

Queensland



Subordinate Legislation 1998 No. 161

*Wet Tropics World Heritage Protection and Management Act 1993*

**WET TROPICS MANAGEMENT PLAN 1998**

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## **PART 1—PRELIMINARY**

### **Short title**

1. This management plan may be cited as the *Wet Tropics Management Plan 1998*.

### **Commencement**

2. This plan commences on 1 September 1998.

### **Definitions and dictionary**

3. The dictionary in schedule 3 defines particular words used in this plan.

### **Inspection of maps and other documents**

4. If a provision of this plan states that a map or other document is available for inspection under this section—

- (a) the map or document may be inspected free of charge, during office hours, at the authority's head office and other places the authority considers appropriate;<sup>1</sup> and
- (b) a copy may be purchased from the authority for a reasonable fee.

### **Forms**

5. The executive director may approve forms for use under this plan.<sup>2</sup>

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<sup>1</sup> For an inquiry about where a map or document may be inspected, the Authority may be contacted as follows—  
Wet Tropics Management Authority  
PO Box 2050 Cairns Q 4870  
telephone: 0740 520555; fax: 0740 311364.

<sup>2</sup> The *Statutory Instruments Act 1992*, part 8, makes provision about approved forms.

## PART 2—MANAGEMENT ZONES

### *Division 1—Establishment of zones*

#### **Management zones**

**6.(1)** For managing the wet tropics area, the area is divided into the following management zones—

- zone A
- zone B
- zone C
- zone D.

**(2)** The zones are established according to the integrity, remoteness from disturbance, intended physical and social setting and management purpose of different parts of the area.

#### **Extent of zones**

**7.(1)** The zones are shown on maps (the “**zoning maps**”) held by the authority.

**(2)** The zoning maps may be inspected under section 4.

**(3)** The zones cover the whole wet tropics area and do not overlap.

#### **Procedure for amending zoning map**

**8.(1)** A zoning map may be amended only by complying with sections 44, 45, 46 and 47(1) and (2) of the Act,<sup>3</sup> as if a reference in the sections to a management plan were a reference to a zoning map.

**(2)** However, subsection (1) does not apply to an amendment of a zoning map to correct an error or to make an insubstantial change.

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<sup>3</sup> Sections 44 (Notice of preparation of draft plan), 45 (Preparation of final plan), 46 (Submission of final plan etc. to Ministerial Council) and 47 (Approval of final plan) of the Act.

(3) Notice of the Governor in Council's approval of a final zoning map must be published in the gazette.

(4) A final zoning map commences on the day the gazette notice is published or any later day stated in the notice.

(5) This section does not apply to an amendment of a zoning map under schedule 1.

(6) To remove any doubt, it is declared that subsections (3) and (4) do not apply to the zoning maps taking effect on the commencement of this plan.

(7) Subsection (6) and this subsection expire at the end of the day they commence.

### **Rezoning of land to accommodate essential community services infrastructure**

9.(1) A zoning map may also be amended under schedule 1.

(2) Schedule 1 provides for the rezoning of land in the area from zone B to zone C, on the application of a local government, to accommodate essential community services infrastructure.

### ***Division 2—Zone A***

#### **Land included in zone**

10. Zone A is comprised of land that is of high integrity and remote from disturbance.

#### **Intended physical and social setting**

11. It is intended that, in zone A—

- (a) land be of high integrity, remote from disturbance by activities associated with modern technological society; and
- (b) a visitor may expect opportunities for solitude in a natural area



- requiring a degree of self reliance; and
- (c) there be no obvious management presence.

**Management purpose**

**12.** The management purpose of zone A is, to the greatest possible extent—

- (a) to protect the integrity of land in the zone; and
- (b) if the land is disturbed—to restore the land to its natural state.

***Division 3—Zone B*****Land included in zone**

**13.** Zone B is comprised of land that is mostly of high integrity but not necessarily remote from disturbance.

**Intended physical and social setting**

**14.** It is intended that, in zone B—

- (a) land be undergoing recovery or rehabilitation towards its natural state or becoming remote from disturbance by activities associated with modern technological society; and
- (b) a visitor may expect opportunities for solitude in a natural area requiring a degree of self reliance; and
- (c) management presence be limited mainly to activities required for the recovery or rehabilitation of the area.

**Management purpose**

**15.** The management purpose of zone B is, to the greatest possible extent—

- (a) to protect and enhance the integrity of land in the zone;
- (b) if the land is disturbed—

- (i) to restore land in the zone to its natural state, as opportunities arise; and
- (ii) to include the land in zone A once it is sufficiently recovered or rehabilitated.

### *Division 4—Zone C*

#### **Land included in zone**

**16.** Zone C is comprised of land on which, or adjacent to which, there is disturbance associated with community services infrastructure.

#### **Intended physical and social setting**

**17.** It is intended that, in zone C—

- (a) land be mostly natural, but with some disturbance associated with community services infrastructure, other community facilities and visitor facilities; and
- (b) a visitor may expect various low-key opportunities for nature appreciation and social interaction in a natural setting, but with some disturbance by activities associated with modern technological society; and
- (c) management presence may be obvious.

#### **Management purpose**

**18.** The management purpose of zone C is—

- (a) to accommodate community services infrastructure, other community facilities and visitor facilities; but
- (b) to the greatest possible extent—
  - (i) to ensure any adverse impact of activities carried out in the zone on the area's integrity is minimal and acceptable under this plan; and

- (ii) to otherwise protect and enhance the integrity of land in the zone.

### *Division 5—Zone D*

#### **Land included in zone**

**19.** Zone D is comprised of land on which there are, or are planned to be, developed facilities to enable visitors to appreciate and enjoy the wet tropics area.

#### **Intended physical and social setting**

**20.** It is intended that, in zone D—

- (a) land be mostly natural, with visitor facilities integrated into the surrounding landscape; and
- (b) a visitor may expect many opportunities to appreciate and enjoy the area and interact socially in a natural setting; and
- (c) management presence may be obvious.

#### **Management purpose**

**21.** The management purpose of zone D is—

- (a) to accommodate facilities for—
  - (i) presenting the area to visitors; and
  - (ii) enabling visitors to enjoy land in the zone and in nearby parts of the area; but
- (b) to the greatest possible extent—
  - (i) to ensure any adverse impact of activities carried out in the zone on the area's integrity is minimal and acceptable under this plan; and
  - (ii) to otherwise protect and enhance the integrity of the land in the zone.

## PART 3—CONTROL OF ACTIVITIES

### *Division 1—Explanation*

#### **Controls under the Act and this plan**

**22.(1)** Activities in the wet tropics area are controlled under the Act and this plan.

**(2)** The main way the Act controls activities is under section 56 of the Act, which contains offences about destroying forest products.

**(3)** This plan controls activities by—

- (a) prohibiting certain activities; and
- (b) allowing certain activities, which would otherwise be prohibited, to be carried out (either under a permit or without a permit); and
- (c) exempting certain activities that destroy forest products,<sup>4</sup> the consequence of which is that a person does not commit an offence against section 56 of the Act by carrying out the activities.

**(4)** This plan also provides for a person to enter into a cooperative management agreement or other agreement with the authority varying the way this plan applies to the person.

#### **Control of native title rights**

**23.(1)** This plan applies to native title holders for land in the area but controls activities in a way that does not cause the native title holders to be in a more disadvantageous position at law than they would be if they instead held ordinary title to the land.

**(2)** Subsection (1) does not limit or otherwise affect the operation of the *Native Title Act 1993* (Cwlth) or the *Native Title (Queensland) Act 1993*.

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<sup>4</sup> See division 6 (Exemptions).

**Provisions do not affect other laws or confer entitlement to permit**

24. To remove any doubt, it is declared that—

- (a) a provision allowing a person to carry out an activity does not affect the operation of any other law under which the activity is unlawful or controlled in another way; and
- (b) a provision allowing a person to carry out an activity under a permit does not affect a decision under part 4 whether to issue a permit to the person to carry out the activity.

***Division 2—Prohibited activities*****Destroying forest products**

25. It is an offence under section 56 of the Act to carry out certain activities that destroy forest products in the wet tropics area.<sup>5</sup>

**Other prohibited activities**

26.(1) A person must not, without a reasonable excuse, carry out any of the following activities in the wet tropics area, except so far as the activity is lawfully carried out under division 3 or 4 or an agreement entered into under section 41 or 42—

- (a) planting, cultivating, propagating, killing or disposing of an undesirable plant;
- (b) keeping an undesirable animal, bringing in an undesirable animal, or allowing an undesirable animal to stray or escape onto, or remain at, any place in the area;
- (c) mining, fossicking, eductor dredging or destructive mineral exploration;
- (d) excavating, grading, quarrying or otherwise interfering with earth;
- (e) interfering with a watercourse by extracting or diverting water,

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<sup>5</sup> The maximum penalty under section 56 of the Act is 3 000 penalty units or 2 years imprisonment.

damming the watercourse or carrying out another activity interfering with its natural flow;

- (f) building or maintaining a structure;
- (g) building or maintaining a road;
- (h) disposing of waste, other than in an appropriate receptacle;
- (i) operating a general waste disposal facility or a regulated waste disposal facility;
- (j) operating a motor vehicle;
- (k) operating a motorised boat;
- (l) flying a motorised aircraft, for commercial purposes, less than 1 000 ft above the area;
- (m) landing an aircraft at a place other than in a natural clearing or on water.

Maximum penalty—

- (a) for subsection (1)(a), (c), (d), (e), (f), (g) or (i)—165 penalty units;
- (b) for subsection (1)(b) or (h)—100 penalty units;
- (c) for subsection (1)(j), (k), (l) or (m)—50 penalty units.

(2) To remove any doubt, it is declared that subsection (1) applies to an activity whether or not it is carried out as a business.

### *Division 3—Allowed activities*

#### **Activities allowed in all zones**

**27.** A person may carry out any of the following activities—

- (a) an activity for—
  - (i) the protection of life; or
  - (ii) the urgent protection of property; or
  - (iii) the urgent control of a fire or other natural disaster;

- (b) maintaining a firebreak that existed immediately before the commencement day or was lawfully built under this plan;
- (c) operating a motor vehicle on a road depicted on a zoning map other than a road shown as a 'presentation (restricted)' road or 'management' road;<sup>6</sup>
- (d) operating a motorised boat in a dam, in tidal waters or on Lake Barrine, if the operation is otherwise lawful;
- (e) burning vegetation, other than in a rainforest, if the burning is otherwise lawful;
- (f) transporting an undesirable animal through the area, in a vehicle or within some other constraint, in a way that ensures the animal cannot stray or escape onto land in the area;
- (g) for land, other than rainforest, that is private land or land in relation to which native title exists—keeping an undesirable animal on the land or allowing an undesirable animal to enter or remain on the land;
- (h) grazing animals, other than in a rainforest, if the grazing is otherwise lawful;
- (i) mining under a licence, permit or other authority under the *Mineral Resources Act 1989*;
- (j) for a government—the operation of community services infrastructure being lawfully operated by the government immediately before the commencement day;
- (k) flying a motorised aircraft less than 1 000 ft above the area—
  - (i) when taking off or landing; or
  - (ii) if flying at a level that is reasonably necessary for safety purposes;
- (l) for the Commonwealth carrying out defence activities—landing an aircraft in a clearing that was cleared before the commencement day.

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<sup>6</sup> The roads depicted on the zoning maps on which a person may operate a motor vehicle under this paragraph include all sealed or gravel roads that appear to be trafficable and for which there is no indication that they are closed to the public.

**Activities with minor and inconsequential impact**

**28.(1)** A person may carry out an activity that—

- (a) causes no more than minor and inconsequential destruction of a forest product; and
- (b) has no more than a minor and inconsequential adverse impact on the area's integrity; and
- (c) causes no more than minor and inconsequential interference with earth or a watercourse.

**(2)** The following activities, for example, could reasonably be carried out in a way that complies with subsection (1)—

- (a) maintaining a residence;
- (b) maintaining the following things around a residence—a structure, garden, lawful access road or small clearing;
- (c) driving a vehicle off a lawful access road to the extent necessary to get around an immovable obstacle on the road;
- (d) bushwalking or camping in the area;
- (e) taking water from a watercourse for personal consumption.

**(3)** However, the following are examples of activities that may not be carried out under subsection (1)—

- (a) it would not be minor destruction of a forest product to clear a large area of vegetation for cattle grazing;
- (b) it would not be inconsequential destruction of a forest product to destroy a rare native plant;
- (c) it would not have an inconsequential adverse impact on the area's integrity if a person disposed of an undesirable plant in the area where the plant might spread through the area.

**Certain activities by land-holders or native title holders**

**29.(1)** A land-holder holding ordinary title to land in the area may carry out an allowed activity on the land so far as the land-holder is entitled to carry out the activity under the land-holder's ordinary title.



(2) A native title holder for land in the area may carry out an allowed activity on the land so far as the native title holder is entitled to carry out the activity under the native title holder's native title.

(3) Another person may, under the permission of a land-holder or native title holder for land in the area, carry out an allowed activity on the land so far as the land-holder or native title holder may carry out the activity under this section.

(4) To remove any doubt, it is declared that a government may be a land-holder for this section.

(5) In this section—

**“allowed activity”**, for land, means—

- (a) an activity on the land for the protection, conservation or rehabilitation of the area's world heritage values; or
- (b) operating a motor vehicle on a lawful access road for the land; or
- (c) disposing of waste on the land, but only if—
  - (i) no regular waste removal service is available for the land; and
  - (ii) the land is at least 20 km by road from the nearest general waste disposal facility; and
  - (iii) the waste is disposed of in a way that causes the least adverse impact on the land's integrity.

### **Certain activities by chief executive**

**30.(1)** The chief executive<sup>7</sup> may carry out an activity in a protected area if the chief executive considers the activity would be—

- (a) consistent with part 4, divisions 2 to 4, as if a reference in the divisions to the authority deciding a permit application were a reference to the chief executive deciding whether to carry out the activity under this section; and
- (b) consistent with the management principles prescribed for the

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<sup>7</sup> The reference to 'the chief executive' is a reference to the chief executive of the Department of Environment (see the *Acts Interpretation Act 1954*, section 33).

protected area under the *Nature Conservation Act 1992*, or necessary to protect cultural values in the protected area.

(2) In carrying out an activity under subsection (1), the chief executive must comply with section 10(4) to (6) of the Act, as if a reference to the authority performing its functions were a reference to the chief executive carrying out the activity.

### **Certain activities by authority**

31. The authority may carry out an activity in the area if it considers the activity would be consistent with part 4, divisions 2 to 4, as if a reference in the divisions to the authority deciding a permit application were a reference to the authority deciding whether to carry out the activity under this section.

### ***Division 4—Activities allowed under permit***

#### **Activities may be carried out under permit**

32.(1) This division specifies activities (“**permitted activities**”) for which a permit may be issued.

(2) If a permit is issued to a person under this plan for a permitted activity, the person may carry out the activity under the permit.

(3) To remove any doubt, it is declared that—

- (a) it is only necessary to apply for a permit for a permitted activity if carrying out the activity without a permit would be unlawful under this plan; and
- (b) if a person has a native title right or interest to carry out an activity, this section applies subject to the *Native Title Act 1993* (Cwlth), section 211.<sup>8</sup>

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<sup>8</sup> Section 211 limits the operation of certain laws that would otherwise prohibit or restrict native title holders from exercising certain native title rights (such as hunting or fishing) other than under a licence, permit or other instrument.

**Activities permitted in all zones**

**33.** A permit may be issued to a person to carry out any of the following activities—

- (a) an activity the person was lawfully carrying out immediately before the commencement day;
- (b) an activity the person has a native title right or interest to carry out;
- (c) maintaining a structure;
- (d) maintaining a road;
- (e) clearing vegetation around a structure or road existing immediately before the commencement day, or was lawfully built under this plan, to the extent necessary for its appropriate use;
- (f) building or maintaining a walking track or associated structure;
- (g) building a firebreak, if the building is otherwise lawful;
- (h) seed collecting;
- (i) killing or disposing of an undesirable plant;
- (j) operating a motor vehicle—
  - (i) on a road depicted on a zoning map as a ‘presentation (restricted)’ road; or
  - (ii) on a road depicted on a zoning map as a ‘management’ road, for the purpose of conservation management, scientific research or maintenance of community services infrastructure;
- (k) flying a motorised aircraft less than 1000 ft above the area.

**Certain activities in zones C and D**

**34.** A permit may be issued to a person to carry out any of the following activities in zone C or D—

- (a) building a structure;
- (b) building a road;
- (c) beekeeping, other than in a rainforest;

- (d) excavating, grading, quarrying or otherwise interfering with earth;
- (e) interfering with a watercourse by extracting or diverting water, damming the watercourse or carrying out another activity that interferes with its natural flow.

### **Certain activities by land-holders or native title holders**

**35.(1)** A permit may be issued to a land-holder holding ordinary title to land in the area to carry out a domestic activity on the land so far as the land-holder is entitled to carry out the activity under the land-holder's ordinary title.

**(2)** A permit may be issued to a native title holder for land in the area to carry out a domestic activity on the land so far as the native title holder is entitled to carry out the activity under the native title holder's native title.

**(3)** A permit may be issued to another person to carry out a domestic activity on land in the area, under the permission of a land-holder or native title holder for the land, if a permit could be issued under this section to the land-holder or native title holder to carry out the activity.

**(4)** To remove any doubt, it is declared that a government may be a land-holder for this section.

**(5)** In this section—

**“domestic activity”**, for land, means—

- (a) building a residence on the land; or
- (b) clearing or building a pedestrian or vehicular access to a residence on the land; or
- (c) establishing a housegarden or orchard on the land other than for commercial purposes; or
- (d) extracting water for domestic use.

### **Activities to avoid injurious affection to interest**

**36.** A permit may be issued to a land-holder to carry out an activity if the land-holder's interest in the land would be injuriously affected if the land-holder were not allowed to carry out the activity.

**Activities in protected area**

**37.** A permit may be issued to a person to carry out an activity in a protected area if the person holds a licence, permit or other authority to carry out the activity given under another Act administered by the Minister.

**Activities in zone B that may reduce impacts on the area**

**38.(1)** This section applies only to zone B.

**(2)** A permit may be issued to a person to carry out an activity if the authority considers carrying out the activity would have less adverse impact on the area's integrity than not carrying out the activity.

**(3)** Subsection (2) applies whether or not the activity is consistent with the intended physical and social setting and management purpose of zone B.

*Examples—*

1. A person applies for a permit to build a powerline in zone B and to remove 2 other powerlines. The authority may issue the permit (under part 4) if it considers building the new powerline would have less adverse impact on the area's integrity than not building the new powerline and allowing the 2 existing powerlines to remain.

2. A person applies for a permit to build a powerline in zone B. An alternative way of achieving the purpose of the proposed activity involves building 2 powerlines, which would have a more adverse impact on the area's integrity. Subsection (2) does not provide that a permit may be issued to build the powerline merely because it would have less adverse impact than a particular alternative. In this case, not building the powerline does not necessarily involve implementing the alternative with the more adverse impact.

**Activities to obtain information for a rezoning application**

**39.(1)** This section applies only to zone B.

**(2)** A permit may be issued to a local government to carry out an activity the authority considers may be necessary to prepare an environmental impact assessment, or obtain other information, for an application under schedule 1.

**(3)** Subsection (2) applies whether or not the activity is consistent with the intended physical and social setting and management purpose of zone B.

***Division 5—Negotiations and variation of controls under agreements*****Authority must negotiate**

**40.(1)** This section applies if—

- (a) a person or group has or claims rights concerning land in the area; and
- (b) the exercise of the rights could adversely affect the land’s world heritage values; and
- (c) the person or group seeks negotiations in good faith with the authority about the exercise of the rights.

**(2)** The authority must negotiate in good faith with the person or group as soon as practicable after the negotiations are sought, with a view to entering into a mutually beneficial agreement that is lawful and consistent with achieving the primary goal.

*Example—*

A person is, or claims to be, the holder of a freehold title or native title in relation to land in the area. The exercise of particular rights under the title could result in damage to an area of rainforest. The person seeks negotiations in good faith with the authority about the exercise of the rights. The authority must negotiate in good faith with the person under this section. The negotiations may lead to a cooperative management agreement or other agreement under this division.

**(3)** In this section—

**“rights”**, concerning land, includes rights and interests held by Aboriginal people particularly concerned with the land.

**Cooperative management agreements**

**41.(1)** The authority and a person may enter into a cooperative management agreement under which—

- (a) the person agrees to contribute in some way to achieving the primary goal, including, for example, by not carrying out an activity the person could otherwise lawfully carry out under this plan; and
- (b) the authority agrees—

- (i) to give a stated consideration to the person; or
- (ii) that the person may carry out an activity the person could not otherwise lawfully carry out under this plan.

(2) The agreement may also provide for other matters necessary or convenient to give effect to the matters mentioned in subsection (1), including, for example, the consequences of the person contravening the agreement.

(3) The authority may enter into the agreement only if it considers the agreement would contribute to achieving the primary goal.

(4) Before entering the agreement, the authority may ask the person for an environmental impact assessment or other information relevant to deciding whether to enter the agreement.

(5) As well as the authority and the person mentioned in subsection (1), other persons may be parties to the agreement including, for example, the land-holder and any native title holder for the land the subject of the agreement.

(6) The agreement must state that it is an agreement to which section 43 applies.

(7) To remove any doubt, it is declared that the authority may enter the agreement whether or not there is an approved determination of native title under which the person has a right or interest to carry out an activity in the area.

### **Other agreements varying plan controls**

**42.(1)** If the exercise of a person's rights in relation to land in the area could adversely affect the land's world heritage values, the authority may enter an agreement with the person that varies the application of this plan to the person.

(2) The agreement may also provide for other matters necessary or convenient to give effect to the variation of the plan's application to the person, including, for example, the consequences of the person contravening the agreement.

(3) The authority may enter into the agreement only if it considers the agreement would contribute to achieving the primary goal.

(4) As well as the authority and the person mentioned in subsection (1), other persons may be parties to the agreement including, for example, the land-holder and any native title holder for the land the subject of the agreement.

(5) The agreement must state that it is an agreement to which section 43 applies.

(6) To remove any doubt, it is declared that the authority may enter the agreement whether or not there is an approved determination of native title under which the person has a right or interest to carry out an activity in the area.

### **Plan operates subject to agreements**

**43.(1)** If the authority and a person enter into an agreement under section 41 or 42, this plan applies to the person subject to the agreement.

(2) The authority must ensure the agreement is available for inspection under section 4.

## ***Division 6—Exemptions***

### **Exemption of certain activities that destroy forest products**

**44.** For section 56(3) of the Act, definition “**prohibited act**”, paragraph (b), an activity that destroys a forest product is exempted if it is carried out under—

- (a) division 3 or 4; or
- (b) an agreement entered into under section 41 or 42.<sup>9</sup>

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<sup>9</sup> The consequence of exempting the activities is that a person does not commit an offence against section 56 of the Act by carrying out the activities.



## PART 4—PERMITS

### *Division 1—Procedural matters*

#### **Application for permit**

**45.(1)** A person may apply to the authority for a permit to carry out an activity, or more than 1 activity, or 1 or more classes of activities, in the area.

**(2)** The application must be in the approved form and accompanied by the fee prescribed under a regulation.

#### **Assessment fee**

**46.(1)** The applicant must also pay, within the time required by the authority, the reasonable fee required by the authority for assessing the application.

**(2)** The time for payment must be reasonable, having regard to—

- (a) the amount of the fee; and
- (b) when the assessment costs will be incurred by the authority; and
- (c) the due day for deciding the application.

**(3)** If the applicant does not comply with subsection (1), the application lapses.

#### **Authority may ask for more information**

**47.(1)** The authority, by written notice, may ask the applicant for more information or documents relevant to deciding the application.

*Examples of information or documents that may be requested—*

- an environmental impact assessment for the proposed activity meeting stated terms of reference
- information about the nature, scale, duration and extent of the proposed activity
- information about whether there is a prudent and feasible alternative to

the activity

- information about the effects that a proposed decision on the application may have for the community or a part of the community.

(2) The notice must state a time for giving the information or documents which—

- (a) must be reasonable; and
- (b) must be at least 90 days after the notice is given to the applicant; and
- (c) may be extended by the authority at any time.

(3) The authority must not unreasonably refuse a request from the applicant for an extension of the time.

(4) If the applicant does not give the information or documents to the authority within the stated time, or any extension, the application lapses.

(5) The authority may ask the applicant for an environmental impact assessment under this section only if it considers—

- (a) the proposed activity might have an impact on the area's integrity that is unacceptable under this plan; and
- (b) having regard to the significance of the proposed activity, it would be reasonable to ask for the assessment.

(6) If the authority asks the applicant for an environmental impact assessment, the applicant may comply by giving a copy of an environmental impact assessment for the proposed activity prepared to comply with another law and, if the applicant complies with the requirement in that way, the authority—

- (a) may not require the applicant to give another assessment; but
- (b) may ask for other information or documents.

### **Authority must decide application**

**48.** The authority must decide the application as soon as practicable by either—

- (a) issuing the permit (with or without conditions); or
- (b) refusing to issue the permit.

**Due day for deciding applications**

**49.(1)** The due day for the authority to decide the application is the sixtieth day after the application is made, not including—

- (a) a day the authority asks for more information or documents under section 47; or
- (b) the day the applicant complies with the request; or
- (c) any days between the days mentioned in paragraphs (a) and (b).

**(2)** However, if requested to do so by the authority, the Minister may extend the due day for deciding the application if the Minister is satisfied it would be reasonable, having regard to the nature of the application and any other matter relevant to the authority's capacity to properly decide it.

**(3)** If the Minister extends the due day, the Minister must give written notice of the extension to the authority and the applicant.

**(4)** The due day may also be extended by agreement between the authority and the applicant.

**(5)** If the authority does not decide the application by the due day, including any extension—

- (a) the applicant may proceed under part 5 as if the authority had refused to issue the permit and had given the applicant written notice of the refusal on the due day; but
- (b) if the applicant does not proceed under part 5, the authority is still required to decide the application as soon as practicable.

**Consultation**

**50.** In deciding the application, the authority may consult with other appropriate entities.

**Conditions**

**51.(1)** The authority may issue a permit on conditions that, having regard to divisions 2 to 4, it considers appropriate.

**(2)** For example, a permit may be issued on conditions the authority considers necessary to—

- (a) prevent, minimise or monitor any adverse impact the proposed activity may have on the area's integrity; or
- (b) rehabilitate the area while carrying out the activity or after the activity has ended.

(3) Without limiting subsection (1), a condition may be that the applicant must comply with a code of practice for the activity.

### **Security**

**52.(1)** Without limiting section 51(1), a permit may be issued on the condition that the applicant pay a reasonable amount as security or a performance bond for compliance with other conditions of the permit.

(2) In deciding what is a reasonable amount, the authority must consider—

- (a) the nature and extent of the proposed activity's likely impact on the integrity of the area; and
- (b) the estimated cost of remedying the impact; and
- (c) any other matter the authority considers relevant.

(3) The conditions must state when, and the way in which, the amount may be applied or otherwise dealt with by the authority.

### **Decision to be notified to applicant and recorded**

**53.(1)** As soon as practicable after deciding the application, the authority must—

- (a) record the decision in the register of permit decisions; and
- (b) give the applicant written notice of the decision.

(2) If the decision is to refuse the permit, or to issue a permit on conditions, the notice given to the applicant must also state—

- (a) the reasons for the decision; and
- (b) that the applicant may, within 60 days after the notice is given, ask the authority to review the decision.

**Register of permit decisions**

**54.(1)** The authority must keep a register containing the following details for each permit decision—

- (a) the date of the decision; and
- (b) whether a permit was issued; and
- (c) if a permit was issued—
  - (i) the name of the permit holder; and
  - (ii) the activities for which the permit was issued; and
  - (iii) any conditions applying to the permit; and
- (d) the reasons for the decision.

**(2)** The register may be inspected free of charge, during office hours, at the authority's head office.

***Division 2—Principles and criteria for deciding permit applications*****Purpose of division**

**55.** This division specifies the principles and criteria that apply to deciding an application for a permit.

**Most important consideration**

**56.(1)** The most important consideration for deciding the application is the likely impact of the proposed activity on the area's integrity.

**(2)** The impact must be considered having regard to the intended physical and social setting and management purpose, and the remoteness, of—

- (a) the zone in which the activity is proposed to be carried out; and
- (b) any nearby zone that may be affected, including, in particular, zones A and B.

**(3)** This is the most important consideration because—

- (a) it is the stated intention of the Parliament to make provision, by the Act, to ensure that effective, active measures are taken to meet

Australia's obligation under the convention; and

- (b) the authority is established to ensure Australia's obligation under the World Heritage Convention in relation to the area is met; and
- (c) the Act requires the authority to perform its functions in a way that is consistent with the protection of the area's natural heritage values.<sup>10</sup>

### **Precautionary principle**

**57.** The authority must decide the application under the principle that, if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.<sup>11</sup>

### **Prudent and feasible alternatives**

**58.(1)** The authority must consider whether there is any prudent and feasible alternative to a proposed activity.

**(2)** In deciding whether there is an alternative to a proposed activity, the authority may have regard to the following—

- (a) any alternative site for the activity, either elsewhere in the area or outside the area;
- (b) any alternative use for the proposed site of the activity;
- (c) any alternative way of carrying out the proposed activity;
- (d) the alternative of not carrying out, or postponing carrying out, the proposed activity.

**(3)** In deciding whether an alternative is prudent, the authority must consider the likely impact of the alternative on the area's integrity compared to that of the proposed activity.

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<sup>10</sup> See clause (7) of the preamble to the Act and sections 7 and 10(4) of the Act.

<sup>11</sup> Section 10(6) of the Act requires the authority to perform its functions in a way that is consistent with the objectives and principles of the National Strategy for Ecologically Sustainable Development, which requires decisions to be made on the basis of the principle stated here.

- (4) In deciding whether an alternative is feasible, the authority—
- (a) may have regard to issues of safety, health, economics, convenience, public interest and community disruption and any other relevant issue; and
  - (b) must decide the alternative is not feasible if it involves unproven technology or is impractical to implement.

### **World heritage values**

**59.(1)** The authority must decide the application in a way that minimises the likely impact of the proposed activity on the area's world heritage values.

(2) In particular, subsection (1) applies to an application concerning any necessary existing or proposed community services infrastructure.

(3) Without limiting subsection (1), the authority must have regard to the following matters—

- (a) the likely impact of a proposed activity on—
    - (i) wildlife prescribed under the *Nature Conservation Act 1992* as presumed extinct, endangered, vulnerable or rare; and
    - (ii) the habitats of wildlife mentioned in subparagraph (i); and
    - (iii) other threatened plant and animal communities; and
    - (iv) natural ecological processes;
  - (b) the potential cumulative impact on the area's integrity of the proposed activity and another activity carried out, or that may be carried out, lawfully in the area (particularly if the activities are close together or affect the same, or similar, world heritage values);
  - (c) the likely impact of a proposed activity on the area's scenic amenity including, in particular, the degree of visual dominance of the activity or of any alteration of the landscape arising from the activity.
- (4) The authority must consider any action that could be taken to—
- (a) prevent, minimise or monitor any adverse impact the proposed

activity may have on the area's integrity; or

- (b) rehabilitate the area while carrying out the activity or after the activity has ended.

### **Community considerations**

**60.** The authority must have regard to the effects a proposed decision on the application may have for the following persons and matters—

- (a) for land in the area that may be affected by the proposed activity—
  - (i) the likely effect on the land-holder, any native title holder and any other Aboriginal persons particularly concerned with the land;
  - (ii) the likely effect on the amenity of the land, having regard to the current uses of the land and the experiences currently enjoyed by visitors;
- (b) the community need for the proposed activity;
- (c) the likely effect on the community's ability to continue to participate in the management, protection, presentation, enjoyment and ecologically sustainable use of the area;
- (d) any other relevant social, economic and cultural effects.

### **Carrying capacity**

**61.(1)** The authority must have regard to the carrying capacity of land in the area that may be affected by the proposed activity.

**(2)** In subsection (1)—

**“carrying capacity”** of land, in relation to an activity, means the extent to which the activity may be carried on before it has an adverse impact on—

- (a) the land's integrity that is unacceptable under this plan; or
- (b) the quality of experience enjoyed by visitors to the area.



***Division 3—Information for applying principles and criteria*****Guidelines**

**62.(1)** The authority may prepare guidelines containing information relevant to the application of the principles and criteria stated in division 2.

**(2)** The guidelines may, for example, contain information about—

- (a) conserving particular plants and animals in the area;
- (b) managing visitors to the area;
- (c) conserving the area's scenic amenity.

**(3)** Guidelines prepared under this section may be inspected under section 4.

**(4)** In applying the principles and criteria stated in division 2 to an application, the authority must have regard to the information in the guidelines.

***Division 4—Permit applications for particular activities*****Domestic activities**

**63.(1)** This section applies to an application for a permit for an activity necessary to—

- (a) build an authorised residence; or
- (b) clear or build a pedestrian or vehicular access to an authorised residence; or
- (c) establish a housegarden or orchard, other than for commercial purposes; or
- (d) extract water for domestic use.

**(2)** The authority must issue the permit.

**(3)** To remove any doubt, it is declared that this section—

- (a) applies only in relation to a permit that may be issued under this

plan;<sup>12</sup> and

- (b) does not limit the authority's power under section 51<sup>13</sup> to issue the permit on conditions.

*Example for paragraph (b)—*

On an application for a permit to build a vehicular access to a residence, the authority may issue the permit on a condition about where the access must be situated to cause the least impact on the area's integrity.

(4) In this section—

**“authorised residence”** means a residence that is lawfully built or a proposed residence, the building of which has been approved by the relevant local government.

### Defence activities

**64.** The authority must have regard to the need for the Commonwealth to carry out defence activities on land in the area.

### Roadworks

**65.(1)** The authority may issue a permit to build a road only if building the road under the permit would not have a net adverse impact on the integrity of the area or there is no prudent and feasible alternative.

(2) The authority must, to the greatest possible extent, confine roadworks to land already cleared or otherwise degraded.

(3) The authority may issue a permit for roadworks that will require canopy clearing only if it is satisfied the roadworks—

- (a) are needed for public safety, provision of a community service, access to a residence or an activity the authority considers necessary to properly manage the area under this plan; or
- (b) will reduce the impact on the area's integrity of other activities being carried out or likely to be carried out.

<sup>12</sup> See part 3, division 4 (Activities allowed under permit).

<sup>13</sup> Section 51 (Conditions)

(4) In this section—

“**roadworks**” means works to build or maintain a road.

### **Activities being carried out immediately before commencement day**

**66.(1)** This section applies if the application is for a permit to carry out an activity that the applicant was lawfully carrying out immediately before the commencement day.

(2) The authority must have regard to how often, or with what intensity, the applicant has been carrying out the activity.

## **PART 5—REVIEWS OF, AND APPEALS FROM, PERMIT DECISIONS**

### *Division 1—Definitions*

#### **Definitions for pt 5**

**67.** In this part—

“**applicant**” includes a permit holder.

“**court**” means the Planning and Environment Court under the *Integrated Planning Act 1997*.

“**original permit decision**” means a decision, under section 48, of the authority or a permit entity on an application for a permit.<sup>14</sup>

“**permit entity**” means an entity that, under section 77, may issue a wet tropics permit.

“**review decision**” means a decision of the authority, under section 48, after reviewing an original permit decision under section 69.

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<sup>14</sup> Section 48 (Authority must decide application). Under section 78 (How permit entity must decide application), a permit entity also decides permit applications under section 48.

***Division 2—Review of original permit decisions*****Request for review of decision**

**68.(1)** The applicant may ask the authority to review an original permit decision.

**(2)** The request must be made within 60 days after written notice of the decision is given to the applicant under section 53.

**(3)** The authority may, at any time, extend the period for making the request.

**(4)** The request must be made in writing to the executive director, giving reasons for the request and any information the applicant considers relevant.

**Review of decision**

**69.(1)** The authority must review the original permit decision as soon as practicable after receiving the request under section 68.

**(2)** Part 4, other than sections 45, 46 and 53,<sup>15</sup> applies to the authority in making the review decision as if—

- (a) the request for the review were an application; and
- (b) the authority were making an original permit decision.

**Decision to be notified to applicant and recorded**

**70.(1)** As soon as practicable after making the review decision, the authority must—

- (a) record the decision in the register of permit decisions; and
- (b) give the applicant written notice of the decision.

**(2)** If the decision is to refuse the permit, or to issue a permit on conditions, the notice given to the applicant must also state—

- (a) the reasons for the decision; and

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<sup>15</sup> Sections 45 (Application for permit), 46 (Assessment fee) and 53 (Decision to be notified to applicant and recorded)

- (b) that the applicant may, within 60 days after the notice is given, appeal to the Planning and Environment Court against the decision.

### *Division 3—Appeals from review decisions*

#### **Appeals**

**71.** The applicant may appeal to the court against the review decision.

#### **How to start appeal**

**72.(1)** The appeal is started by—

- (a) filing a written notice of appeal with the court; and
- (b) serving a copy of the notice on the executive director.

**(2)** The notice of appeal must be filed within 60 days after written notice of the decision is given to the applicant under section 70.

**(3)** The court may, at any time, extend the period for filing the notice of appeal.

**(4)** The notice of appeal must state the grounds of the appeal.

#### **Hearing procedures**

**73.(1)** The appeal is to be by way of rehearing, unaffected by the authority's decision.

**(2)** In deciding the appeal, the court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.

**(3)** The procedure for the appeal is in accordance with—

- (a) the rules of court; or
- (b) in the absence of relevant rules—directions of the court.

**Powers of court on appeal**

**74.(1)** In deciding the appeal, the court may—

- (a) confirm the review decision; or
- (b) set aside the review decision and substitute another decision; or
- (c) set aside the review decision and return the matter to the authority with directions the court considers appropriate.

**(2)** In substituting another decision, the court has the same powers as the authority.

**(3)** If the court substitutes another decision, the substituted decision is, for this plan (other than this part), taken to be the authority's decision.

**Further appeal**

**75.** A party aggrieved by the decision of the court may appeal to the Court of Appeal, but only on a question of law.

**PART 6—ISSUE OF PERMITS BY ENTITIES OTHER THAN AUTHORITY****Definitions**

**76.** In this part—

**“permit entity”** means an entity that, under section 77, may issue a wet tropics permit.

**“relevant Minister”** means a Minister who administers any of the following Acts—

- the *Forestry Act 1959*
- the *Land Act 1994*
- the *Transport Infrastructure Act 1994*
- the *Water Resources Act 1989*

- the *Wet Tropics World Heritage Protection and Management Act 1993*.

**“relevant permit”** means a licence, permit or other authority, other than a wet tropics permit, issued under an Act administered by a relevant Minister.

**“wet tropics permit”** means a permit under this plan.

### **Permit entities**

**77.(1)** This section applies to an activity that may be carried out under a wet tropics permit.

**(2)** If the activity is proposed to be carried out in a protected area, the chief executive may issue a wet tropics permit for the activity.

**(3)** If a relevant permit is also required to carry out the activity, the entity that may issue the relevant permit for the activity may also issue a wet tropics permit for the activity.

### **How permit entity must decide application**

**78.(1)** Part 4 applies to the issue of a wet tropics permit by a permit entity as if a reference to the authority were a reference to the permit entity.

**(2)** However, the following provisions in part 4 do not apply—

- section 52(3)
- section 53
- section 54
- section 62(1) to (3).<sup>16</sup>

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<sup>16</sup> Section 52(3) provides for the permit conditions to state how and when the authority may deal with an amount held as security or a performance bond. For decisions by permit entities, this is dealt with by section 79 (Security). Section 53 provides for recording and notifying the decision. For decisions by permit entities, this is dealt with by section 81 (Decision to be notified and recorded). Section 54 requires the authority to keep a register of permit decisions. Section 62(1) to (3) provide for the authority to prepare and publish guidelines to help in deciding permit applications.

(3) If the proposed activity is to be carried out in a protected area, the permit entity may issue the permit only if it is satisfied the activity would be consistent with the management principles prescribed for the protected area under the *Nature Conservation Act 1992*.

(4) Section 10(5) of the Act applies to the permit entity as if a reference to the authority performing its functions were a reference to the permit entity deciding the application.

### Security

**79.(1)** This section applies if, under section 52, a permit entity issues a wet tropics permit on a condition that the applicant pay a reasonable amount as security or a performance bond.

(2) The condition must—

- (a) require the amount to be paid to the authority; and
- (b) state when, and the way in which, the amount may be applied or otherwise dealt with by the authority.

### Authority must approve permit entity's decision

**80.(1)** A permit entity may not issue a wet tropics permit unless—

- (a) the authority has given to it written notice that the authority agrees with the decision to issue the permit; or
- (b) the permit is for an activity of a type, and on conditions of a type, previously agreed between the authority and the entity.

(2) For subsection (1)(a), the authority must—

- (a) give the notice; or
- (b) require a change to the conditions on which the permit is proposed to be issued before it gives the notice; or
- (c) refuse to give the notice.

(3) Part 4, divisions 2 to 4, applies to the authority in deciding whether to give a notice or enter an agreement under subsection (1), as if the authority were deciding a permit application for the relevant proposed activities.



**Decision to be notified and recorded**

**81.(1)** As soon as practicable after deciding an application for a wet tropics permit, the permit entity must give written notice of the decision to the applicant and the authority.

**(2)** If the decision is to refuse the permit, or to issue a permit on conditions, the notice given to the applicant must state—

- (a) the reasons for the decision; and
- (b) that the applicant may, within 60 days after the notice is given, ask the authority to review the decision.

**(3)** The notice given to the authority must include the following details—

- (a) the date of the decision;
- (b) whether a permit was issued;
- (c) if a permit was issued—
  - (i) the name of the permit holder; and
  - (ii) the activities for which the permit was issued; and
  - (iii) any conditions applying to the permit;
- (d) the reasons for the decision.

**(4)** The authority must immediately record the details in the register of permit decisions.

**Authority's power to issue permits unaffected**

**82.** This part does not limit the authority's power to issue a wet tropics permit for an activity mentioned in this part.

**PART 7—MISCELLANEOUS****Evidence about zoning maps**

**83.** In a proceeding, a certificate purporting to be signed by the executive

director, stating that a stated document is a copy of a zoning map, is evidence of the matter.

## **PART 8—TRANSITIONAL ARRANGEMENTS FOR CERTAIN ACTIVITIES**

### **Definitions for pt 8**

**84.** In this part—

**“initial period”** means the period ending 120 days after the commencement day.

**“permitted activity”** means an activity that may be carried out under a permit.

### **Activities requiring permits**

**85.(1)** A person does not commit an offence against this plan by carrying out a permitted activity, without a permit, during the initial period.

**(2)** Also, if a person applies during the initial period for a permit to carry out a permitted activity, the person does not commit an offence against this plan by carrying out the activity at any time before—

- (a) if the application lapses—the day the application lapses; or
- (b) otherwise—the day written notice of the original permit decision is given to the person under section 53.

### **Time for deciding applications made during initial period**

**86.(1)** This section applies to an application for a permit made under this plan during the initial period.

**(2)** Section 49 applies to the application as if the reference to the sixtieth day were a reference to the one hundred and eightieth day.<sup>17</sup>

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<sup>17</sup> Section 49 (Due day for deciding applications)

**Expiry**

**87.** This part expires 2 years after the commencement day.

## SCHEDULE 1

### REZONING APPLICATIONS BY LOCAL GOVERNMENT

section 9

#### Local government may apply for rezoning

**1.(1)** This section applies if—

- (a) a local government wishes to carry out an activity (the “**proposed activity**”), at a place in zone B (the “**proposed site**”), that the local government considers necessary to provide for essential community services infrastructure; and
- (b) under this plan, the proposed activity may not be carried out in zone B but may be carried out in zone C, either with or without a permit.

**(2)** The local government may apply to the authority to—

- (a) amend the zoning maps to exclude the proposed site from zone B and include the proposed site in zone C; and
- (b) if the proposed activity may only be carried out in zone C under a permit—issue a permit to carry out the activity.

#### Dealing with the application

**2.(1)** The authority, by written notice—

- (a) must require the local government to give to it an environmental impact assessment for the proposed activity meeting stated terms of reference; and
- (b) may require the local government to give to it other information relevant to decide the application.

**(2)** On receiving the information it considers necessary to properly

## SCHEDULE 1 (continued)

consider the application, the authority must give public notice of the application.

- (3) The notice must—
- (a) be published in—
    - (i) a newspaper circulating throughout Queensland; and
    - (ii) any other newspapers the authority considers appropriate; and
  - (b) state that details of the application, including the environmental impact assessment and other information received from the local government about the proposed activity, may be inspected free of charge, during office hours, at the authority's head office and any other places stated in the notice; and
  - (c) contain any other information the authority considers appropriate; and
  - (d) state a day, not earlier than 40 days from the day of the latest publication under paragraph (a), by which submissions may be made to the authority.

**Decision on application**

**3.(1)** The authority must decide the application as soon as practicable after the last day for making submissions.

- (2) The authority may—
- (a) grant the application, by deciding—
    - (i) to prepare amended zoning maps to give to the Ministerial Council under this section; and
    - (ii) subject to the Governor in Council's approval of the amended zoning maps under this section, to issue a permit to carry out the proposed activity without conditions, on conditions stated in the application ("**agreed conditions**") or on other conditions; or
  - (b) refuse the application.

## SCHEDULE 1 (continued)

(3) The authority may grant the application only if—

- (a) under this plan, the proposed activity may not be carried out in zone B but may be carried out in zone C, either with or without a permit; and
- (b) the authority is satisfied the activity is necessary to provide essential community services infrastructure for the local government's area; and
- (c) for a proposed activity that may be carried out in zone C only under a permit—the authority is satisfied that, if the proposed site were in zone C and the local government applied for a permit for the activity under part 4, division 1 of the plan, the authority would decide under part 4, divisions 2 to 4 of the plan to issue the permit.

(4) Without limiting subsection (3)(c), the authority may be satisfied that it would decide to issue the permit on agreed conditions or other conditions.

(5) When deciding the application, the authority must consider the information received from the local government and all submissions properly made to the authority under section 2.

(6) If the authority makes a reviewable decision on the application, it must give written notice to the local government stating the reasons for its decision.

(7) If it grants the application, the authority must prepare zoning maps (the “**amended zoning maps**”), amended to exclude the proposed site from zone B and include the proposed site in zone C.

(8) However, if its decision to grant the application was a reviewable decision, the authority must not prepare the amended zoning maps until the local government agrees.

(9) The authority must give to the Ministerial Council—

- (a) copies of the amended zoning maps; and
- (b) a report on the submissions properly made to the authority under section 2.

(10) An amended zoning map does not have effect until approved by the

## SCHEDULE 1 (continued)

Governor in Council.

(11) An approval under subsection (10) may be made only on the recommendation of the Ministerial Council.

(12) If the amended zoning maps are approved under subsection (10), the authority must—

- (a) publish a notice in the gazette of the approval of the amended zoning maps; and
- (b) issue the permit on the conditions stated in its decision.

(13) The amended zoning maps commence on the day the gazette notice is published or any later day stated in the notice.

(14) The permit must not be issued to take effect earlier than the commencement of the amended zoning maps.

(15) In this section—

**“reviewable decision”**, on an application, means a decision to—

- (a) grant the application by deciding (subject to the Governor in Council’s approval of the amended zoning maps under this section) to issue a permit to carry out the proposed activity on conditions other than agreed conditions; or
- (b) refuse the application.

**Review of authority’s decision**

4.(1) This section applies if the authority makes a reviewable decision on the application under section 3.

(2) The local government may ask the authority to review its decision.

(3) The request must be made in writing to the executive director, giving reasons for the request and any information the local government considers relevant.

(4) The authority must review its decision as soon as practicable after receiving the request.

(5) Section 3 applies to the authority in reviewing its decision.

## SCHEDULE 1 (continued)

(6) For subsection (1), the authority is taken to have made a reviewable decision to refuse the application if it does not decide the application within 60 days after the last day for making submissions.

**Appeal from authority's decision on review**

5.(1) This section applies if the authority makes a decision under section 4 (the “**second decision**”) that, if it were an original decision on the application under section 3, would be a reviewable decision under section 3.

(2) The local government may appeal to the Planning and Environment Court.

(3) An appeal is started by—

- (a) filing a written notice of appeal with the court; and
- (b) serving a copy of the notice on the executive director.

(4) The notice of appeal must be filed within 60 days after the authority makes the second decision.

(5) The court may, at any time, extend the period for filing the notice of appeal.

(6) The notice of appeal must state the grounds of the appeal.

(7) For subsection (1), the authority is taken to have made a second decision that may be appealed against under this section if it does not review its decision within 60 days after the applicant asks under section 4.

**Decision of court**

6.(1) An appeal is to be by way of rehearing, unaffected by the authority's decision.

(2) In deciding the appeal, the court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.



## SCHEDULE 1 (continued)

- (3)** The procedure for the appeal is in accordance with—
- (a) the rules of court; or
  - (b) in the absence of relevant rules—directions of the court.
- (4)** In deciding the appeal, the court may—
- (a) confirm the review decision; or
  - (b) set aside the review decision and substitute another decision; or
  - (c) set aside the review decision and return the matter to the authority with directions the court considers appropriate.
- (5)** In substituting another decision, the court has the same powers as the authority.
- (6)** If the court substitutes another decision, the substituted decision is, for this schedule (other than sections 4 and 5), taken to be the authority's decision.

## SCHEDULE 2

### UNDESIRABLE PLANTS AND ANIMALS

schedule 3, definitions “undesirable plant” and “undesirable animal”

#### PART 1—UNDESIRABLE PLANTS

Species	Family	Common name
all non-native species	ACANTHACEAE	
<i>Allamanda cathartica</i>	APOCYNACEAE	allamanda
<i>Annona glabra</i>	ANNONACEAE	pond apple
<i>Bambusa spp</i>	POACEAE	bamboo
<i>Brachiaria mutica</i>	POACEAE	para grass (ponded pasture)
<i>Cabomba caroliniana</i>	CABOMBACEAE	cabomba (aquatic weed)
<i>Calopogonium mucunoides</i>	FABACEAE	calopo (pasture legume)
<i>Centrosema pubescens</i>	FABACEAE	centro (pasture legume)
<i>Chuckrasia velutina</i>	MELIACEAE	East Indian mahogany
<i>Cinnamomum camphora</i>	LAURACEAE	camphor laurel
<i>Clitoria laurifolia</i>	FABACEAE	clitoria
<i>Coffea arabica</i>	RUBIACEAE	coffee
<i>Duranta repens</i>	VERBENACEAE	golden dewdrops or sky flower

## SCHEDULE 2 (continued)

<i>Eichhornia crassipes</i>	PONTEDERIACEAE	water hyacinth
<i>Glycine spp</i>	FABACEAE	glycine
<i>Harungana madagascariensis</i>	CLUSIACEAE	harungana
<i>Hemigraphis colorata</i>	ACANTHACEAE	
<i>Ipomoea spp</i>	CONVOLVULACEAE	morning glory
<i>Lantana camara</i>	VERBENACEAE	lantana
<i>Ligustrum spp</i>	OLEACEAE	privet
<i>Melinis minutiflora</i>	POACEAE	molasses grass
<i>Miconia calvescens</i>	MELASTOMATACEAE	miconia
<i>Momordica charantia</i>	CUCURBITACEAE	balsam pear
<i>Montanoa hibiscifolia</i>	ASTERACEAE	anzac flower
<i>Panicum maximum</i>	POACEAE	guinea grass
<i>Passiflora spp (exotics)</i>	PASSIFLORACEAE	passion fruits or flowers
<i>Pennisetum purpureum</i>	POACEAE	elephant grass
<i>Perilepta dyeriana</i>	ACANTHACEAE	
<i>Pinus caribaea</i>	PINACEAE	caribbean pine
<i>Psidium guajava</i>	MYRTACEAE	guava
<i>Pueraria phaseoloides</i>	FABACEAE	puero (pasture legume)
<i>Salvinia molesta</i>	AZOLLACEAE	salvinia or water fern
<i>Saman samonea</i>	MIMOSACEAE	raintree
<i>Sanchezia parvibracteata</i>	ACANTHACEAE	sanchezia
<i>Sansevieria spp</i>	AGAVACEAE	mother-in-law's tongue
<i>Selaginella willdenovii</i>	SELAGINELLACEAE	peacock fern

## SCHEDULE 2 (continued)

<i>Spathodea campanulata</i>	BIGNONIACEAE	African tulip tree
<i>Stephanophysum longifolium</i>	ACANTHACEAE	
<i>Thaumastochloa danielii</i>	MARANTACEAE	prayer plant
<i>Thunbergia alata</i>	ACANTHACEAE	black-eyed susan
<i>Thunbergia grandiflora</i>	ACANTHACEAE	blue thunbergia
<i>Thunbergia laurifolia</i>	ACANTHACEAE	laurel clock vine
<i>Tithonia diversifolia</i>	ASTERACEAE	Japanese sunflower
<i>Tradescantia spp</i>	COMMELINACEAE	wandering jew
<i>Turbina corymbosa</i>	COMMELINACEAE	turbina
<i>Wedelia tricornuta</i>	ASTERACEAE	Singapore daisy
<i>Zebrina spp</i>	COMMELINACEAE	wandering jew

**PART 2—UNDESIRABLE ANIMALS**

<b>Species</b>	<b>Common name</b>
all species	cichlid
<i>Apis mellifera</i>	European honey bee
<i>Axis axis</i>	chital deer
<i>Bos indicus</i>	zebu cattle
<i>Bos taurus</i>	European cattle
<i>Bubalis bubalis</i>	water buffalo
<i>Bufo marinus</i>	cane toad

## SCHEDULE 2 (continued)

<i>Canus familiaris</i>	dog
<i>Capra hircus</i>	goat
<i>Cervus elaphus</i>	red deer
<i>Cervus timorensis</i>	rusa deer
<i>Dama dama</i>	fallow deer
<i>Felis catus</i>	cat
<i>Gambusia holbrooki</i>	mosquito fish
<i>Oryctolagus cuniculus</i>	rabbit
<i>Poecilia reticulata</i>	guppy
<i>Pontoscolex corethrurus</i>	exotic earthworm
<i>Sus scrofa</i>	pig
<i>Tilapia mariae</i>	tilapia
<i>Vulpes vulpes</i>	fox

## SCHEDULE 3

### DICTIONARY

section 3

**“activity”** includes a development or other use of land.

**“approved determination of native title”** has the meaning given by the *Native Title Act 1993* (Cwlth).

**“approved form”** means a form approved by the executive director.

**“area”** means the wet tropics area.

**“build”** includes—

(a) for a structure—

(i) install the structure; and

(ii) build a replacement of the structure or part of it; and

(iii) build an extension of the structure; and

(b) for a road—upgrade the road.

**“carrying capacity”** see section 61.

**“commencement day”** means the day this plan commences.

**“community services infrastructure”** means infrastructure for community services such as, for example, transport services, electricity supply, water supply and telecommunications services.

**“Court of Appeal”** means the Court of Appeal under the *Supreme Court of Queensland Act 1991*.

**“disturbed”** means disturbed by human activity.

**“earth”** includes rock, soil and humus.

**“eductor dredging”** means the extraction of minerals, metal or precious stone from a watercourse using pumping or suction equipment.

**“fossick”** has the meaning given by the *Fossicking Act 1994*.

## SCHEDULE 3 (continued)

“**general waste disposal facility**” means a facility for disposing of general waste, within the meaning of the *Environmental Protection Regulation 1998*, other than by incinerating it.

“**government**” means the Commonwealth, the State or a local government.

“**integrity**” of the area, or of land in the area, means the extent to which the world heritage values of the area or land—

- (a) are in their natural ecological, physical and aesthetic condition; and
- (b) are capable of sustaining themselves in the long term.

“**lawful access road**” for land means a road or track, other than a road depicted on a zoning map, that—

- (a) provides access to the land or is situated on the land; and
- (b) existed immediately before the commencement day or was lawfully built under this plan.

“**mine**” has the meaning given by the *Mineral Resources Act 1989*.

“**motor vehicle**” has the meaning given by the *Traffic Act 1949*.

“**native title holder**” has the meaning given by the *Native Title Act 1993* (Cwlth).

“**ordinary title**” has the meaning given by the *Native Title Act 1993* (Cwlth).

“**permit**” means a permit in force under part 4.

“**permit entity**” see section 76.

“**primary goal**” means the primary goal stated in the agreement, a copy of which is set out in schedule 1 of the Act.

“**protected area**” has the meaning given by the *Nature Conservation Act 1992*.

“**quarry**” means excavate or otherwise remove quarry material.

“**quarry material**” has the meaning given by the *Forestry Act 1959*.

“**reasonable fee**”, for a document or the assessment of an application,

## SCHEDULE 3 (continued)

means an amount that—

- (a) the authority considers to be reasonable; and
- (b) is not more than the cost of publishing the document or assessing the application.

**“register of permit decisions”** means the register kept under section 54.

**“regulated waste disposal facility”** means a facility for disposing of regulated waste, within the meaning of the *Environmental Protection Regulation 1998*, other than by incinerating it.

**“relevant Minister”** see section 76.

**“relevant permit”** see section 76.

**“road”** includes—

- (a) a vehicular track, bridge or causeway; and
- (b) a constructed carpark.

**“scenic amenity”** includes the visual appeal of landscapes or individual natural features.

**“structure”** includes—

- (a) a building, tower or dam; and
- (b) a telecommunications installation, air or marine navigation facility, pipeline, powerline or other facility; and
- (c) a fence;

but does not include a road.

**“undesirable animal”** means an animal—

- (a) mentioned in schedule 2; or
- (b) that is prohibited wildlife under the *Nature Conservation Act 1992*.

**“undesirable plant”** means—

- (a) a plant mentioned in schedule 2; or
- (b) a plant that is prohibited wildlife under the *Nature Conservation*



## SCHEDULE 3 (continued)

*Act 1992*; or

- (c) a declared plant under the *Rural Lands Protection Act 1985*.

**“upgrade”**, for a road, includes the following—

- (a) for a road, other than a carpark, that existed immediately before the commencement day—
- (i) extend the road;
  - (ii) widen the road so that the widened part of the road is more than 15% wider than it was on the commencement day;
- (b) for a road, other than a carpark, that did not exist immediately before the commencement day—
- (i) extend the road;
  - (ii) widen the road so that the widened part of the road is more than 15% wider than it was when it was built;
- (c) for a carpark that existed immediately before the commencement day—enlarge it so that it is more than 15% larger than it was on the commencement day;
- (d) for a carpark that did not exist immediately before the commencement day—enlarge it so that it is more than 15% larger than it was when it was built.

**“waste”** has the meaning given by the *Environmental Protection Act 1994*.

**“wet tropics permit”** means a permit under this plan.

**“wildlife”** has the meaning given by the *Nature Conservation Act 1992*.

**“world heritage values”**, of the wet tropics area, means the things comprising the area’s natural heritage enabling it to meet the requirements, under the Operational Guidelines to the World Heritage Convention, for listing as a world heritage property.

**“zone”** means a management zone.

**“zoning map”** see section 7.

## ENDNOTES

1. Approved by the Governor in Council on 18 May 1998.
2. Notified in the gazette on 22 May 1998.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Wet Tropics Management Authority.