

Queensland



Transport Infrastructure Act 1994

**TRANSPORT
INFRASTRUCTURE
(SUNSHINE COAST
WATERWAYS)
MANAGEMENT PLAN 2000**

**Reprinted as in force on 1 July 2004
(includes commenced amendments up to 2004 SL No. 54)**

Reprint No. 1C

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 July 2004. 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. Also see list of legislation for any uncommenced amendments.

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

Also see endnotes for information about—

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

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

Queensland



TRANSPORT INFRASTRUCTURE (SUNSHINE 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 AND MOORING		
6	Part does not apply to certain watercraft	6
7	Waters where anchoring or mooring prohibited or aground watercraft prohibited from being kept	6
8	Currumundi Lake and adjoining waters	7
9	Pumicestone Strait	7
PART 4—LIVING ON WATERCRAFT		
10	Living on watercraft prohibited in certain waters	7
11	Living on watercraft prohibited in certain waters without approval	8
12	Living on board approval	8
13	Watercraft used for living on board to have waste holding system	8
PART 5—AQUATIC EVENTS		
14	Aquatic events	10
PART 6—WATERCRAFT UNDER CONSTRUCTION ETC.		
15	Watercraft under construction etc.	10

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

16	Watercraft works approval	11
	PART 7—WATERSKIING	
17	Restrictions on waterskiing	11
	PART 8—FREESTYLING, SURFING AND WAVE JUMPING	
18	No freestyling, surfing or wave jumping in certain areas	12
19	No freestyling, surfing or wave jumping near person or watercraft	12
	PART 9—AIRCRAFT	
20	No take off or landing without an approval	12
21	Take off and landing approval	13
	PART 10—APPROVALS	
22	Approvals	13
23	Granting or refusing application for approval	13
24	Amending, suspending or cancelling approval	15
25	Procedure for amending, suspending or cancelling approval	15
26	Procedure for urgent suspension of approval of take off and landing approval	16
27	Section 196 of Act applies for review and appeal	17
	PART 11—APPOINTMENT OF AUTHORISED PERSONS	
28	Appointments	17
29	Identity cards	18
30	Production or display of authorised person’s identity card	18
	PART 12—POWERS OF AUTHORISED PERSONS	
	<i>Division 1—Entry to place or watercraft</i>	
31	Power to enter places or watercraft	19
	<i>Division 2—Procedure for entry</i>	
32	Consent to entry	19
33	Application for warrant	20
34	Issue of warrant	20
35	Warrants—procedure before entry	21
	<i>Division 3—Powers after entry</i>	
36	General powers after entering place or watercraft	22

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

<i>Division 4—Removal of watercraft</i>	
37	Notice of intention to remove watercraft. 22
38	Removing illegally anchored or moored watercraft 23
39	Removing hazardous watercraft 23
40	Dealing with removed watercraft 24
<i>Division 5—General enforcement matters</i>	
41	Direction to stop contravening plan 25
42	Power to require name and address 25
43	False or misleading statements 26
44	False or misleading documents 26
45	Obstructing authorised persons 26
46	Impersonating authorised persons 26
47	Notice of damage. 27
48	Protection from liability 27
	SCHEDULE 1 28
	SUNSHINE COAST WATERS
	SCHEDULE 2 29
	WATERS WHERE LIVING ON WATERCRAFT IS PROHIBITED
	SCHEDULE 3 30
	WATERS WHERE WASTE HOLDING SYSTEM IS REQUIRED
	SCHEDULE 4 31
	PROHIBITED FREESTYLING, SURFING AND WAVE JUMPING OF WATERCRAFT
1	Maroochy River. 31
2	Noosa River. 31
3	Pumicestone Strait. 32
4	Tooway Creek 32
5	If waterskiing is prohibited 32
	SCHEDULE 5 33
	DICTIONARY

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

ENDNOTES

1	Index to endnotes	35
2	Date to which amendments incorporated.	35
3	Key	35
4	Table of reprints	36
5	List of legislation	36
6	List of annotations	37

TRANSPORT INFRASTRUCTURE (SUNSHINE COAST WATERWAYS) MANAGEMENT PLAN 2000

[as amended by all amendments that commenced on or before 1 July 2004]

PART 1—PRELIMINARY

1 Short title

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

2 Commencement

This plan commences on 1 January 2001.

3 Definitions

The dictionary in schedule 5 defines particular words used in this plan.

PART 2—APPLICATION OF PLAN

4 Waters to which plan applies

This plan applies to waters, other than waters within a national park that are below high water mark within the area described in schedule 1 (“**Sunshine Coast waters**”).

5 Watercraft to which plan does not apply

This plan applies to either of the following watercraft in Sunshine 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 AND MOORING

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 the carrying out of the works at the particular location is approved under an Act; or
- (b) moored to an approved structure with the consent of the owner of the approved structure; or
- (c) moored to an authorised buoy mooring with the consent of the owner of the mooring.

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

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

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

(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 Currumundi Lake and adjoining waters

(1) This section applies to the waters of Currumundi Lake and adjoining waters.

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

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

Maximum penalty—20 penalty units.

9 Pumicestone Strait

(1) This section applies to the waters of Pumicestone Strait (commonly known as Pumicestone Passage) north of Bells Creek.

(2) The owner or operator of a watercraft that is over 5 m must not cause or allow the watercraft—

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

Maximum penalty—20 penalty units.

PART 4—LIVING ON WATERCRAFT

10 Living on watercraft prohibited in certain waters

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

(2) The owner or operator of a watercraft must not live on the watercraft in the waters or allow another person to live on the watercraft in the waters, whether temporarily, intermittently or permanently, in the waters.

Maximum penalty—20 penalty units.

(3) Subsection (2) does not apply to a watercraft that has entered Sunshine Coast waters from seaward while on a genuine voyage along the coast or an international voyage if—

- (a) entry was made for the purpose of—
 - (i) taking shelter from adverse weather; or
 - (ii) making urgent repairs; and
- (b) the living on board is for no more than 10 consecutive days.

11 Living on watercraft prohibited in certain waters without approval

(1) This section applies to a watercraft that is being used in Sunshine Coast waters, other than waters described in schedule 2, for living on board, whether temporarily, intermittently or permanently.

(2) However, this section does not apply if the watercraft is mentioned in section 10(3).

(3) Also, this section does not apply if the watercraft is a commercial houseboat.

(4) The owner or operator of the watercraft must not cause or allow the watercraft to remain in the waters for more than 48 hours, unless the living on board is authorised under a living on board approval.

Maximum penalty—20 penalty units.

12 Living on board approval

(1) The owner or operator of a watercraft to which section 11 applies may apply to the chief executive for an approval (a “**living on board approval**”) for the watercraft to remain in the waters to which section 11(1) applies for more than 48 hours while being used for living on board.

(2) The procedure for obtaining the approval is in part 10.

13 Watercraft used for living on board to have waste holding system

(1) This section applies—

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

- (a) if a watercraft is being used for living on board, whether temporarily, intermittently or permanently; and
- (b) whether or not the watercraft is occupied.

(2) The owner and the operator of the watercraft must ensure that the watercraft has a waste holding system while the watercraft is in waters described in schedule 3.

Maximum penalty—20 penalty units.

(3) The operator of the watercraft must ensure that none of the contents of the waste holding system is discharged into Sunshine Coast waters.

Maximum penalty—20 penalty units.

(4) The operator of the watercraft must ensure that a fixed or mobile pump-out facility is used to empty the contents of the waste holding system while the watercraft is in Sunshine Coast waters.

Maximum penalty—20 penalty units.

(5) The owner or operator of the watercraft must, for each discharge of the waste holding system while the watercraft is in Sunshine Coast waters, keep a written record of the date when, and the place where, the contents of the system were discharged and the quantity discharged.

Maximum penalty—20 penalty units.

(6) Subsections (2), (4) and (5) do not apply if the watercraft is mentioned in section 10(3).

(7) In this section—

“waste holding system” means a waste holding tank connected to each source of sewerage or waste water on the watercraft.

PART 5—AQUATIC EVENTS

14 Aquatic events

(1) This section applies if an authority to hold an aquatic event under the *Transport Operations (Marine Safety) Regulation 1995*, section 178¹ states an area for the holding of the event.

(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 direction may only be given for an event that is for no more than 48 hours.

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

Maximum penalty for subsection (4)—20 penalty units.

PART 6—WATERCRAFT UNDER CONSTRUCTION ETC.

15 Watercraft under construction etc.

(1) A person must not cause or allow a watercraft to anchor or moor in or otherwise use Sunshine Coast waters if the watercraft—

- (a) is under construction; or
- (b) is undergoing reconstruction; or
- (c) is being refitted; or

¹ *Transport Operations (Marine Safety) Regulation 1995*, section 178 (Aquatic events)

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

(d) is undergoing structural repairs.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply if the construction, reconstruction, repairs or refitting is done under a watercraft works approval.

(3) This section does not apply to a construction, reconstruction, refit or repairs carried out at a commercial facility for the building or repair of watercraft.

(4) Also, this section does not apply to a watercraft mentioned in section 10(3).

16 Watercraft works approval

(1) A person may apply to the chief executive for an approval (a “**watercraft works approval**”) to construct, reconstruct, refit or do structural repairs to a watercraft in Sunshine Coast waters.

(2) The procedure for obtaining the approval is in part 10.

PART 7—WATERSKIING

17 Restrictions on waterskiing

A person must not waterski in Sunshine Coast waters if the chief executive has stated, by gazette notice under the *Transport Operations (Marine Safety) Regulation 1995*, section 181,² that conducting waterskiing in the waters endangers marine safety.

Maximum penalty—40 penalty units.

² *Transport Operations (Marine Safety) Regulation 1995*, section 181 (Ships and activities prohibited in certain waters)

PART 8—FREESTYLING, SURFING AND WAVE JUMPING

18 No freestyling, surfing or wave jumping in certain areas

A person must not use a watercraft to freestyle, surf or wave jump in Sunshine Coast waters if the freestyling, surfing or wave jumping is prohibited under schedule 4.

Maximum penalty—40 penalty units.

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

(1) A person must not use a watercraft to freestyle, surf or wave jump in Sunshine Coast waters within 30 m of another watercraft.

Maximum penalty—40 penalty units.

(2) A person must not use a personal watercraft to freestyle, surf or wave jump in Sunshine Coast waters within 60 m of a person in the water.

Maximum penalty—40 penalty units.

(3) A person must not use a watercraft, other than a personal watercraft, to freestyle, surf or wave jump in Sunshine Coast waters within 30 m of a person in the water.

Maximum penalty—40 penalty units.

PART 9—AIRCRAFT

20 No take off or landing without an approval

(1) This section applies only to an aircraft engaged in commercial operations.

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

Maximum penalty—40 penalty units.

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

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

Maximum penalty—40 penalty units.

21 Take off and landing approval

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

(2) The procedure for obtaining the approval is in part 10.

PART 10—APPROVALS

22 Approvals

(1) The chief executive may issue the following—

- (a) a living on board approval;
- (b) a watercraft works approval;
- (c) a take off and landing approval.

(2) An application for an approval must be—

- (a) in the approved form; and
- (b) for a take off and landing approval, accompanied by the fee of \$65.70.

23 Granting or refusing application for approval

(1) The chief executive must consider an application for an approval and either—

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

(2) In deciding an application for a take off and landing approval, the chief executive must consider—

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

- (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.

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

(4) If the chief executive decides to grant an application for an approval on conditions, the chief executive must give the applicant written notice of the conditions.

(5) If the 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.

(6) A notice under subsection (3) or (4) must also state that—

- (a) the applicant—
 - (i) under section 196³ 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
- (b) the *Transport Planning and Coordination Act 1994*, part 5, divisions 2 and 3⁴ set out the procedure for applying for the review and the appeal.

(7) An approval is for the term stated in the approval.

3 Section 196 was renumbered as section 485 under *Transport Infrastructure Act 1994*, section 491.

4 *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)

24 Amending, suspending or cancelling approval

The chief executive may amend, suspend or cancel a person's 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.

25 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 an 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
- (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.

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

(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 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.

(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.

26 Procedure for urgent suspension of approval of take off and landing approval

(1) Despite section 25, if the chief executive considers it is necessary for public safety, the chief executive may, by written notice to a holder of a take off and landing approval, 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 25;
- (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

*Transport Infrastructure (Sunshine 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
- (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.

27 Section 196 of Act applies for review and appeal

Section 196⁵ of the Act applies as if the following decisions were decisions described in schedule 2⁶ of the Act and a Magistrates Court were stated in schedule 2 of the Act for the decisions—

- (a) a decision to grant an approval on conditions;
- (b) a decision to refuse an application for an approval;
- (c) a decision to amend, suspend or cancel an approval.

PART 11—APPOINTMENT OF AUTHORISED PERSONS

28 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.

5 Section 196 was renumbered as section 485 under *Transport Infrastructure Act 1994*, section 491.

6 Schedule 2 was renumbered as schedule 3 under *Transport Infrastructure Act 1994*, section 491.

29 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.

30 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 12—POWERS OF AUTHORISED PERSONS

Division 1—Entry to place or watercraft

31 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

32 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 (Sunshine 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.

33 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.

34 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 (Sunshine 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.

35 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

36 General powers after entering place or watercraft

(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

37 Notice of intention to remove watercraft

(1) This section applies if an authorised person reasonably believes—

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

- (a) a watercraft is anchored, moored or kept at a place in contravention of this plan; or
- (b) an owner or operator of a watercraft has not complied with section 10 or 11.

(2) The authorised person may give the owner or operator of the watercraft a notice of intention to remove the watercraft.

(3) 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.

(4) 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.

38 Removing illegally anchored or moored watercraft

(1) This section applies if—

- (a) a notice of intention to remove a watercraft has been given under section 37; 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.

39 Removing 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 (Sunshine 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 178.⁷

(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.

40 Dealing with removed watercraft

(1) If a watercraft is removed under section 38 or 39, 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

⁷ *Transport Operations (Marine Safety) Regulation 1995*, section 178 (Aquatic events)

- (d) advertising for the disposal of the watercraft; and
- (c) disposal of the watercraft.

Division 5—General enforcement matters

41 Direction to stop contravening plan

(1) If an authorised person considers a person is not complying with a provision of this plan, the authorised person may give the person a direction to immediately stop contravening this plan in a stated way.

(2) When giving the direction, the authorised person must tell the person that it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.

(3) The person must comply with the direction.

Maximum penalty for subsection (3)—40 penalty units.

42 Power to require name and address

(1) This section applies if an authorised person—

- (a) finds a person committing an offence against this plan; or
- (b) 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).

43 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.

44 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.

45 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—40 penalty units.

(2) In this section—

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

46 Impersonating authorised persons

A person must not pretend to be an authorised person.

Maximum penalty—40 penalty units.

47 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.

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

48 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.

SCHEDULE 1

SUNSHINE COAST WATERS

section 4

1. The Maroochy River, Mooloolah River, Noosa River, Currumundi Lake and adjoining waters.
2. Pumicestone Strait (commonly known as Pumicestone Passage), and adjoining waters, north of a line from latitude 27°06' south on the mainland shore to South Point on Bribie Island.
3. Waters on the mainland flowing into the sea between the mouth of the Noosa River and latitude 27°06' south.
4. Waters adjoining waters mentioned in item 2 or 3.

SCHEDULE 2

WATERS WHERE LIVING ON WATERCRAFT IS PROHIBITED

section 10(1) and 11(1)

1. Currumundi Lake and adjoining waters.
2. Maroochy River and adjoining waters.
3. Mooloolah River and adjoining waters, other than commercial marinas and waters of the State owned boat harbour at Mooloolaba.
4. Noosa River, and adjoining waters, downstream of a line running 333° True from Munna Point.
5. Lake Doonella and the waters of Noosa River Canal Estate.
6. Tooway Creek.

SCHEDULE 3

WATERS WHERE WASTE HOLDING SYSTEM IS REQUIRED

section 13(2)

1. Pumicestone Strait (commonly known as Pumicestone Passage) and adjoining waters.
2. Noosa River upstream of a line running 333° True from Munna Point and adjoining waters.

SCHEDULE 4

PROHIBITED FREESTYLING, SURFING AND WAVE JUMPING OF WATERCRAFT

section 18

1 Maroochy River

(1) Freestyling, surfing and wave jumping are prohibited within 50 m of the southern shore of the Maroochy River downstream of the Sunshine Motorway Bridge.

(2) Freestyling, surfing and wave jumping are prohibited within 50 m of the northern shore of the Maroochy River downstream of where Nojoor Road would intersect with the Maroochy River if it were to extend to the river.

2 Noosa River

(1) Freestyling, surfing and wave jumping are prohibited on the Noosa River between the downstream tip of Sheep Island and the boat ramp at the end of Thomas Street, Noosaville.

(2) Freestyling, surfing and wave jumping are prohibited on Noosa Sound, Noosa Woods, Weyba Creek and Keyser Channel.

(3) Freestyling, surfing and wave jumping are prohibited within 50 m of the northern or southern shore of the Noosa River downstream of the boat ramp at the end of Thomas Street, Noosaville, other than on Noosa Sound or Noosa Woods.

(4) However, subsections (1) and (3) do not apply to the commercial operation of a personal watercraft by a person who was operating personal watercraft commercially in the area covered by subsection (3) before the commencement of this plan.

SCHEDULE 4 (continued)

3 Pumicestone Strait

Freestyling, surfing and wave jumping are prohibited on Pumicestone Strait (commonly known as Pumicestone Passage)—

- between Bells Creek and a line running 200° True to Bribie Island from where Knox Avenue, Caloundra would meet the shore of Pumicestone Strait if Knox Avenue were to continue to the shore
- within 100 m of the mainland shore, between Glass House Mountains Creek and Bribie Island Bridge
- within 100 m of the shore of Bribie Island south of Wrights Creek on Bribie Island.

4 Tooway Creek

Freestyling, surfing and wave jumping are prohibited on Tooway Creek.

5 If waterskiing is prohibited

(1) Freestyling, surfing and wave jumping are prohibited in Sunshine Coast waters if the chief executive has stated, by gazette notice under the *Transport Operations (Marine Safety) Regulation 1995*, section 181⁸ that conducting waterskiing in the waters endangers marine safety.

(2) However, freestyling, surfing and wave jumping are not prohibited in the following waters, if the waters are not mentioned in sections 1 to 3—

- upstream of the David Low Bridge at Bli Bli on the Maroochy River
- downstream of the Sunshine Motorway bridge on the Maroochy River
- downstream of the boat ramp at the end of Thomas Street, Noosaville
- upstream of where the Mooloolah river joins Mountain Creek.

8 *Transport Operations (Marine Safety) Regulation 1995*, section 181 (Ships and activities prohibited in certain waters)

SCHEDULE 5

DICTIONARY

section 3

“adjoining” waters include waters connected to each other by other waters.

“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.

“approval” means—

- (a) a living on board approval; or
- (b) a watercraft works approval; or
- (c) a take off and landing approval.

“approved structure” means—

- (a) a structure constructed with the sanction of the Governor in Council under the repealed *Harbours Act 1955*, section 86;⁹ 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*.

“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 to readily decide what course and speed to take to avoid a collision with the watercraft.

“living on board approval” see section 12.

⁹ *Harbours Act 1955*, section 86 (Works on tidal lands or waters etc. not to be constructed without sanction of Governor in Council)

SCHEDULE 5 (continued)

“national park” means an area dedicated under the *Nature Conservation Act 1992* as a national park.

“photograph” includes record with a digital camera.

“shore” means the shore at low water mark.

“Sunshine Coast waters” see section 4.

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

“take off and landing approval” see section 21.

“watercraft works approval” see section 16.

“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 for the purpose of making 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	35
4	Table of reprints	36
5	List of legislation	36
6	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 July 2004. Future amendments of the Transport Infrastructure (Sunshine 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)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

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

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	1 January 2001	19 January 2001 (Column discontinued) Notes
1A	to 2002 SL No. 112	1 July 2002	
1B	to 2003 SL No. 106	1 July 2003	
1C	to 2004 SL No. 54	1 July 2004	

5 List of legislation

Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000 SL No. 342

made by the Minister on 4 December 2000
notfd gaz 15 December 2000 pp 1478–83
ss 1–2 commenced on date of notification
remaining provisions commenced 1 January 2001 (see s 2)
exp 1 September 2011 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Transport Legislation Amendment Regulation (No. 2) 2002 SL No. 112 pts 1, 7

notfd gaz 24 May 2002 pp 308–10
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2002 (see s 2)

Transport Legislation Amendment Regulation (No. 2) 2003 SL No. 106 pts 1, 7

notfd gaz 30 May 2003 pp 371–6
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2003 (see s 2)

Transport Legislation Amendment Regulation (No. 1) 2004 SL No. 54 pts 1, 7

notfd gaz 14 May 2004 pp 112–14
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2004 (see s 2)

6 List of annotations

Approvals

s 22 amd 2002 SL No. 112 s 14; 2003 SL No. 106 s 14; 2004 SL No. 54 s 14