

Queensland



Transport Infrastructure Act 1994

TRANSPORT INFRASTRUCTURE (GOLD COAST WATERWAYS) MANAGEMENT PLAN 2000

**Reprinted as in force on 1 February 2002
(includes amendments up to SL No. 77 of 2001)**

Reprint No. 1A

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This plan is reprinted as at 1 February 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



TRANSPORT INFRASTRUCTURE (GOLD COAST WATERWAYS) MANAGEMENT PLAN 2000

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	5
2	Commencement	5
3	Definitions	5
PART 2—APPLICATION OF PLAN		
4	Waters to which plan applies	5
5	Watercraft to which plan does not apply	6
PART 3—ANCHORING, MOORING AND AGROUND WATERCRAFT		
6	Part does not apply to certain watercraft	6
7	Waters where anchoring or mooring prohibited or aground watercraft prohibited from being kept	6
9	Waters where watercraft not to be anchored, moored or kept for over 7 days	7
10	Waters where watercraft not to be anchored, moored or kept for over 7 days in 1 locality	7
PART 4—LIVING ON WATERCRAFT		
11	Time limit on living on watercraft	8
PART 5—AQUATIC EVENTS		
12	Aquatic events	8
PART 6—WATERSKIING		
13	Restrictions on waterskiing	9
PART 7—FREESTYLING, SURFING AND WAVE JUMPING		
14	No freestyling, surfing or wave jumping in certain areas	9

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

15	No freestyling, surfing or wave jumping near person or watercraft	10
PART 8—AIRCRAFT		
16	Application of pt 8.	10
17	No take off or landing without approval	10
18	Take off and landing approval	11
19	Amending, suspending or cancelling approval	12
20	Procedure for amending, suspending or cancelling approval	12
21	Procedure for urgent suspension of approval	14
22	Section 196 of Act applies for review and appeal	14
PART 9—MARINA OWNER LEVY		
23	Levy.	15
PART 10—APPOINTMENT OF AUTHORISED PERSONS		
24	Appointments	15
25	Identity cards	16
26	Production or display of authorised person’s identity card	16
PART 11—POWERS OF AUTHORISED PERSONS		
<i>Division 1—Entry to place or watercraft</i>		
27	Power to enter places or watercraft	17
<i>Division 2—Procedure for entry</i>		
28	Consent to entry.	17
29	Application for warrant.	18
30	Issue of warrant	18
31	Warrants—procedure before entry	19
<i>Division 3—Powers after entry</i>		
32	General powers after entering places	20
<i>Division 4—Removal of watercraft</i>		
33	Notice of intention to remove watercraft.	21
34	Moving illegally anchored or moored watercraft	21
35	Removal of hazardous watercraft	21
36	Dealing with removed watercraft	22
<i>Division 5—General enforcement matters</i>		
37	Power to require name and address	23

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

38	False or misleading statements	23
39	False or misleading documents	24
40	Obstructing authorised persons	24
41	Impersonating authorised persons	24
42	Notice of damage.	24
43	Protection from liability	25
	PART 12—FEES	
44	Fees	25
	SCHEDULE 1	26
	WATERS FOR SECTIONS 8, 11 AND 14	
	SCHEDULE 2	29
	WATERS WHERE WATERCRAFT NOT TO BE ANCHORED, MOORED OR KEPT FOR OVER 7 DAYS	
	SCHEDULE 3	30
	WATERS WHERE WATERCRAFT NOT TO BE ANCHORED, MOORED OR KEPT FOR OVER 7 DAYS IN 1 LOCALITY	
	SCHEDULE 4	31
	PROHIBITED WATERSKIING	
1	Coomera River.	31
2	Nerang River	31
3	Tallebudgera Creek	31
4	Where speed limit of 6 knots applies	31
	SCHEDULE 5	32
	FEES AND MARINA OWNER LEVY	
	SCHEDULE 6	33
	DICTIONARY	
	ENDNOTES	
1	Index to endnotes.	35
2	Date to which amendments incorporated.	35
3	Key.	36
4	Table of earlier reprints	36

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

5	Tables in earlier reprints.	36
6	List of legislation	37
7	List of annotations	37

TRANSPORT INFRASTRUCTURE (GOLD COAST WATERWAYS) MANAGEMENT PLAN 2000

[as amended by all amendments that commenced on or before 1 February 2002]

PART 1—PRELIMINARY

1 Short title

This waterway transport management plan (the “**plan**”) may be cited as the *Transport Infrastructure (Gold Coast Waterways) Management Plan 2000*.

2 Commencement

(1) This plan commences on 1 January 2001.

(2) However, section 8 so far as it applies to canals commences on the day after the *Canals Act 1958* is repealed.

3 Definitions

The dictionary in schedule 6 defines particular words used in this plan.

PART 2—APPLICATION OF PLAN

4 Waters to which plan applies

This plan applies to the waters below high water mark of Moreton Bay and the Broadwater, and all rivers, creeks, lakes, canals and navigable channels, south of 27°41' south and east of 153° east (“**Gold Coast waters**”).

5 Watercraft to which plan does not apply

This plan applies to the following watercraft in Gold Coast waters only if the watercraft is being used for educational activities or research—

- (a) a watercraft owned by the State;
- (b) a watercraft being used for official duty by the State, the Commonwealth or a local government.

PART 3—ANCHORING, MOORING AND AGROUND WATERCRAFT

6 Part does not apply to certain watercraft

This part does not apply to a watercraft—

- (a) being used to carry out construction, dredging or maintenance works if carrying out the works at the particular location is approved under an Act; or
- (b) moored to an approved structure with the consent of the structure's owner; or
- (c) moored to an authorised buoy mooring with the consent of the mooring's owner.

7 Waters where anchoring or mooring prohibited or aground watercraft prohibited from being kept

(1) This section applies to Gold Coast waters within 30 m of—

- (a) an authorised buoy mooring; or
- (b) a watercraft moored to an authorised buoy mooring.

(2) The owner or operator of a watercraft must not cause or allow the watercraft—

- (a) to be anchored or moored in the waters; or
- (b) if it is aground at a place—to be kept at the place.

Maximum penalty—40 penalty units.

8 Waters where watercraft not to be anchored, moored or kept for over 24 hours

(1) *This section applies to waters described in schedule 1.*

(2) *However, subsection (3)(a) does not apply to waters within the Moreton Bay Marine Park.¹*

(3) *The owner or operator of a watercraft must not cause or allow the watercraft—*

(a) to be anchored or moored in the waters; or

(b) if it is aground at a place—to be kept at the place;

whether at 1 or more locations, for more than 24 consecutive hours in any 30 day period.

Maximum penalty—20 penalty units.²

9 Waters where watercraft not to be anchored, moored or kept for over 7 days

(1) *This section applies to waters described in schedule 2.*

(2) *However, subsection (3)(a) does not apply to waters within the Moreton Bay Marine Park.*

(3) *The owner or operator of a watercraft must not cause or allow the watercraft—*

(a) to be anchored or moored in the waters; or

(b) if it is aground at a place—to be kept at the place;

whether at 1 or more locations, for more than 7 consecutive days in any 60 day period.

Maximum penalty—20 penalty units.

1 For the boundaries of the park, see the *Marine Parks Regulation 1990*, schedule 4.

2 This provision so far as it applies to canals had not commenced on or before the reprint date.

10 Waters where watercraft not to be anchored, moored or kept for over 7 days in 1 locality

(1) This section applies within waters described in schedule 3.

(2) However, subsection (3)(a) does not apply to waters within the Moreton Bay Marine Park.

(3) The owner or operator of a watercraft must not cause or allow the watercraft—

(a) to be anchored or moored in the waters; or

(b) if it is aground at a place—to be kept at the place;

within 1 n mile of the 1 place for more than 7 consecutive days in any 60 day period.

Maximum penalty—20 penalty units.

PART 4—LIVING ON WATERCRAFT

11 Time limit on living on watercraft

(1) This section applies to waters described in schedules 1, 2 or 3.

(2) The owner or operator of a watercraft must not live on the watercraft, or allow anyone else to live on the watercraft, at, or within 3 n miles of, the 1 place for more than 7 consecutive days in any 60 day period.

Maximum penalty—20 penalty units.

(3) Subsection (2) does not apply to a watercraft at a marina with toilets and washing facilities.

PART 5—AQUATIC EVENTS

12 Aquatic events

(1) This section applies to an area for which an authority for an aquatic event under the *Transport Operations (Marine Safety) Regulation 1995*, section 178³ has been issued if the authority operates for no more than 48 hours.

(2) An authorised person may direct the owner or operator of a watercraft that is not engaged in the event not to cause or allow the watercraft—

- (a) to enter the area during the event; or
- (b) to remain in the area during the event; or
- (c) to anchor or moor in the area during the event.

(3) The owner or operator must comply with the direction unless the owner or operator has a reasonable excuse.

Maximum penalty—20 penalty units.

PART 6—WATERSKIING

13 Restrictions on waterskiing

A person must not waterski in waters in which waterskiing is prohibited under schedule 4.

Maximum penalty—40 penalty units.

³ *Transport Operations (Marine Safety) Regulation 1995*, section 178 (Aquatic events)

PART 7—FREESTYLING, SURFING AND WAVE JUMPING

14 No freestyling, surfing or wave jumping in certain areas

A person must not use a watercraft to freestyle, surf or wave jump—

- (a) within 100 m of the western shore of the Broadwater between the Gold Coast Highway bridge, Main Beach and an imaginary line running east from the southern tip of Rat Island near the mouth of the south arm of the Coomera River; or
- (b) in waters described in schedule 1.⁴

Maximum penalty—40 penalty units.

15 No freestyling, surfing or wave jumping near person or watercraft

A person must not use a watercraft to freestyle, surf or wave jump within—

- (a) 30 m of another watercraft; or
- (b) 60 m of a person in the water.

Maximum penalty—40 penalty units.

PART 8—AIRCRAFT

16 Application of pt 8

This part applies only to an aircraft engaged in commercial operations.

17 No take off or landing without approval

(1) The pilot of an aircraft must not take off from Gold Coast waters unless the take off is authorised under a take off and landing approval.

⁴ Schedule 1 (Waters for sections 8, 11 and 14)

Maximum penalty—40 penalty units.

(2) The pilot of an aircraft must not land on Gold Coast waters unless the landing is authorised under a take off and landing approval.

Maximum penalty—40 penalty units.

18 Take off and landing approval

(1) A person may apply to the chief executive for approval for a particular aircraft to take off from a stated area, or land in a stated area, in Gold Coast waters (a **“take off and landing approval”**).

(2) The application must be in the approved form.

(3) The chief executive must consider the application and either—

- (a) grant the application, with or without conditions; or
- (b) refuse to grant the application.

(4) In deciding the application, the chief executive must consider—

- (a) whether the proposed area for take off or landing is appropriate; and
- (b) the applicant’s proposed safety procedures; and
- (c) the interests of other waterway users; and
- (d) aircraft noise.

(5) If the chief executive decides to refuse the application, the chief executive must give the applicant written notice of the refusal and the reasons for the refusal.

(6) If the chief executive decides to grant the application on conditions, the chief executive must give the applicant written notice of the conditions and the reasons for the conditions.

(7) A notice under subsection (5) or (6) must also state that—

- (a) the applicant—
 - (i) under section 196⁵ of the Act, may ask, within 28 days after the notice is given, for the decision to be reviewed and appeal against the reviewed decision; and

5 Section 196 (Review of and appeals against decisions) of the Act

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

(ii) under the *Transport Planning and Coordination Act 1994*, part 5, may ask for the decision or the reviewed decision to be stayed; and

(b) the *Transport Planning and Coordination Act 1994*, part 5, divisions 2 and 3⁶ set out the procedure for applying for the review and the appeal.

(8) A take off and landing approval is for the term, of not more than 1 year, stated in the approval.

(9) If a take off and landing approval is subject to conditions, the holder of the approval must comply with the conditions unless the holder has a reasonable excuse.

Maximum penalty—40 penalty units.

19 Amending, suspending or cancelling approval

The chief executive may amend, suspend or cancel a person's take off and landing approval on any of the following grounds—

- (a) the approval was obtained because of false or misleading information;
- (b) the person has failed to comply with a condition of the approval;
- (c) it is necessary for public safety.

20 Procedure for amending, suspending or cancelling approval

(1) This section applies if the chief executive considers there is a ground to amend, suspend or cancel a take off and landing approval (the “**proposed action**”).

(2) Before taking the proposed action, the chief executive must give the approval holder a written notice stating—

- (a) the proposed action; and
- (b) the grounds for the proposed action; and

⁶ *Transport Planning and Coordination Act 1994*, part 5 (Review of and appeals against decisions), divisions 2 (Review of original decisions) and 3 (Appeals against reviewed decisions)

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

- (c) an outline of the facts and circumstances that are the basis of the grounds; and
- (d) if the proposed action is suspension of the approval, the proposed suspension period; and
- (e) that the approval holder may show, within a stated reasonable time (of at least 14 days after the notice is given), why the proposed action should not be taken.

(3) If, after considering all representations made within the stated time, the chief executive still considers there is a ground to take the proposed action, the chief executive may—

- (a) if the proposed action was to amend the approval—amend the approval; or
- (b) if the proposed action was to suspend the approval—suspend the approval for no longer than the period stated in the notice; or
- (c) if the proposed action was to cancel the approval—amend the approval, suspend it for a period or cancel it.

(4) The chief executive must inform the approval holder of the decision by written notice.

(5) If the chief executive decides to amend, suspend or cancel the approval, the notice must state—

- (a) the reasons for the decision; and
- (b) that the approval holder—
 - (i) under section 196⁷ of the Act, may ask, within 28 days after the notice is given, for the decision to be reviewed and appeal against the reviewed decision; and
 - (ii) under the *Transport Planning and Coordination Act 1994*, part 5, may ask for the decision or the reviewed decision to be stayed; and
- (c) the *Transport Planning and Coordination Act 1994*, part 5, divisions 2 and 3⁸ set out the procedure for applying for the review and the appeal.

7 Section 196 (Review of and appeals against decisions) of the Act

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

(6) The decision takes effect on the day the notice is given to the approval holder, or if a later day of effect is stated in the notice, the later day.

21 Procedure for urgent suspension of approval

(1) Despite section 20, if the chief executive considers it is necessary for public safety, the chief executive may, by written notice to an approval holder, immediately suspend the approval until the earlier of the following—

- (a) the chief executive informs the holder of the chief executive's decision given after complying with section 20;
- (b) the end of 56 days after the notice is given to the holder.

(2) The notice must state—

- (a) the reasons for the decision; and
- (b) the approval holder—
 - (i) under section 196 of the Act, may ask, within 28 days after the notice is given, for the decision to be reviewed and appeal against the reviewed decision; and
 - (ii) under the *Transport Planning and Coordination Act 1994*, part 5, may ask for the decision or the reviewed decision to be stayed; and
- (c) the *Transport Planning and Coordination Act 1994*, part 5, divisions 2 and 3 set out the procedure for applying for the review and the appeal.

22 Section 196 of Act applies for review and appeal

Section 196⁹ of the Act applies as if the following decisions were decisions described in schedule 2 of the Act and a Magistrates Court was stated in schedule 2 of the Act for the decisions—

8 *Transport Planning and Coordination Act 1994*, part 5 (Review of and appeals against decisions), divisions 2 (Review of original decisions) and 3 (Appeals against reviewed decisions)

9 Section 196 (Review of and appeals against decisions) of the Act

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

- (a) a decision to grant a take off and landing approval on conditions;
or
- (b) a decision to refuse to grant a take off and landing approval; or
- (c) a decision to amend, suspend or cancel a take off and landing approval.

PART 9—MARINA OWNER LEVY

23 Levy

(1) A marina owner must pay an annual levy as a contribution towards dredging and maintaining public marine transport infrastructure.

(2) The levy must be paid within 1 month after the chief executive gives written notice of the levy to the marina owner.

(3) The amount of the levy is in schedule 5.

PART 10—APPOINTMENT OF AUTHORISED PERSONS

24 Appointments

(1) The chief executive may appoint a person as an authorised person if satisfied the person has the necessary expertise to be an authorised person.

(2) An authorised person holds office on the conditions stated in the instrument of appointment.

(3) An authorised person ceases holding office—

- (a) if the appointment provides for a term of appointment—at the end of the term; or
- (b) if the conditions of appointment provide—on ceasing to hold another office stated in the appointment conditions.

25 Identity cards

(1) This section does not apply to an authorised person who is a police officer.

(2) The chief executive must give an identity card to each authorised person.

(3) The identity card must—

- (a) contain a recent photo of the authorised person; and
- (b) be signed by the authorised person; and
- (c) identify the person as an authorised person for this plan; and
- (d) state an expiry date for the card.

(4) A person who stops being an authorised person must return the person's identity card to the chief executive within 7 days after the person stops being an authorised person, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(5) This section does not prevent the issue of a single identity card to a person for this plan and the Act or other Acts.

26 Production or display of authorised person's identity card

(1) This section does not apply to an authorised person who is a police officer.

(2) An authorised person may exercise a power in relation to another person only if the authorised person—

- (a) first produces the authorised person's identity card for the other person's inspection; or
- (b) has the identity card displayed so it is clearly visible to the other person.

(3) However, if it is not practicable to comply with subsection (2), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

PART 11—POWERS OF AUTHORISED PERSONS

Division 1—Entry to place or watercraft

27 Power to enter places or watercraft

(1) An authorised person may enter a place or watercraft if—

- (a) its occupier consents to the entry; or
- (b) the entry is authorised by a warrant.

(2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Division 2—Procedure for entry

28 Consent to entry

(1) This section applies if an authorised person intends to ask an occupier of a place or watercraft to consent to the authorised person or another authorised person entering the place or watercraft.

(2) Before asking for the consent, the authorised person must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

- (a) the occupier has been told—
 - (i) the purpose of the entry; and

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

- (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the authorised person consent to enter the place or watercraft and exercise powers under this part; and
- (d) the time and date the consent was given.

(5) If the occupier signs an acknowledgment, the authorised person must immediately give a copy to the occupier.

(6) A court must find the occupier did not consent to an authorised person entering the place or watercraft under this part if—

- (a) an issue arises in a proceeding before the court whether the occupier of the place or watercraft consented to the entry; and
- (b) an acknowledgment is not produced in evidence for the entry; and
- (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

29 Application for warrant

(1) An authorised person may apply to a magistrate for a warrant for a place or watercraft.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

30 Issue of warrant

(1) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this plan; and

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

- (b) the evidence is at the place or watercraft, or may be at the place or watercraft within the next 7 days.

(2) The warrant must state—

- (a) that a stated authorised person may, with necessary and reasonable help and force—
 - (i) enter the place or watercraft and any other place necessary for entry; and
 - (ii) exercise the authorised person's powers under this part; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place or watercraft may be entered; and
- (e) the date, within 14 days after the warrant's issue, the warrant ends.

31 Warrants—procedure before entry

(1) This section applies if an authorised person named in a warrant issued under this part for a place or watercraft is intending to enter the place or watercraft under the warrant.

(2) Before entering the place or watercraft, the authorised person must do, or make a reasonable attempt to do, the following—

- (a) identify himself or herself to a person who appears to be an occupier of the place or watercraft by producing a copy of the authorised person's identity card;
- (b) give the person a copy of the warrant;
- (c) tell the person the authorised person is permitted by the warrant to enter the place or watercraft;
- (d) give the person an opportunity to allow the authorised person immediate entry to the place or watercraft without using force.

(3) However, the authorised person need not comply with subsection (2) if the authorised person reasonably believes that immediate entry to the place or watercraft is required to ensure the effective execution of the warrant is not frustrated.

Division 3—Powers after entry

32 General powers after entering places

(1) This section applies to an authorised person who enters a place or watercraft under this part.

(2) The authorised person may—

- (a) search any part of the place or watercraft; or
- (b) inspect, measure, test, photograph or film any part of the place or watercraft or anything at the place or watercraft; or
- (c) take a thing, or a sample of or from a thing, at the place or watercraft for analysis, measurement or testing; or
- (d) take an extract from, or copy, a document at the place or watercraft; or
- (e) take into or onto the place or watercraft any person, equipment and materials the authorised person reasonably requires for exercising a power under this part; or
- (f) require a person at the place or on the watercraft, to give the authorised person reasonable help to exercise the powers mentioned in paragraphs (a) to (e).

(3) A person must comply with a requirement under subsection (2)(f) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(4) A requirement under subsection (2)(f) does not include a requirement to produce a document or give information.

(5) Despite subsection (1), if an authorised person enters a place to get the occupier's consent to enter a place, subsections (2) to (4) apply to the authorised person only if the consent is given or the entry is otherwise authorised.

Division 4—Removal of watercraft

33 Notice of intention to remove watercraft

(1) An authorised person who reasonably believes that a watercraft is anchored or moored in contravention of this plan may give the owner or operator of the watercraft a notice of intention to remove the watercraft.

(2) The notice must state the contravention and that the watercraft may be removed by an authorised person if the watercraft is not moved, within 14 days after the notice is given, to a place that is not in contravention of this plan.

(3) In addition to any other way of giving the notice, the notice may be given by securely attaching it to the watercraft in a prominent position.

34 Moving illegally anchored or moored watercraft

(1) This section applies if—

- (a) a notice of intention to remove a watercraft has been given under section 33; and
- (b) after the 14 days mentioned in the notice, the watercraft is still anchored or moored in contravention of this plan; and
- (c) an authorised person—
 - (i) can not immediately find the watercraft's owner or operator; or
 - (ii) reasonably believes that neither the watercraft's owner or operator is able or willing to move the watercraft immediately.

(2) The authorised person may take steps that are necessary and reasonable to have the watercraft and anything in, on or attached to the watercraft removed to a place that is not in contravention of this plan.

35 Removal of hazardous watercraft

(1) This section applies if an authorised person reasonably believes that a watercraft is—

- (a) anchored or moored in contravention of this plan; and

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

(b) a hazard to water traffic.

Example of a hazard—

A watercraft that is on or beside the course of a power boat race conducted under an authority issued under the *Transport Operations (Marine Safety) Regulation 1995*, section 178.¹⁰

(2) The authorised person may take steps that are necessary and reasonable to have the watercraft and anything in, on or attached to the watercraft removed to a place that is not in contravention of this plan.

36 Dealing with removed watercraft

(1) If a watercraft is removed under section 34 or 35, the chief executive must give the watercraft's owner written notice of the place where the watercraft has been taken.

(2) However, if the chief executive can not identify the owner after making reasonable enquires having regard to the watercraft's value, the chief executive may give the notice in a newspaper circulating in the locality from which the watercraft was removed.

(3) The watercraft and anything in, on or attached to the watercraft (the **“watercraft”**) may be sold by public auction or otherwise disposed of if the owner of the watercraft does not take possession of the watercraft and pay all expenses of removal of the watercraft within 1 month after notice has been given under subsection (1) or (2).

(4) The expenses of removal of the watercraft—

- (a) are recoverable from the watercraft's owner as a debt in a court with jurisdiction for recovery of the amount claimed; and
- (b) may be deducted from the proceeds of disposal.

(5) In this section—

“expenses of removal” of a watercraft include expenses of—

- (a) removing and detaining the watercraft; and
- (b) giving notice under subsection (1) or (2); and
- (c) advertising for disposal and disposal.

¹⁰ *Transport Operations (Marine Safety) Regulation 1995*, section 178 (Aquatic events)

Division 5—General enforcement matters

37 Power to require name and address

(1) This section applies if—

- (a) an authorised person finds a person committing an offence against this plan; or
- (b) an authorised person finds a person in circumstances that lead, or has information about a person that leads, the authorised person to reasonably suspect the person has just committed an offence against this plan.

(2) The authorised person may require the person to state the person's name and residential address.

(3) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name or residential address unless the person has a reasonable excuse.

(4) The authorised person may require the person to give evidence of the correctness of the stated name or residential address if the authorised person reasonably suspects the stated name or address is false.

(5) A person must comply with a requirement under subsection (2) or (4) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(6) A person does not commit an offence against subsection (5) if the person is not proved to have committed the offence mentioned in subsection (1).

38 False or misleading statements

A person must not state anything to an authorised person that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

39 False or misleading documents

(1) A person must not give an authorised person a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the authorised person, to the best of the person’s ability, how the document is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the authorised person.

40 Obstructing authorised persons

(1) A person must not obstruct an authorised person in the exercise of a power unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) In this section—

“**obstruct**” includes attempt to obstruct.

41 Impersonating authorised persons

A person must not pretend to be an authorised person.

Maximum penalty—40 penalty units.

42 Notice of damage

(1) This section applies if property is damaged by—

- (a) an authorised person when exercising or purporting to exercise a power; or
- (b) another person acting under the direction or authority of an authorised person when exercising or purporting to exercise a power.

*Transport Infrastructure (Gold
Coast Waterways) Management Plan 2000*

(2) The authorised person must immediately give written notice of particulars of the damage to the person whom the authorised person reasonably believes to be the owner of the property.

(3) If the authorised person believes the damage was caused by a latent defect in the property, or circumstances beyond the authorised person's or other person's control, the authorised person may state the belief in the notice.

(4) If it is impracticable to comply with subsection (2), the authorised person must leave the notice in a conspicuous position and in a reasonably secure way on the property.

(5) This section does not apply to damage the authorised person reasonably believes is trivial.

(6) In this section—

“owner” of property includes the person in possession or control of it.

43 Protection from liability

(1) An authorised person is not civilly liable for an act or omission done honestly and without negligence under this part.

(2) If subsection (1) prevents civil liability attaching to an authorised person, the liability attaches instead to the State.

PART 12—FEES

44 Fees

The fees payable under this plan are in schedule 5.

SCHEDULE 1

WATERS FOR SECTIONS 8, 11 AND 14

sections 8, 11 and 14

PART 1—CANALS, CREEKS, FLOODWAYS HARBOURS AND RIVERS

1. Biggera Creek and its tributaries.
2. Boobegan Creek and its tributaries.
3. Canals.
4. Coombabah Creek and its tributaries.
5. Coomera River and its tributaries.
6. Currumbin Creek and its tributaries.
7. Loders Creek and its tributaries.
8. Hollywell Harbour.
9. Mudgeeraba Creek and its tributaries.
10. Nerang River, and its tributaries, upstream of the Nerang River Gold Coast Bridge linking Southport to Main Beach.
11. Paradise Point Boat Harbour.
12. Tallebudgera Creek and its tributaries.
13. Waters of the Broadwater—
 - (a) between—
 - (i) the Nerang River Gold Coast Bridge linking Southport to Main Beach; and
 - (ii) an imaginary line running east from the northern tip of the boat ramp near the Southport olympic swimming pool; and
 - (b) within 100 m of the shores of the Sovereign Islands or Ephraim Island.

SCHEDULE 1 (continued)

14. Waters of the Bundall flood channel between Ashmore Road and Racecourse Road.

PART 2—LAKES

15. Waters known as Burleigh Lake, Lake Heron, Miami Lake, Pelican Lake, Silvabank Lake and Swan Lake located adjacent to Christine Avenue, Burleigh Waters.
16. Waters known as Lake Cappabella located adjacent to Marbella Drive and Cabana Boulevard, Benowa.
17. Waters known as Clear Island Lake located adjacent to Bermuda Street and Robina Parkway, Clear Island Waters.
18. Waters known as Lake Hugh Muntz located adjacent to Barrier Reef Drive, Mermaid Waters.
19. Waters known as Lake Lido located adjacent to Cheltenham Drive, Robina.
20. Waters known as Monterey Keys located adjacent to Saltwater Creek, Helensvale.
21. Waters known as Lake Orr located adjacent to Bond University, Robina.
22. Waters known as Paradise Lake located adjacent to Burrendong Road and Lefroy Drive, Coombabah.
23. Waters known as Pine Lake located adjacent to Murtha Drive and Guineas Creek Road, Elanora.
24. Waters known as Robina Waters located adjacent to Bermuda Street, Robina.
25. Waters known as Lake Rosser located adjacent to Marbella Drive and Cabana Boulevard, Benowa.
26. Waters known as Lake Runaway located adjacent to Kangaroo Avenue and Marsupial Drive, Runaway Bay.

SCHEDULE 1 (continued)

- 27.** Waters known as West Lake located adjacent to Ron Penhaligon Way, Robina.
- 28.** Waters located adjacent to Cyclades Crescent, Currumbin.
- 29.** Waters located adjacent to Cypress Drive, Broadbeach Waters.
- 30.** Waters located adjacent to Nineteenth Avenue and Angelica, Ironbark and Acron Streets, Elanora.
- 31.** Waters located adjacent to Santa Cruz Boulevard, Clear Island Waters.

SCHEDULE 2

WATERS WHERE WATERCRAFT NOT TO BE ANCHORED, MOORED OR KEPT FOR OVER 7 DAYS

sections 9 and 11

1. Waters of the Broadwater between—
 - (a) an imaginary line running east from the northern tip of the boat ramp near the Southport olympic swimming pool; and
 - (b) an imaginary line running east-west through the north-east tip of Wavebreak Island.

SCHEDULE 3

WATERS WHERE WATERCRAFT NOT TO BE ANCHORED, MOORED OR KEPT FOR OVER 7 DAYS IN 1 LOCALITY

sections 10 and 11

1. Waters of the Broadwater between—
 - (a) an imaginary line running east-west through the north-east tip of Wavebreak Island; and
 - (b) an imaginary line running east from the southern tip of Rat Island near the mouth of the south arm of the Coomera River.
2. However the waters do not include waters within 100 m of the shores of the Sovereign Islands or Ephraim Island.

SCHEDULE 4

PROHIBITED WATERSKIING

section 14

1 Coomera River

Waterskiing is prohibited on the south arm of the Coomera River.

2 Nerang River

(1) Waterskiing is prohibited on the Nerang River upstream of the Nerang River Gold Coast Bridge linking Southport to Main Beach.

(2) Subsection (1) does not apply—

- (a) between Bosun Parade, Ashmore and Ross Street, Carrara; or
- (b) between Ross Street, Carrara and Hoy Street, Broadbeach Waters between 7 am and 7 pm; or
- (c) between Capri Bridge and Bundall Road Bridge, Sorrento between 8 am and 4 pm.

3 Tallebudgera Creek

Waterskiing is prohibited on Tallebudgera Creek other than between the boat ramp at Awonga Avenue, Burleigh Heads and Mallawa Drive, Palm Beach between 7 am and 7 pm.

4 Where speed limit of 6 knots applies

Waterskiing is prohibited in Gold Coast waters where a speed limit of 6 knots applies under the *Transport Operations (Marine Safety) Act 1994*, section 206A.¹¹

¹¹ *Transport Operations (Marine Safety) Act 1994*, section 206A (Chief executive's power to fix speed limits for ships)

SCHEDULE 5

FEES AND MARINA OWNER LEVY

sections 23(3) and 44

\$

Fees

- | | | |
|-----------|---|-------|
| 1. | Application for take off and landing approval | 62.05 |
|-----------|---|-------|

Annual marina owner levy

- | | | |
|-----------|---|--------|
| 2. | For each marina berth 12 m or less in length on
31 December in the previous year | 138.55 |
| 3. | For each marina berth over 12 m but not more than 18 m
in length on 31 December in the previous year | 147.85 |
| 4. | For each marina berth over 18 m in length on
31 December in the previous year | 165.45 |

SCHEDULE 6

DICTIONARY

section 3

“anchoring” does not include genuine transient anchoring.

Examples of genuine transient anchoring—

1. Anchoring to fish from a watercraft.
2. Anchoring for 15 minutes to buy bait or unload gear.

“approved structure” means—

- (a) a structure constructed with the sanction of the Governor in Council under the repealed *Harbours Act 1955*, section 86;¹² or
- (b) a navigation aid or sign installed under the *Transport Operations (Marine Safety) Act 1994*.

“authorised buoy mooring” means an authorised buoy mooring under the *Transport Operations (Marine Safety) Regulation 1995*, section 170.¹³

“film” includes video.

“freestyle”, using a watercraft, means drive the watercraft in a way that its course or speed is insufficiently predictable to allow masters of other watercraft, if they were in the vicinity, to readily decide what course and speed to take to avoid a collision with the watercraft.

“Gold Coast waters” see section 4.

“marina” means a jetty, pile mooring or buoy mooring, or combination of a jetty, pile mooring or buoy mooring, that is large enough for 2 watercraft to be moored.

“photograph” includes record with a digital camera.

“shore” means the shore at low water mark.

12 *Harbours Act 1955*, section 86 (Works on tidal lands or waters etc. not to be constructed without sanction of Governor in Council)

13 *Transport Operations (Marine Safety) Regulation 1995*, section 170 (Issue of buoy mooring authorities)

SCHEDULE 6 (continued)

“surf”, using a watercraft, means drive the watercraft down a breaking wave, wake or swell.

“take off and landing approval” see section 18.

“waterski” means tow a person by a line attached to a watercraft, including, for example, a person riding on a toboggan or tube.

“wave jump”, using a watercraft, means drive the watercraft over a breaking wave, wake or swell in order to make the watercraft airborne, other than in the ordinary course of navigation.

ENDNOTES

1 Index to endnotes

		Page
2	Date to which amendments incorporated	35
3	Key	36
4	Table of earlier reprints	36
5	Tables in earlier reprints	36
6	List of legislation	37
7	List of annotations	37

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 February 2002. Future amendments of the Transport Infrastructure (Gold Coast Waterways) Management Plan 2000 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	19 January 2001

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

6 List of legislation

Transport Infrastructure (Gold Coast Waterways) Management Plan 2000 SL No. 341

made by the Minister on 28 November 2000

notfd gaz 15 December 2000 pp 1478–83

ss 1–2 commenced on date of notification

s 8 (so far as it applies to canals) commences on the day after the Canals Act 1958 is
repealed (see s 2(2))

remaining provisions commenced 1 January 2001 (see s 2(1))

exp 1 September 2011 (see SIA s 54)

amending legislation—

Transport Infrastructure (Gold Coast Waterways) Amendment Management Plan (No. 1) 2001 SL No. 77

notfd gaz 22 June 2001 pp 706–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2001 (see s 2)

7 List of annotations

SCHEDULE 1—WATERS FOR SECTIONS 8, 11 AND 14

sch hdg sub 2001 SL No. 77 s 4

sch 1 amd 2001 SL No. 77 s 4

SCHEDULE 5—FEES AND MARINA OWNER LEVY

sub 2001 SL No. 77 s 5