CP-19-4064) Public Appreciation SMA</b>	
68	The point 19°42.403'S 147°44.344'E
69	East along the parallel 19°42.403'S to the intersection of the mainland coastline at mean low water and the parallel 19°42.403'S (at the point closest to 19°42.403'S 147°45.157'E)
70	Generally southerly along the mainland coastline at mean low water to the intersection of the mainland coastline at mean low water and the parallel 19°49.578'S (at the point closest to 19°49.578'S 147°46.321'E)
71	West along the parallel 19°49.578'S to longitude 147°44.344'E
72	North along the meridian 147°44.344'E to the starting point

**Schedule 5** Special Management Areas  
**Part 5** Public Appreciation SMAs

Clause 8

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*Areas described by reference to the Zoning Plan*

- (2) Each area described in Part 3 of Schedule 1 to the Zoning Plan in accordance with the following table is a Public Appreciation SMA having as its name the name of the area followed by the words ‘Public Appreciation SMA’.

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<b>Areas described by reference to the Zoning Plan</b>		
<b>Item</b>	<b>Area</b>	<b>Zone Number</b>
1	Yonge Reef (14-138)—lee side	CP-14-4017
2	Lizard Island Reef (14-116b)—Mermaid Bay to Pigeon Point	CP-14-4018
3	North Opal Reef (16-025)	CP-16-4029
4	Flynn Reef (16-065)	CP-16-4035
5	Thetford Reef (16-068)	CP-16-4036
6	Orpheus Island Reef south-west (18-049b)	CP-18-4053
7	Davies Reef (18-096)	CP-18-4056
8	North Keppel Island—Considine Bay	CP-23-4101
9	Great Keppel Island—western side	CP-23-4102

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## **Part 6—Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA**

Note: See section 52.

### **9 Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA**

The Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA is the area bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

<b>Natural Resources Conservation (Mermaid Cove, Lizard Island) SMA</b>	
<b>Item</b>	<b>Description</b>
1	The intersection of the Lizard Island (14-116a) coastline at mean low water and the meridian 145°27.060'E (at the point closest to 14°38.813'S 145°27.060'E)
2	North along the meridian 145°27.060'E to latitude 14°38.375'S
3	East along the parallel 14°38.375'S to longitude 145°27.272'E
4	South along the meridian 145°27.272'E to the intersection of the Lizard Island (14-116a) coastline at mean low water and the meridian 145°27.272'E (at the point closest to 14°38.770'S 145°27.272'E)
5	Generally southerly then south-westerly then north-westerly along the Lizard Island (14-116a) coastline at mean low water to the starting point

## Part 7—Maritime Cultural Heritage Protection SMAs

Note: See section 53.

### 10 Maritime Cultural Heritage Protection SMAs

The part of the Catalina A24-25 Maritime Cultural Heritage Protection SMA specified in a heading in the following table is the area bounded by the line starting at the point described in the first item directly under the heading and running sequentially in the remaining items under the heading.

Maritime Cultural Heritage Protection SMAs	
Item	Description
<b>Part 1 of the Catalina A24-25 Maritime Cultural Heritage Protection SMA</b>	
1	The point 17°12.825'S 146°12.134'E
2	East along the parallel 17°12.825'S to longitude 146°12.704'E
3	South along the meridian 146°12.704'E to latitude 17°13.395'S
4	West along the parallel 17°13.395'S to longitude 146°12.134'E
5	North along the meridian 146°12.134'E to the starting point
<b>Part 2 of the Catalina A24-24 Maritime Cultural Heritage Protection SMA</b>	
6	The point 19°49.988'S 148°18.734'E
7	East along the parallel 19°49.988'S to longitude 148°19.304'E
8	South along the meridian 148°19.304'E to latitude 19°50.558'S
9	West along the parallel 19°50.558'S to longitude 148°18.734'E
10	North along the meridian 148°18.734'E to the starting point

## Schedule 6—Limited impact research (extractive)

Note: See subparagraph 20(3)(b)(i).

### 1 Limited impact research (extractive)

The following table has effect for the purposes of subparagraph 20(3)(b)(i).

<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
1	Any species in class Chondrichthyes, except a species described in any of items 2 to 15	Any species of shark, ray or chimaera, except a species described in any of items 2 to 15	5 animals of that species, each from a different research location
2	Any species in family Pristidae	Sawfishes	No animals to be taken
3	<i>Carcharias taurus</i>	Grey nurse shark	No animals to be taken
4	<i>Carcharodon carcharias</i>	White shark	No animals to be taken
5	<i>Carcharhinus falciformis</i>	Silky shark	No animals to be taken
6	<i>Glyphis glyphis</i>	Speartooth shark	No animals to be taken
7	<i>Isurus oxyrinchus</i>	Shortfin mako shark	No animals to be taken
8	<i>Isurus paucus</i>	Longfin mako shark	No animals to be taken
9	<i>Lamna nasus</i>	Porbeagle shark	No animals to be taken
10	<i>Manta alfredi</i>	Reef manta ray	No animals to be taken
11	<i>Manta birostris</i>	Giant manta ray	No animals to be taken
12	<i>Mobula eregoodootenkee</i>	Pygmy devilray	No animals to be taken
13	<i>Mobula japanica</i>	Japanese devilray	No animals to be taken
14	<i>Mobula thurstoni</i>	Bentfin devilray	No animals to be taken
15	<i>Rhincodon typus</i>	Whale shark	No animals to be taken
16	Any species in family Acanthuridae	Surgeonfishes	20 animals of that species, no more than 5 from a single research location
17	Any species in family Antennariidae, except a species described in item 18	Anglerfishes and frogfishes, except a species described in item 18	50 animals of that species, no more than 10 from a single research location
18	<i>Halophryne queenslandiae</i>	Sculptured frogfish	No animals to be taken
19	Any species in family Atherinidae	Hardyheads	500 animals of that species, no more than 100 from a single research location
20	Any species in family Aulostomidae	Trumpetfishes	50 animals of that species, no more than 10 from a single research location
21	Any species in family Balistidae	Triggerfishes	50 animals of that species, no more than 10 from a single

**Schedule 6** Limited impact research (extractive)

Clause 1

<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
			research location
22	Any species in family Blenniidae	Blennies	500 animals of that species, no more than 100 from a single research location
23	Any species in family Clupeidae	Herrings	500 animals of that species, no more than 100 from a single research location
24	Any species in family Congridae	Conger eels	50 animals of that species, no more than 10 from a single research location
25	Any species in family Engraulidae	Anchovies	500 animals of that species, no more than 100 from a single research location
26	Any species in family Ehippidae	Batfishes	20 animals of that species, no more than 5 from a single research location
27	Any species in family Fistulariidae	Flutemouths	50 animals of that species, no more than 10 from a single research location
28	Glaucosoma scapulare (in family Glaucosomatidae)	Pearl perch	20 animals, no more than 5 from a single research location
29	Any species in family Gobiidae	Gobies	500 animals of that species, no more than 100 from a single research location
30	Family Istiophoridae	Marlins	No animals to be taken
31	Any species in family Kyphosidae	Drummers	20 animals of that species, no more than 5 from a single research location
32	Any species in genus Bodianus (in family Labridae)	Pigfishes	50 animals of that species, no more than 10 from a single research location
33	Cheilinus fasciatus (in family Labridae)	Redbreasted Maori wrasse	50 animals, no more than 10 from a single research location
34	Cheilinus trilobatus (in family Labridae)	Tripletail Maori wrasse	50 animals, no more than 10 from a single research location
35	Cheilinus undulatus (in family Labridae)	Humphead Maori wrasse	No animals to be taken
36	Choerodon anchorago (in family Labridae)	Anchor tuskfish	50 animals, no more than 10 from a single research location
37	Choerodon cephalotes (in family Labridae)	Purple (grass) tuskfish	50 animals, no more than 10 from a single research location
38	Choerodon cyanodus (in family Labridae)	Blue tuskfish	50 animals, no more than 10 from a single research location
39	Choerodon schoenleinii (in family Labridae)	Blackspot tuskfish	50 animals, no more than 10 from a single research location

<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
40	Choerodon venustus (in family Labridae)	Venus tuskfish	50 animals, no more than 10 from a single research location
41	Coris aygula (in family Labridae)	Redblotched wrasse (clown coris)	No animals to be taken
42	Gnathodentex aureolineatus (in family Lethrinidae)	Goldspot seabream	50 animals, no more than 10 from a single research location
43	Any species in genus Gymnocranius (in family Lethrinidae)	Seabreams	50 animals of that species, no more than 10 from a single research location
44	Lethrinus atkinsoni (in family Lethrinidae)	Yellow-tailed emperor	50 animals, no more than 10 from a single research location
45	Lethrinus erythracanthus (in family Lethrinidae)	Orangespotted emperor	50 animals, no more than 10 from a single research location
46	Lethrinus genivittatus (in family Lethrinidae)	Threadfin emperor	50 animals, no more than 10 from a single research location
47	Lethrinus harak (in family Lethrinidae)	Thumbprint emperor	50 animals, no more than 10 from a single research location
48	Lethrinus lentjan (in family Lethrinidae)	Redspot (pink-eared) emperor	50 animals, no more than 10 from a single research location
49	Lethrinus miniatus (in family Lethrinidae)	Redthroat emperor	50 animals, no more than 10 from a single research location
50	Lethrinus nebulosus (in family Lethrinidae)	Spangled emperor	50 animals, no more than 10 from a single research location
51	Lethrinus obsoletus (in family Lethrinidae)	Orangestriped emperor	50 animals, no more than 10 from a single research location
52	Lethrinus olivaceus (in family Lethrinidae)	Longnose emperor	50 animals, no more than 10 from a single research location
53	Lethrinus ornatus (in family Lethrinidae)	Ornate (yellow-striped) emperor	50 animals, no more than 10 from a single research location
54	Lethrinus rubrioperculatus (in family Lethrinidae)	Spotcheek emperor	50 animals, no more than 10 from a single research location
55	Lethrinus variegatus (in family Lethrinidae)	Variegated emperor	50 animals, no more than 10 from a single research location
56	Lethrinus xanthochilus (in family Lethrinidae)	Yellowlip emperor	50 animals, no more than 10 from a single research location
57	Monotaxis grandoculis (in family Lethrinidae)	Bigeye seabream	50 animals, no more than 10 from a single research location
58	Aphareus furca (in family Lutjanidae)	Small-toothed jobfish	50 animals, no more than 10 from a single research location
59	Aprion virescens (in family Lutjanidae)	Green jobfish	50 animals, no more than 10 from a single research location
60	Etelis carbunculus (in family Lutjanidae)	Ruby snapper	50 animals, no more than 10 from a single research location
61	Etelis coruscans (in family Lutjanidae)	Flame snapper	50 animals, no more than 10 from a single research location

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<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
62	Lutjanus adetii (in family Lutjanidae)	Hussar (pink hussar)	50 animals, no more than 10 from a single research location
63	Lutjanus bitaeniatus (in family Lutjanidae)	Indonesian snapper	50 animals, no more than 10 from a single research location
64	Lutjanus bohar (in family Lutjanidae)	Red bass	50 animals, no more than 10 from a single research location
65	Lutjanus bouton (in family Lutjanidae)	Paleface snapper	50 animals, no more than 10 from a single research location
66	Lutjanus carponotatus (in family Lutjanidae)	Stripey snapper (Spanish flag)	50 animals, no more than 10 from a single research location
67	Lutjanus erythropterus (in family Lutjanidae)	Crimson snapper (small-mouth nannygai)	50 animals, no more than 10 from a single research location
68	Lutjanus fulviflamma (in family Lutjanidae)	Blackspot snapper	50 animals, no more than 10 from a single research location
69	Lutjanus fulvus (in family Lutjanidae)	Blacktailed snapper	50 animals, no more than 10 from a single research location
70	Lutjanus gibbus (in family Lutjanidae)	Paddletail	50 animals, no more than 10 from a single research location
71	Lutjanus johnii (in family Lutjanidae)	Golden snapper (fingermark)	50 animals, no more than 10 from a single research location
72	Lutjanus kasmira (in family Lutjanidae)	Bluestriped snapper	50 animals, no more than 10 from a single research location
73	Lutjanus lemniscatus (in family Lutjanidae)	Darktail snapper	50 animals, no more than 10 from a single research location
74	Lutjanus lutjanus (in family Lutjanidae)	Bigeye snapper	50 animals, no more than 10 from a single research location
75	Lutjanus malabaricus (in family Lutjanidae)	Saddletail snapper (large-mouth nannygai)	50 animals, no more than 10 from a single research location
76	Lutjanus monostigma (in family Lutjanidae)	Onespot snapper	50 animals, no more than 10 from a single research location
77	Lutjanus quinquelineatus (in family Lutjanidae)	Fiveline snapper	50 animals, no more than 10 from a single research location
78	Lutjanus rivulatus (in family Lutjanidae)	Maori snapper	50 animals, no more than 10 from a single research location
79	Lutjanus russelli (in family Lutjanidae)	Moses snapper (Moses perch)	50 animals, no more than 10 from a single research location
80	Lutjanus sebae (in family Lutjanidae)	Red emperor	50 animals, no more than 10 from a single research location
81	Lutjanus vitta (in family Lutjanidae)	Brownstripe snapper (brown hussar)	50 animals, no more than 10 from a single research location
82	Macolor macularis (in family Lutjanidae)	Midnight snapper	50 animals, no more than 10 from a single research location
83	Macolor niger (in family Lutjanidae)	Black-and-white snapper	50 animals, no more than 10 from a single research location



<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
84	<i>Pristipomoides filamentosus</i> (in family Lutjanidae)	Rosy snapper (jobfish)	50 animals, no more than 10 from a single research location
85	<i>Pristipomoides multidens</i> (in family Lutjanidae)	Goldband snapper	50 animals, no more than 10 from a single research location
86	<i>Pristipomoides sieboldi</i> (in family Lutjanidae)	Lavender snapper (jobfish)	50 animals, no more than 10 from a single research location
87	<i>Pristipomoides typus</i> (in family Lutjanidae)	Sharptooth snapper	50 animals, no more than 10 from a single research location
88	<i>Symphoricthys spilurus</i> (in family Lutjanidae)	Sailfin snapper	50 animals, no more than 10 from a single research location
89	<i>Symphorus nematophorus</i> (in family Lutjanidae)	Chinamanfish	50 animals, no more than 10 from a single research location
90	Any species in family Muraenidae	Moray eels	50 animals of that species, no more than 10 from a single research location
91	Any species in family Ophichthidae	Snake eels	50 animals of that species, no more than 10 from a single research location
92	Any species in family Ostraciidae	Boxfishes	50 animals of that species, no more than 10 from a single research location
93	<i>Platycephalus fuscus</i> (in family Platycephalidae)	Dusky flathead	50 animals, no more than 10 from a single research location
94	Any species in family Pomacanthidae	Angelfishes	20 animals of that species, no more than 5 from a single research location
95	Any species in family Pomacentridae, except a species described in items 96 or 97	Damselfishes, except a species described in item 96 or 97	500 animals of that species, no more than 100 from a single research location
96	Any species in genus Amphiprion	Anemonefishes	50 animals of that species, no more than 10 from a single research location
97	<i>Premnas biaculeatus</i>	Spinecheek clownfish	50 animals, no more than 10 from a single research location
98	<i>Ogilbyina novaehollandiae</i> (in family Pseudochromidae)	Multicolour dottyback	No animals to be taken
99	Any species in family Scaridae, except a species described in any of items 100 to 103	Any species of parrotfish, except a species described in any of items 100 to 103	20 animals of that species, no more than 5 from a single research location
100	<i>Bolbometopon muricatum</i>	Bumphead parrotfish	No animals to be taken
101	<i>Cetoscarus ocellatus</i>	Bicolour parrotfish	No animals to be taken
102	<i>Chlorurus microrhinos</i>	Steephead parrotfish	No animals to be taken

## Clause 1

<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
103	Scarus rubroviolaceus	Blackvein (ember) parrotfish	No animals to be taken
104	Atractoscion aequidens (in family Sciaenidae)	Teraglin	50 animals, no more than 10 from a single research location
105	Protonibea diacanthus (in family Sciaenidae)	Black jewfish	50 animals, no more than 10 from a single research location
106	Scomberomorus munroi (in family Scombridae)	Spotted mackerel	50 animals, no more than 10 from a single research location
107	Any species in family Serranidae, except a species described in any of items 108 to 134	Serranids, except a species described in any of items 108 to 134	50 animals of that species, no more than 10 from a single research location
108	Aethaloperca rogaa	Redmouth rockcod	20 animals, no more than 5 from a single research location
109	Anyperodon leucogrammicus	Whitelined rockcod	20 animals, no more than 5 from a single research location
110	Cephalopholis sonnerati	Tomato rockcod	20 animals, no more than 5 from a single research location
111	Chromileptes altivelis	Barramundi cod	No animals to be taken
112	Any species in genus Epinephelus longer than 1,000 millimetres	Rockcods and groupers longer than 1,000 millimetres	No animals to be taken
113	Epinephelus coeruleopunctatus no longer than 1,000 millimetres	Whitespotted grouper no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
114	Epinephelus coioides no longer than 1,000 millimetres	Goldspotted rockcod no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
115	Epinephelus cyanopodus no longer than 1,000 millimetres	Purple rockcod (blue Maori) no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
116	Epinephelus ergastularius no longer than 1,000 millimetres	Banded (bar) rockcod no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
117	Epinephelus fuscoguttatus longer than 700 millimetres	Flowery rockcod longer than 700 millimetres	No animals to be taken
118	Epinephelus fuscoguttatus no longer than 700 millimetres	Flowery rockcod no longer than 700 millimetres	20 animals, no more than 5 from a single research location
119	Epinephelus lanceolatus	Queensland groper	No animals to be taken
120	Epinephelus maculatus no longer than 1,000 millimetres	Highfin grouper no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
121	Epinephelus magniscuttis no	Speckled grouper no	20 animals, no more than 5 from

<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
	longer than 1,000 millimetres	longer than 1,000 millimetres	a single research location
122	Epinephelus malabaricus no longer than 1,000 millimetres	Blackspotted rockcod no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
123	Epinephelus polyphkadion longer than 700 millimetres	Camouflage grouper longer than 700 millimetres	No animals to be taken
124	Epinephelus polyphkadion no longer than 700 millimetres	Camouflage grouper no longer than 700 millimetres	20 animals, no more than 5 from a single research location
125	Epinephelus radiatus no longer than 1,000 millimetres	Radiant (oblique-banded) grouper no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
126	Epinephelus tauvina no longer than 1,000 millimetres	Greasy rockcod no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
127	Epinephelus tukula	Potato rockcod	No animals to be taken
128	Epinephelus undulatostratus no longer than 1,000 millimetres	Maori rockcod no longer than 1,000 millimetres	20 animals, no more than 5 from a single research location
129	Plectropomus areolatus	Passionfruit (squaretail) coral trout	20 animals, no more than 5 from a single research location
130	Plectropomus laevis no longer than 800 millimetres	Bluespotted coral trout (Chinese footballer) no longer than 800 millimetres	20 animals, no more than 5 from a single research location
131	Plectropomus laevis longer than 800 millimetres	Bluespotted coral trout (Chinese footballer) longer than 800 millimetres	No animals to be taken
132	Plectropomus oligacanthus	Vermicular cod (highfin coral trout)	20 animals, no more than 5 from a single research location
133	Variola albimarginata	White-edge coronation (lyretail) trout	20 animals, no more than 5 from a single research location
134	Variola louti	Yellowedge coronation trout	20 animals, no more than 5 from a single research location
135	Any species in family Siganidae	Rabbitfishes	20 animals of that species, no more than 5 from a single research location
136	Any species in family Solenostomidae	Ghost pipefishes	No animals to be taken
137	Chrysophrys auratus (in family Sparidae)	Snapper	20 animals, no more than 5 from a single research location
138	Sphyræna barracuda (in	Great barracuda	50 animals, no more than 10

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<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
	family Sphyraenidae)		from a single research location
139	Any species in family Syngnathidae	Seahorses, seadragons, pipefishes	No animals to be taken
140	Any species in family Synodontidae	Lizardfishes	500 animals of that species, no more than 100 from a single research location
141	Any species in family Tripterygiidae	Triplefins	500 animals of that species, no more than 100 from a single research location
142	Xiphias gladius (in family Xiphiidae)	Swordfish	No animals to be taken
143	Any species in family Palinuridae	Spiny lobsters	No animals to be taken
144	Ranina ranina (in family Raninidae)	Spanner crab	50 animals, no more than 10 from a single research location
145	Any species in class Anthozoa or Hydrozoa	Corals (hard, soft and black), anemones, zoanthids, seafans, corallimorpharians, hydroids or fire corals	No animals to be taken
146	Any species in phylum Echinodermata, except a species described in any of items 147 to 149	Echinoderms, except a species described in any of items 147 to 149	50 animals of that species, no more than 10 from a single research location
147	Acanthaster planci	Crown-of-thorns starfish	500 animals, no more than 100 from a single research location
148	Holothuria fuscogilva	White teatfish	No animals to be taken
149	Holothuria whitmaei	Black teatfish	No animals to be taken
150	Any species in phylum Mollusca, except a species described in any of items 151 to 162	Molluscs, except a species described in any of items 151 to 162	50 animals of that species, no more than 10 from a single research location
151	Any species in order Octopoda	Octopuses	20 animals of that species, no more than 5 from a single research location
152	Any species in family Argonautidae	Paper nautilus	20 animals of that species, no more than 5 from a single research location
153	Any species in family Nautilidae	Chambered nautilus	20 animals of that species, no more than 5 from a single research location
154	Any species in class Gastropoda, except a species described in any of items 155 to 159	Gastropods (such as snails and slugs), except a species described in any of items 155 to 159	200 animals of that species, no more than 50 from a single research location

<b>Limits on taking species of fish and invertebrates</b>			
<b>Item</b>	<b>Species, or species and length</b>	<b>Common name</b>	<b>Annual limits on taking for a research project</b>
155	Any species in family Muricidae, except a species in genus Drupella	Murex shells, except Drupella	No animals to be taken
156	Any species in genus Drupella	Drupella	200 animals of that species, no more than 50 from a single research location
157	Cassis cornuta	Giant helmet shell	No animals to be taken
158	Charonia tritonis	Trumpet triton	No animals to be taken
159	Melo amphora	Melon (baler) shell	No animals to be taken
160	Any species in subfamily Tridacninae (in family Cardiidae)	Giant clams	No animals to be taken
161	Pinctada margaritifera (in family Pteriinae)	Blacklip pearl oyster	No animals to be taken
162	Pinctada maxima (in family Pteriinae)	Silverlip (goldlip) pearl oyster	No animals to be taken

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## **Schedule 7—Repeals**

### ***Great Barrier Reef Marine Park (Aquaculture) Regulations 2000***

#### **1 The whole of the instrument**

Repeal the instrument.

### ***Great Barrier Reef Marine Park Regulations 1983***

#### **2 The whole of the instrument**

Repeal the instrument.