



Queensland

Marine Parks (Great Sandy) Zoning Plan 2006

Subordinate Legislation 2006 No. 229

made under the

Marine Parks Act 2004

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Part 1 Preliminary

Division 1 General

1 Short title

- (1) This zoning plan may be cited as the *Marine Parks (Great Sandy) Zoning Plan 2006*.
- (2) This zoning plan may also be cited as the Great Sandy Marine Park Zoning Plan.

2 Commencement

This plan commences on 31 August 2006.

3 Application

This plan applies to the Great Sandy Marine Park.

Division 2 Interpretation

4 Definitions

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

5 References to latitudes and longitudes

The latitudes and longitudes used to describe an area mentioned in this plan are worked out using the Geocentric Datum of Australia 1994, commonly called 'GDA94', notified in the Commonwealth Government Gazette No. GN 35 on 6 September 1995, at page 3369.

Part 2 Zones

Division 1 Preliminary

6 Relationship between pt 2 and pts 3, 4 and 7

This part is subject to parts 3, 4 and 7.

7 Zones generally

(1) The marine park consists of the following zones—

- (a) general use zone;
- (b) habitat protection zone;
- (c) conservation park zone;
- (d) buffer zone;
- (e) marine national park zone.

Note—

The zones are listed in ascending order of the level of protection given to them under this plan.

(2) The areas of the marine park that are in each zone are shown on plan MP2 prepared by the department.

(3) A copy of the plan is shown in schedule 1.

Editor's note—

A copy of the plan may be inspected, free of charge—

- (a) on the department's website on the Internet at <www.epa.qld.gov.au>; and
- (b) during office hours on business days, at—
 - (i) the department's central office at 160 Ann Street, Brisbane; and
 - (ii) the department's regional office at the corner of Lennox and Alice streets, Maryborough.

8 Objects for zones

The objects to be achieved for each zone mentioned in section 7(1) are stated in the Regulation, schedule 1.

Division 2 General use zone

9 Entry or use without permission

A person may, without a permission for the area, enter or use an area in the general use zone for any of the following purposes—

- (a) to carry out a low impact activity not involving fishing or collecting;
- (b) to carry out any of the following fishing or collecting activities—
 - (i) bait gathering;
 - (ii) crabbing;
 - (iii) limited collecting;
 - (iv) line fishing using not more than 3 hand-held rods or handlines, with a total of not more than 6 hooks attached to the lines;
 - (v) limited spearfishing;
 - (vi) netting, including bait netting;
 - (vii) oyster gathering;
 - (viii) fishing or collecting for an accredited harvest fishery in compliance with any requirements applying to the accreditation;
 - (ix) trawling;
 - (x) trolling;
- (c) to carry out a traditional use of marine resources that—
 - (i) includes another activity permitted under this section; or
 - (ii) is carried out in a way provided for under an accredited traditional use of marine resources

agreement, including any conditions or requirements applying under the agreement;

- (d) to carry out limited media activity;
- (e) to carry out limited impact research (extractive) or limited impact research (non-extractive);
- (f) to conduct a limited educational program;
- (g) to navigate a vessel or aircraft, other than a ship or a managed vessel or aircraft, if any equipment normally used for fishing or collecting is stowed or secured when the vessel or aircraft is in an area of the zone in which the use of the equipment is not authorised under the Act.

Note—

See part 7 for any restrictions applying to an activity mentioned in this section.

10 Entry or use with permission

A person may, with a permission for the area, enter or use an area in the general use zone only for the following purposes—

- (a) to carry out fishing or collecting, other than fishing or collecting mentioned in section 9(b), for the following purposes—
 - (i) for a harvest fishery, other than an accredited harvest fishery;
 - (ii) for a developmental fishery program;
 - (iii) collecting other than limited collecting;
- (b) to carry out a traditional use of marine resources, other than a traditional use of marine resources mentioned in section 9(c);
- (c) to conduct an aquaculture operation (other than an aquaculture operation that involves the addition of feed), including the following—
 - (i) the collection of wild species and the introduction of animals and animal husbandry; and
 - (ii) the generation, release or treatment of chemicals, waste and other pollutants; and

- (iii) the harvesting or removal, including, for example, by trawling, of a plant or animal that is the subject of the aquaculture operation;
- (d) to operate a fishing industry service vessel;
- (e) to conduct a tourism program;
- (f) to carry out research, other than limited impact research (extractive) or limited impact research (non-extractive);
- (g) to engage in an educational program, other than a limited educational program;
- (h) to conduct a vessel or aircraft charter operation;
- (i) to operate a vessel or aircraft in a particular area in the zone for more than—
 - (i) 14 consecutive days; or
 - (ii) 30 days in any period of 60 days;
- (j) to navigate a ship or managed vessel or aircraft;
- (k) to operate a facility for a purpose (other than the use of a vessel for a purpose mentioned in section 9) consistent with the objects for the general use zone, including, for example, by carrying out any of the following—
 - (i) discharging waste from the facility;
 - (ii) building, assembling, fixing in position, maintaining or demolishing the facility;
 - (iii) constructing or operating mooring facilities for vessels or aircraft;
 - (iv) operating a landing area or facility for aircraft;
- (l) to carry out works for a purpose consistent with the objects for the general use zone, including, for example, any of the following—
 - (i) dredging;
 - (ii) dumping of spoil;
 - (iii) reclamation;
 - (iv) beach protection works;
 - (v) harbour works;

- (m) to carry out a program for taking a plant or animal that poses a threat to—
 - (i) human life or safety; or
 - (ii) the marine park's marine ecosystems; or
 - (iii) the use or amenity of an area in, or adjacent to, the marine park;
- (n) to explore or mine for minerals, if the person is the holder of a lease, licence, permit or other authority under the *Mineral Resources Act 1989* that authorises the exploration or mining;
- (o) to explore or produce petroleum, if the person is the holder of a lease, licence, permit or other authority under the *Petroleum and Gas (Production and Safety) Act 2004* or the *Petroleum Act 1923*, that authorises the exploration or production;
- (p) to carry out geothermal exploration, if the person is the holder of a permit under the *Geothermal Exploration Act 2004* that authorises the exploration;
- (q) any other purpose (other than a purpose mentioned in section 9) consistent with the objects for the general use zone.

Notes—

- 1 For the procedure for applying for a permission to enter or use a marine park, see the Regulation, part 3.
- 2 See part 7 for any restrictions applying to an activity mentioned in this section.

Division 3 Habitat protection zone

11 Entry or use without permission

A person may, without a permission for the area, enter or use an area in the habitat protection zone for any of the following purposes—

- (a) to carry out a low impact activity not involving fishing or collecting;

- (b) to carry out any of the following fishing or collecting activities—
 - (i) bait gathering;
 - (ii) crabbing;
 - (iii) limited collecting;
 - (iv) line fishing using not more than 3 hand-held rods or handlines, with a total of not more than 6 hooks attached to the lines;
 - (v) limited spearfishing;
 - (vi) netting, including bait netting;
 - (vii) oyster gathering;
 - (viii) fishing or collecting for an accredited harvest fishery in compliance with any requirements applying to the accreditation;
 - (ix) trolling;
- (c) to carry out a traditional use of marine resources that—
 - (i) includes another activity permitted under this section; or
 - (ii) is carried out in a way provided for under an accredited traditional use of marine resources agreement, including any conditions or requirements applying under the agreement;
- (d) to carry out limited media activity;
- (e) to carry out limited impact research (extractive) or limited impact research (non-extractive);
- (f) to conduct a limited educational program;
- (g) to navigate a vessel or aircraft, other than a ship or a managed vessel or aircraft, if any equipment normally used for fishing or collecting is stowed or secured when the vessel or aircraft is in an area of the zone in which the use of the equipment is not authorised under the Act.

Note—

See part 7 for any restrictions applying to an activity mentioned in this section.

12 Entry or use with permission

A person may, with a permission for the area, enter or use an area in the habitat protection zone only for the following purposes—

- (a) to carry out fishing or collecting, other than fishing or collecting mentioned in section 11(b), for the following purposes—
 - (i) for a harvest fishery, other than an accredited harvest fishery;
 - (ii) for a developmental fishery program;
 - (iii) collecting other than limited collecting;
- (b) to carry out a traditional use of marine resources, other than a traditional use of marine resources mentioned in section 11(c);
- (c) to conduct an aquaculture operation (other than an aquaculture operation that involves dredging, trawling or the addition of feed) consistent with the objects for the habitat protection zone, including the following—
 - (i) the collection of wild species and the introduction of animals and animal husbandry; and
 - (ii) the generation, release or treatment of chemicals, waste and other pollutants; and
 - (iii) the harvesting or removal, other than by trawling, of an aquaculture product;
- (d) to operate a fishing industry service vessel;
- (e) to conduct a tourism program;
- (f) to carry out research, other than limited impact research (extractive) or limited impact research (non-extractive);
- (g) to engage in an educational program, other than a limited educational program;
- (h) to conduct a vessel or aircraft charter operation;
- (i) to operate a vessel or aircraft in a particular area in the zone for more than—
 - (i) 14 consecutive days; or

- (ii) 30 days in any period of 60 days;
- (j) to navigate a ship or a managed vessel or aircraft;
- (k) to operate a facility for a purpose (other than the use of a vessel for a purpose mentioned in section 11) consistent with the objects for the habitat protection zone, including, for example, by carrying out any of the following—
 - (i) discharging waste from the facility;
 - (ii) building, assembling, fixing in position, maintaining or demolishing the facility;
 - (iii) constructing or operating mooring facilities for vessels or aircraft;
 - (iv) operating a landing area or facility for aircraft;
- (l) to carry out works for a purpose consistent with the objects for the habitat protection zone, including, for example, any of the following—
 - (i) dredging;
 - (ii) dumping of spoil;
 - (iii) reclamation;
 - (iv) beach protection works;
 - (v) harbour works;
- (m) to carry out a program for taking a plant or animal that poses a threat to—
 - (i) human life or safety; or
 - (ii) marine ecosystems of the marine park; or
 - (iii) the use or amenity of an area in the marine park or an area adjacent to the marine park;
- (n) to explore or mine for minerals, if the person is the holder of a lease, licence, permit or other authority under the *Mineral Resources Act 1989* that authorises the exploration or mining;
- (o) to explore or produce petroleum, if the person is the holder of a lease, licence, permit or other authority under the *Petroleum and Gas (Production and Safety)*

Act 2004 or the *Petroleum Act 1923*, that authorises the exploration or production;

- (p) to carry out geothermal exploration, if the person is the holder of a permit under the *Geothermal Exploration Act 2004* that authorises the exploration;
- (q) any other purpose (other than a purpose mentioned in section 11) consistent with the objects for the habitat protection zone.

Notes—

- 1 For the procedure for applying for a permission to enter or use a marine park, see the Regulation, part 3.
- 2 See part 7 for any restrictions applying to an activity mentioned in this section.

Division 4 Conservation park zone

13 Entry or use without permission

- (1) A person may, without a permission for the area, enter or use an area in the conservation park zone for any of the following purposes—
 - (a) to carry out a low impact activity not involving fishing or collecting;
 - (b) to carry out any of the following fishing or collecting activities—
 - (i) bait gathering;
 - (ii) bait netting;
 - (iii) limited collecting;
 - (iv) limited crabbing;
 - (v) limited line fishing;
 - (vi) limited spearfishing;
 - (vii) oyster gathering;
 - (viii) fishing or collecting for the aquarium fish fishery or the worm fishery (beachworm) in compliance

with any requirements applying to its accreditation;

- (ix) trolling;
 - (c) to carry out a traditional use of marine resources that—
 - (i) includes another activity permitted under this section; or
 - (ii) is carried out in a way provided for under an accredited traditional use of marine resources agreement, including any conditions or requirements applying under the agreement;
 - (d) to carry out limited media activity;
 - (e) to carry out limited impact research (extractive) or limited impact research (non-extractive);
 - (f) to conduct a limited educational program;
 - (g) to navigate a vessel or aircraft, other than a ship or a managed vessel or aircraft, if any equipment normally used for fishing or collecting is stowed or secured when the vessel or aircraft is in an area of the zone in which the use of the equipment is not authorised under the Act.
- (2) In this section—

limited line fishing means fishing using only—

- (a) 1 hand-held fishing rod with only 1 hook; or
- (b) 1 handline with only 1 hook.

Note—

See part 7 for any restrictions applying to an activity mentioned in this section.

14 Entry or use with permission

A person may, with a permission for the area, enter or use an area in the conservation park zone only for the following purposes—

- (a) fishing or collecting in the aquarium fish fishery or the worm fishery (beachworm);

- (b) to carry out a traditional use of marine resources other than a traditional use of marine resources mentioned in section 13(c);
- (c) to conduct an aquaculture operation (other than an aquaculture operation that involves dredging, trawling or the addition of feed) consistent with the objects for the conservation park zone, including the following—
 - (i) the collection of wild species and the introduction of animals and animal husbandry; and
 - (ii) the generation, release or treatment of chemicals, waste and other pollutants; and
 - (iii) the harvesting or removal, other than by trawling, of an aquaculture product;
- (d) to operate a fishing industry service vessel;
- (e) to conduct a tourism program;
- (f) to carry out research, other than limited impact research (extractive) or limited impact research (non-extractive);
- (g) to engage in an educational program, other than a limited educational program;
- (h) to conduct a vessel or aircraft charter operation;
- (i) to operate a vessel or aircraft in a particular area in the zone for more than—
 - (i) 14 consecutive days; or
 - (ii) 30 days in any period of 60 days;
- (j) to navigate a ship or a managed vessel or aircraft;
- (k) to operate a facility for a purpose (other than the use of a vessel for a purpose mentioned in section 13) consistent with the objects for the conservation park zone, including, for example, by carrying out any of the following—
 - (i) discharging waste from the facility;
 - (ii) building, assembling, fixing in position, maintaining or demolishing the facility;

- (iii) constructing or operating mooring facilities for vessels or aircraft;
- (iv) operating a landing area or facility for aircraft;
- (l) to carry out works for a purpose consistent with the objects for the conservation park zone;
- (m) to carry out a program for taking a plant or animal that poses a threat to—
 - (i) human life or safety; or
 - (ii) marine ecosystems of the marine park; or
 - (iii) the use or amenity of an area in the marine park or an area adjacent to the marine park;
- (n) any other purpose (other than a purpose mentioned in section 13) consistent with the objects for the conservation park zone.

Notes—

- 1 For the procedure for applying for a permission to enter or use a marine park, see the Regulation, part 3.
- 2 See part 7 for any restrictions applying to an activity mentioned in this section.

Division 5 Buffer zone

15 Entry or use without permission

A person may, without a permission for the area, enter or use an area in the buffer zone for any of the following purposes—

- (a) to carry out a low impact activity not involving fishing or collecting;
- (b) to carry out fishing or collecting involving the taking of pelagic species by trolling;
- (c) to carry out a traditional use of marine resources that—
 - (i) includes another activity permitted under this section; or
 - (ii) is carried out in a way provided for under an accredited traditional use of marine resources

agreement, including any conditions or requirements applying under the agreement;

- (d) to carry out limited media activity;
- (e) to carry out limited impact research (non-extractive);
- (f) to conduct a limited educational program;
- (g) to navigate a vessel or aircraft, other than a ship or a managed vessel or aircraft, if any equipment normally used for fishing or collecting is stowed or secured when the vessel or aircraft is in an area of the zone in which the use of the equipment is not authorised under the Act.

Note—

See part 7 for any restrictions applying to an activity mentioned in this section.

16 Entry or use with permission

A person may, with a permission for the area, enter or use an area in the buffer zone only for the following purposes—

- (a) to carry out a traditional use of marine resources other than a traditional use of marine resources mentioned in section 15(c);
- (b) to operate a fishing industry service vessel;
- (c) to conduct a tourism program;
- (d) to carry out research, other than limited impact research (non-extractive) that the chief executive decides—
 - (i) is relevant to, and a priority for, the management of the marine park; or
 - (ii) can not reasonably be conducted elsewhere;
- (e) to engage in an educational program, other than a limited educational program;
- (f) to conduct a vessel or aircraft charter operation;
- (g) to operate a vessel or aircraft in a particular area in the zone for more than—
 - (i) 14 consecutive days; or
 - (ii) 30 days in any period of 60 days;

- (h) to navigate a ship or a managed vessel or aircraft;
- (i) to operate a facility for a purpose (other than the use of a vessel for a purpose mentioned in section 15) consistent with the objects for the buffer zone, including, for example, by carrying out any of the following—
 - (i) discharging waste from the facility;
 - (ii) building, assembling, fixing in position, maintaining or demolishing the facility;
 - (iii) constructing or operating mooring facilities for vessels or aircraft;
 - (iv) operating a landing area or facility for aircraft;
- (j) to carry out works for a purpose consistent with the objects for the buffer zone;
- (k) to carry out a program for taking a plant or animal that poses a threat to—
 - (i) human life or safety; or
 - (ii) marine ecosystems of the marine park; or
 - (iii) the use or amenity of an area in the marine park or an area adjacent to the marine park;
- (l) any other purpose (other than a purpose mentioned in section 15) consistent with the objects for the buffer zone.

Notes—

- 1 For the procedure for applying for a permission to enter or use a marine park, see the Regulation, part 3.
- 2 See part 7 for any restrictions applying to an activity mentioned in this section.

Division 6 Marine national park zone

17 Entry or use without permission

A person may, without a permission for the area, enter or use an area in the marine national park zone for any of the following purposes—

- (a) to carry out a low impact activity not involving fishing or collecting;
- (b) to carry out a traditional use of marine resources that—
 - (i) includes another activity permitted under this section; or
 - (ii) is carried out in a way provided for under an accredited traditional use of marine resources agreement, including any conditions or requirements applying under the agreement;
- (c) to carry out limited media activity;
- (d) to carry out limited impact research (non-extractive);
- (e) to conduct a limited educational program;
- (f) to navigate a vessel or aircraft, other than a ship or a managed vessel or aircraft, if any equipment normally used for fishing or collecting is stowed or secured when the vessel or aircraft is in an area of the zone in which the use of the equipment is not authorised under the Act.

Note—

See part 7 for any restrictions applying to an activity mentioned in this section.

18 Entry or use with permission

A person may, with a permission for the area, enter or use an area in the marine national park zone only for the following purposes—

- (a) to carry out a traditional use of marine resources other than a traditional use of marine resources mentioned in section 17(b);
- (b) to operate a fishing industry service vessel;
- (c) to conduct a tourism program;
- (d) to carry out research, other than limited impact research (non-extractive) that the chief executive decides—
 - (i) is relevant to, and a priority for, the management of the marine park; or

- (ii) can not reasonably be conducted elsewhere;
- (e) to conduct an educational program, other than a limited educational program;
- (f) to conduct a vessel or aircraft charter operation;
- (g) to operate a vessel or aircraft in a particular area in the zone for more than—
 - (i) 14 consecutive days; or
 - (ii) 30 days in any period of 60 days;
- (h) to navigate a ship or a managed vessel or aircraft;
- (i) to operate a facility for a purpose (other than the use of a vessel or aircraft for a purpose mentioned in section 17) consistent with the objects for the marine national park zone, including, for example, by carrying out any of the following—
 - (i) discharging waste from the facility;
 - (ii) building, assembling, fixing in position, maintaining or demolishing the facility;
 - (iii) constructing or operating mooring facilities for vessels or aircraft;
 - (iv) operating a landing area or facility for aircraft;
- (j) to carry out works for a purpose consistent with the objects for the marine national park zone;
- (k) to carry out a program for taking a plant or animal that poses a threat to—
 - (i) human life or safety; or
 - (ii) marine ecosystems of the marine park; or
 - (iii) the use or amenity of an area in the marine park or an area adjacent to the marine park;
- (l) any other purpose (other than a purpose mentioned in section 17) consistent with the objects for the marine national park zone.

Notes—

- 1 For the procedure for applying for a permission to enter or use a marine park, see the Regulation, part 3.

- 2 See part 7 for any restrictions applying to an activity mentioned in this section.

Part 3 Designated areas

Division 1 Preliminary

19 Relationship with pt 4

This part is subject to part 4.

20 Areas set aside for special management

- (1) The following areas of the marine park are set aside for special management—
 - (a) fish trap areas;
 - (b) go-slow areas;
 - (c) Great Sandy area;
 - (d) grey nurse shark area;
 - (e) Mon Repos area;
 - (f) shorebird roosting and feeding areas;
 - (g) turtle monitoring area;
 - (h) turtle protection area;
 - (i) whale management area.
- (2) The areas of the marine park that are in each designated area are shown on plan MP3 prepared by the department.
- (3) A copy of the plan is shown in schedule 2.

Editor's note—

A copy of the plan may be inspected, free of charge—

- (a) on the department's website on the Internet at <www.epa.qld.gov.au>; and
- (b) during office hours on business days, at—

- (i) the department's central office at 160 Ann Street, Brisbane; and
 - (ii) the department's regional office at the corner of Lennox and Alice streets, Maryborough.
- (4) A designated area may be all or part of 1 or more zones.

Division 2 Restrictions applying to particular designated areas

Subdivision 1 Preliminary

21 Application of div 2

This division applies to the following areas (each a *relevant designated area*)—

- (a) go slow areas;
- (b) grey nurse shark area;
- (c) Mon Repos area;
- (d) shorebird roosting and feeding areas;
- (e) turtle monitoring area;
- (f) turtle protection area;
- (g) whale management area.

Subdivision 2 Granting permissions to enter or use zone

22 Application for permission to enter or use zone

- (1) This section applies if—
- (a) a person applies for a permission to enter or use a zone; and
 - (b) the zone, or part of the zone, for which the application is made (the *relevant area*) is in a relevant designated area.

- (2) The chief executive must not grant the permission if entering or using the relevant area under the permission would be inconsistent with the objects of the relevant designated area.

Note—

See the Regulation, sections 10 and 11, for matters the chief executive must or may have regard to for considering an application for a permission.

23 Application for permission to enter or use zone for purposes mentioned in s 53

- (1) This section applies if—
- (a) a person applies for a permission to enter or use a zone for a purpose mentioned in section 53(1)(a) or (b); and
 - (b) the zone, or part of the zone, for which the application is made is not in the whale management area.
- (2) The chief executive must not grant the permission.
- (3) Subsection (2) does not apply if—
- (a) the use does not involve the use of vessels or aircraft; or
Example—
a person watching whales from the shore
 - (b) the use is incidental to another use authorised under the Act.

Subdivision 3 Consultation with chief executive

24 Special management provision

A public authority exercising statutory powers in a relevant designated area must consult with the chief executive about any proposal or action that may not be consistent with the objects of the area.

Division 3 Fish trap areas

25 Object

- (1) The object for each fish trap area is to protect important indigenous sites—
 - (a) from damage caused by anchors; and
 - (b) by excavating, modifying or removing material forming part of, associated with or contained in the area.
- (2) The object mentioned in subsection (1) is in addition to the objects for the zone in which the area or part of the area is located.

26 Special management provision

- (1) A person must not, without a permission, enter or use an area in a fish trap area for—
 - (a) anchoring; or
 - (b) excavating, modifying or removing material forming part of, associated with, or contained in, the area; or
 - (c) conducting an activity that may impact on the integrity and cultural values of the area.

Maximum penalty—10 penalty units.

- (2) This section does not apply to a traditional owner or traditional owner group for the area.

Division 4 Go slow areas

27 Object

- (1) The object for a go slow area is to protect turtles and dugongs from injury, disturbance or death caused by the operation of vessels.
- (2) The object mentioned in subsection (1) is in addition to the objects for the zone in which the area or part of the area is located.

28 Special management provision

- (1) This section applies—
 - (a) to a go slow area if the chief executive, by notice published in the gazette, states this section applies to the area; and
 - (b) for a go slow area on the Woongarra Coast or northern end of Fraser Island—from 15 October each year to 30 April the following year.
- (2) A person must not, in a go slow area—
 - (a) operate a speedboat in a planing or non-displacement mode; or
 - (b) operate a vessel in a way or at a speed that could reasonably be expected to result in the striking of a turtle or dugong.

Maximum penalty—10 penalty units.

- (3) This section does not apply to—
 - (a) a navigation channel; or
 - (b) an area in a go slow area to which a transit lane notice applies.
- (4) In this section—

navigation channel means a marine channel marked by aids to navigation within the meaning of the *Transport Operations (Marine Safety) Act 1994* and placed in the marine park under that Act.

transit lane notice, for an area in a go slow area, means a notice published in the gazette by the chief executive stating—

- (a) the location and boundaries of the area; and
- (b) where a map showing the boundaries of the area is available for public inspection.

Division 5 Great Sandy area

29 Object

- (1) The object for the Great Sandy area is to maintain important existing lawful fisheries.
- (2) The object mentioned in subsection (1) is in addition to the objects for the zone in which the area or part of the area is located.

30 Special management provision

A person must not enter or use the area—

- (a) for carrying out netting unless the person holds, or is acting under, an authority to carry out the activity under the *Fisheries Act 1994*; or
- (b) for line fishing unless the person is line fishing using not more than 3 hand-held rods or handlines, with a total of not more than 6 hooks attached to the lines; or
- (c) for taking in a yabby fishery unless the person holds, or is acting under, authority number AUT00223B, AUT00333F, AUT00391C, AUT00414F or AUT00425A, that is an authority to take yabbies under the *Fisheries Act 1994*; or
- (d) for taking in a worm (bloodworm) fishery unless the person holds, or is acting under, an authority for the activity under the *Fisheries Act 1994*.

Maximum penalty—100 penalty units.

Note—

If the area is in the conservation zone, this provision applies to the area despite section 13 (Entry or use without permission).

Division 6 Grey nurse shark area

Subdivision 1 Objects for grey nurse shark area

31 Objects

- (1) The objects for the grey nurse shark area are—
 - (a) to protect grey nurse shark populations; and
 - (b) to protect grey nurse shark habitat; and
 - (c) to minimise harm or distress caused directly or indirectly to grey nurse sharks by diving or other human activities.
- (2) The objects mentioned in subsection (1) are in addition to the objects for the zone in which the area or part of it is located.

Subdivision 2 General entry and use restrictions

32 Entry into or use of area

- (1) A person must not dive between 6p.m. and 6a.m. in the grey nurse shark area, unless the person has a reasonable excuse.
Maximum penalty—10 penalty units.
- (2) A person must not do any of the following in the grey nurse shark area—
 - (a) touch or feed a grey nurse shark;
 - (b) trap, or attempt to trap, a grey nurse shark;
 - (c) block a cave entrance or gutter;
 - (d) use electro-acoustic or mechanical apparatus in the water.Maximum penalty—100 penalty units.
- (3) A person must not interfere with a grey nurse shark's natural behaviour in the grey nurse shark area.

Examples—

- chasing or harassing the shark
- interrupting the shark's swimming pattern

Maximum penalty—100 penalty units.

- (4) A person who is part of a group of divers in the grey nurse shark area must not dive in the area if it would result in more than 10 divers from the group being in the water at the same time.

Maximum penalty—10 penalty units.

- (5) However, subsection (4) does not apply to a person participating in a tourism program if the person is diving under the instructions of the program's operator.
- (6) In this section—

electro-acoustic or mechanical apparatus—

- (a) includes a scooter, horn and shark repelling device; but
- (b) does not include the following—
- (i) equipment commonly used for diving;

Examples—

- scuba equipment
- equipment required for diving under the *Workplace Health and Safety Act 1995*

- (ii) equipment required for emergency defence activities.

Example—

mine detection equipment

Subdivision 3 Entry and use restrictions for tourism program operators

33 Information about area restrictions must be given

An operator must ensure that, before a person participating in the operator's tourism program enters the water in the grey

nurse shark area, the person is given information about the area restrictions for the area.

Maximum penalty—10 penalty units.

34 Displaying area restrictions sign

- (1) An operator must display a sign stating the area restrictions and complying with subsections (2) and (3)—
 - (a) in each place, under the operator's control or management, where diving activities in the grey nurse shark area are organised or promoted; and
 - (b) on each boat used by the operator to carry divers in the area.

Maximum penalty—10 penalty units.

- (2) The sign must be—
 - (a) clearly visible to a person entering the place or boat; and
 - (b) at least 297mm x 210mm in size; and
 - (c) made of durable and weatherproof material.
- (3) The lettering on the sign must be—
 - (a) at least 3mm in height and in a bold style; and
 - (b) durable, legible and clearly visible.

35 Restriction on number of persons diving

- (1) An operator must ensure that, in the grey nurse shark area—
 - (a) not more than 12 persons in a group of divers participating in the operator's tourism program are in the water at the same time; and
 - (b) the number of persons in the group in excess of 10 are dive instructors or guides, or a combination of both, for the group.

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply if the operator has the chief executive's written authority for more than 10 persons in the group to be in the water at the same time.

- (3) The chief executive may give an authority mentioned in subsection (2) only if the chief executive is satisfied the proposed entry into, or use of, the area under the program is consistent with the objects mentioned in section 31.

- (4) In this section—

diver instructor means a person who holds a current qualification as a scuba instructor from a recreational scuba training organisation.

Subdivision 4 Entry and use restrictions for dive clubs

36 Application of sdiv 4

This subdivision applies to a dive club conducting diving activities for its members in the grey nurse shark area.

37 Information about zone and area restrictions must be given

A dive club or, if the club is not an incorporated entity, each relevant person for the club, must, before a member, guest or visitor of the club (the *diver*) enters the water in the grey nurse shark area as part of the club's diving activities, ensure the diver is given information about—

- (a) any restrictions applying under part 2 for the entry into, or use of, the zone; and

Note—

See part 2, division 5 (Buffer zone) or 6 (Marine national park zone), for restrictions applying to the zone.

- (b) the area restrictions for the grey nurse shark area.

Maximum penalty—10 penalty units.

38 Displaying area restrictions sign

- (1) A dive club or, if the club is not an incorporated entity, each relevant person for the club, must ensure a sign stating the

area restrictions and complying with subsections (2) and (3) is displayed—

- (a) in each place, under the control or management of the club or relevant person, where diving activities in the grey nurse shark area are organised or promoted; and
- (b) on each boat used by the club to carry the club's members, guests or visitors for diving activities in the area.

Maximum penalty—10 penalty units.

- (2) The sign must be—
 - (a) clearly visible to a person entering the place or boat; and
 - (b) at least 297mm x 210mm in size; and
 - (c) made of durable and weatherproof material.
- (3) The lettering on the sign must be—
 - (a) at least 3mm in height and in a bold style; and
 - (b) durable, legible and clearly visible.

Subdivision 5 When entry and use prohibited

39 Making prohibited area notice

- (1) The chief executive may make a prohibited area notice if the chief executive is satisfied urgent action is needed to deal with a significant threat to a grey nurse shark population.
- (2) Without limiting subsection (1), the chief executive may be satisfied urgent action is needed to deal with a significant threat to a grey nurse shark population if a female grey nurse shark in the prohibited area has recently given or is about to give birth.

40 Requirements for notice

- (1) A prohibited area notice must state each of the following—
 - (a) the location and boundaries of the prohibited area under the notice;

- (b) where a map showing the boundaries of the prohibited area is available for public inspection;
 - (c) the prohibition applying under the notice;
 - (d) the period for which the notice has effect.
- (2) The chief executive must publish the prohibited area notice in the gazette and may publish it in other ways the chief executive considers appropriate.

Editor's note—

A copy of the notice may be inspected, free of charge, at the department's office at 160 Ann Street, Brisbane or at the department's district office at Corner Lennox and Alice Streets, Maryborough. At the commencement of this section, a copy of the notice is available on the department's website at <www.epa.qld.gov.au>.

41 Duration of notice

- (1) A prohibited area notice has effect from its publication in the gazette until whichever of the following happens first—
- (a) the period of effect stated in the notice ends;
 - (b) the notice is repealed by this plan.
- (2) The period of effect stated in the notice must be not more than 90 days.
- (3) The chief executive may, by a further notice published in the gazette, extend the period by not more than 90 days.

42 Offence to contravene notice

A person must comply with a prohibited area notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

43 Relationship between notice and other instruments

A prohibited area notice prevails to the extent of any inconsistency with—

- (a) this plan, other than section 58; or

- (b) a declaration of a restricted access area under the Regulation, section 98.

Division 7 Mon Repos area

44 Object

- (1) The objects for the Mon Repos area are—
 - (a) to protect turtles and their habitat; and
 - (b) to minimize harm or distress caused directly or indirectly to turtles by human activities or domestic animals.
- (2) The objects mentioned in subsection (1) are in addition to the objects for the zone in which the area or part of it is located.

45 Special management provision

- (1) This section applies to entry into, or use of, the Mon Repos area from 15 October each year to 30 April the following year.
- (2) A person must not, without a permission—
 - (a) use a vehicle in the area other than for monitoring or managing turtles; or
 - (b) bring a domestic animal into the area, or allow a domestic animal under the person's control to enter or use the area; or
 - (c) between 6p.m. and 6a.m.—
 - (i) use a vessel, swim or fish in the area; or
 - (ii) use any artificial light, other than 1 hand-held electric torch of not more than 3V (2 dry cells); or
 - (iii) project light so as to cause a change in the ambient light horizons in the area sufficient to disturb turtles.

Maximum penalty—10 penalty units.

- (3) A person in the area must, unless the person has a reasonable excuse, comply with any direction, given by the chief

executive or an inspector, for the protection and management of turtles.

Maximum penalty—100 penalty units.

Division 8 Shorebird roosting and feeding areas

46 Object

- (1) The objects for a shorebird roosting and feeding area are—
 - (a) to protect shorebirds, particularly migratory shorebirds, and their habitat; and
 - (b) to minimize harm or distress caused directly or indirectly to shorebirds by human activities or domestic animals.
- (2) The objects mentioned in subsection (1) are in addition to the objects for the zone in which the area or part of it is located.

47 Special management provisions

- (1) A person must not take a dog into a shorebird roosting and feeding area unless the dog is controlled or restrained in a way that prevents the dog from causing excessive disturbance to shorebirds in the area.

Maximum penalty—10 penalty units.

- (2) A person must not, in a shorebird roosting and feeding area—
 - (a) navigate a vessel or drive a vehicle through a group of feeding or roosting shorebirds; or
 - (b) land, or take off in, an aircraft through a group of feeding or roosting shorebirds; or
 - (c) cause excessive disturbance to shorebirds or their habitat.

Maximum penalty—10 penalty units.

Division 9 Turtle monitoring area

48 Object

- (1) The objects for the turtle monitoring area are—
 - (a) to protect turtles and their habitat; and
 - (b) to monitor any effects on turtles from human activities, including trawling; and
 - (c) to respond to risks to turtles.

Note—

See division 2 (Restrictions applying to particular designated areas).

- (2) The objects mentioned in subsection (1) are in addition to the objects for the zone in which the area or part of it is located.

Division 10 Turtle protection area

49 Objects

- (1) The objects for the turtle protection area are—
 - (a) to protect turtles and their habitat; and
 - (b) to minimize harm or distress caused directly or indirectly to turtles by human activities, including trawling.
- (2) The objects mentioned in subsection (1) are in addition to the objects for the zone in which the area or part of it is located.

50 Special management provision

A person must not trawl in the turtle protection area from 1 November each year to 31 January the following year.

Maximum penalty—100 penalty units.

Division 11 Whale management area

Subdivision 1 Objects for whale management area

51 Objects

- (1) The objects for the whale management area are—
 - (a) to protect whale populations in the whale management area; and
 - (b) to minimise harm or distress caused directly or indirectly to whales by human activities.

Example of ways of minimising harm or distress caused to whales—

managing whale watching

- (2) The objects mentioned in subsection (1) are in addition to the objects for the zone in which the area or part of it is located.

Subdivision 2 Special management provisions

52 Application of sdiv 2

This subdivision applies only—

- (a) if the chief executive by notice published in the gazette states a period for which this subdivision applies for the whale management area—for the period stated in the notice; or
- (b) otherwise—from 1 July to 30 November each year.

Notes—

- 1 The *Nature Conservation (Whales and Dolphins) Conservation Plan 1997* states restrictions that apply at all times.
- 2 The chief executive may publish the notice in other ways the chief executive considers appropriate, including publishing in a newspaper circulating generally in the whale management area.

53 Restrictions on commercial whale watching programs and other activities

- (1) A person must not, without a permission, enter or use an area in the whale management area for any of the following purposes—
 - (a) to conduct a commercial whale watching program;
 - (b) to conduct a tourism program involving the use of a vessel or aircraft;
 - (c) to conduct research, including any associated activity or vessel or aircraft use;
 - (d) to carry out limited media activity for a commercial purpose.

Maximum penalty—100 penalty units.

- (2) However, subsection (1) does not apply to watching whales from the shore without the use of a vessel or aircraft.
- (3) In this section—

commercial whale watching program means a tourism program for the purpose of watching whales.

54 Restrictions on proximity of boats to whales

A person in control of a boat must not, without a permission, do any of the following in the whale management area—

- (a) bring the boat any closer than 100m to a whale;
- (b) bring the boat any closer than 300m to a whale if—
 - (i) 3 or more boats are already closer than 300m to the whale; and
 - (ii) the boat is moving in a similar direction to, and behind, the whale; and
 - (iii) the boat is moving at more than 4 knots;
- (c) bring the boat to a position that would cause a whale to come closer than 100m to the boat if the whale continued on its direction of travel;
- (d) move or operate the boat in a way that causes a whale to alter its direction or speed of travel or its behaviour;

- (e) if a whale surfaces closer than 100m to the boat—move the boat at more than 4 knots until the whale has moved at least 300m away from the boat;
- (f) bring the boat between members of a pod of whales;
- (g) approach a whale head on;
- (h) herd, chase or otherwise prevent the free movement of a whale.

Maximum penalty—100 penalty units.

55 Other restrictions on proximity to whales

- (1) A person must not, without a permission, do any of the following in the whale management area—
 - (a) enter water closer than 300m to a whale;
 - (b) if the person is in the water in the area—move any closer than 300m to a whale;
 - (c) if the person is in control of a jet ski in the area—bring the jet ski any closer than 300m to a whale;
 - (d) if the person is in control of a fixed-wing aircraft in the area—bring the aircraft any closer to a whale than 300m unless the aircraft is at an altitude of at least 300m.

Maximum penalty—100 penalty units.

- (2) A person in control of a helicopter in the whale management area must not, without reasonable excuse, bring the helicopter any closer to a whale than 1km unless the helicopter is at an altitude of at least 600m.

Maximum penalty—100 penalty units.

56 Protection of whales

A person must not, without a permission, do any of the following in the whale management area—

- (a) deposit rubbish near a whale;
- (b) make a noise that is likely to disturb a whale;

Example—

playing a sound recording under water near a whale

- (c) make a noise that is likely to attract a whale;
- (d) attempt to feed a whale;
- (e) touch a whale;
- (f) operate a submersible boat;
- (g) photograph, film or sound record if the activity involves the use of a structure that is within 100m of a whale.

Maximum penalty—100 penalty units.

57 Special interest whales and group of special interest whales

- (1) This section applies if, under the *Nature Conservation (Whales and Dolphins) Conservation Plan 1997*, section 16,¹ a whale is, by written notice, declared to be a special interest whale or a group of whales to be a group of special interest whales.
- (2) Sections 54 and 55 have effect subject to section 17² of the conservation plan.

Part 4 Additional purposes for entry or use

58 Entry or use without permission or notification

A person may, without a permission for the area, and without notifying the chief executive, enter or use an area in the marine park for any of the following purposes—

1 *Nature Conservation (Whales and Dolphins) Conservation Plan 1997*, section 16 (Minister may declare special interest whales or dolphins)

2 *Nature Conservation (Whales and Dolphins) Conservation Plan 1997*, section 17 (Duration of declaration)

- (a) if there is an emergency—
 - (i) to investigate and respond to an emergency alert; or
 - (ii) to save human life or avoid the risk of injury to a person; or
 - (iii) to deal with a threat of pollution to the marine environment under a law of the Commonwealth or a national emergency response arrangement in which the chief executive participates; or
 - (iv) to locate or secure the safety of an aircraft, vessel or structure that is, or may be, endangered by stress of weather or by navigational or operational hazards; or
 - (v) to carry out emergency repairs to a navigational aid; or
 - (vi) to remove or salvage a vessel or aircraft, or a section of a vessel or aircraft, or other wreck, that is wrecked, stranded, sunk or abandoned and poses a threat to the marine environment or safety;
- (b) if the person is a traditional owner and the activity does not involve fishing or collecting—for the purposes of Aboriginal tradition or Island custom;
- (c) to enforce a provision of an Act of the Commonwealth or the State by a person authorised under that Act, or another Act that provides for substantially the same matter as that Act, to enforce the Act;
- (d) to carry out reconnaissance or surveillance for the Commonwealth or the State.

59 Entry or use without permission after notification

- (1) A person may enter or use an area in the marine park for a purpose mentioned in subsection (4).
- (2) However, a person intending to enter or use an area within the marine park for a purpose mentioned in subsection (4) must give the chief executive a notice stating the person intends to enter or use the area for the purpose.

- (3) The chief executive may, upon receiving the notice, impose conditions on the entry or use.

Note—

See section 45 of the Act and section 112 of the Regulation for offences relating to a person entering or using a marine park for a purpose for which a notice must be given to the chief executive.’.

- (4) Each of the following is a purpose for subsection (1)—
- (a) if there is not an emergency—to remove or salvage a vessel or aircraft, or a section of a vessel or aircraft, or other wreck, that is wrecked, stranded, sunk or abandoned;
 - (b) to construct, operate or service navigational aids, and their ancillary buildings and works, that are authorised under a law of the Commonwealth or the State, including the operation of vessels and aircraft for the purposes;
 - (c) to undertake maintenance dredging for navigational purposes;
 - (d) to install, maintain or remove a sign for or about the *Fisheries Act 1994*;
 - (e) to undertake defence activities that would otherwise require a permission under this plan;
 - (f) to undertake government geodetic, bathymetric or similar surveys;
 - (g) to undertake urgent maintenance or works on essential public services, that are authorised under a law of the Commonwealth, the State or a local government authority;

Examples of essential public services—

power, water, sewerage and communication systems
 - (h) to deal with an emergency involving a serious threat to the environment, other than a threat mentioned in section 58(a)(iii).
- (5) In this section—

maintenance dredging means dredging to ensure that lawfully dredged channels, berths or construction works are maintained at the authorised dimensions.

60 Entry or use for non-conforming use with permission

- (1) A person may, with a permission for the area, enter or use an area in the marine park mentioned in schedule 3, column 1, for a purpose mentioned in column 2 of the schedule opposite the area.
- (2) However, the entry or use of the area is subject to the conditions mentioned, in schedule 3, column 3, opposite the area.
- (3) Subsection (2) does not limit the conditions to which the permission may be subject.

61 Entry or use for taking protected species etc.

- (1) A person must not enter or use an area in the marine park for the taking of an animal or plant of a protected species unless—
 - (a) the person complies with the following—
 - (i) any permission granted by the chief executive under the Regulation, part 3, in relation to the entering or use;
 - (ii) an accredited traditional use of marine resources agreement applying to the area; or
 - (b) the taking is for an accredited harvest fishery in compliance with any requirements applying to the accreditation.
- (2) A person must not enter or use an area in the marine park for the taking of an animal of the species *Solegnathus hardwickii* or *S. dunckeri* unless the person complies with the *Fisheries (East Coast Trawl) Management Plan 1999*.

Part 5 Provisions about accreditation

Division 1 Traditional use of marine resources agreement

Subdivision 1 Preliminary

62 Accreditation of traditional use of marine resources agreement

The chief executive may, for this plan, accredit a traditional use of marine resources agreement.

63 Giving notice under this division

- (1) This section applies if the chief executive is required to give a notice under this division to—
 - (a) the applicant for accreditation of a traditional use of marine resources agreement; or
 - (b) the holder of an accredited traditional use of marine resources agreement.
- (2) The chief executive complies with the requirement if the chief executive gives the notice to the person stated in the application for the accreditation as the person to whom correspondence may be sent on behalf of the traditional owner group in whose name the application is made.

Subdivision 2 Applications

64 Application for grant of accreditation

- (1) A person may apply to the chief executive for accreditation of a traditional use of marine resources agreement.
- (2) The application must—
 - (a) be in writing; and

- (b) include the following information—
 - (i) the names of all the members of the traditional owner group in whose name the application is made;
 - (ii) the name and address of a person to whom correspondence may be sent on behalf of the traditional owner group; and
- (c) be accompanied by—
 - (i) a copy of the agreement; and
 - (ii) written confirmation, by a relevant representative Aboriginal/Torres Strait Islander body, that each member of the traditional owner group in whose name the application is made is a traditional owner for the part of the marine park in relation to which the agreement is to operate.

65 Considering application

The chief executive must have regard to each of the following in considering the application—

- (a) the terms of the agreement;
- (b) the objects of the zone or zones in which the proposed traditional use of marine resources is proposed to be undertaken;
- (c) the likely effect of the accreditation on future options for the marine park;
- (d) the nature and scale of the proposed traditional use of marine resources;
- (e) the conservation of the natural resources of the marine park, including—
 - (i) the need for conserving protected species in the marine park; and
 - (ii) the capability of the relevant population of a protected species to sustain harvesting;
- (f) any other requirements for ensuring the orderly and proper management of the marine park;

- (g) the need to protect the cultural resources held in relation to the marine park by traditional owners and other people;
- (h) the possible effects of the proposed traditional use of marine resources on the environment and the adequacy of safeguards for the environment and the likely effects of that use on adjoining and adjacent areas;
- (i) any existing agreements or arrangements between the chief executive and the traditional owners who prepared the agreement;
- (j) any legislation or government policy applying to the proposed traditional use of marine resources;
- (k) any other relevant matters, including, for example, any action necessary to avoid, remedy or minimise unacceptable environmental impact.

66 Additional information for application

- (1) The chief executive may, by written notice, ask the applicant to give the chief executive further reasonable information or documents about the application by the reasonable date stated in the notice.
- (2) The chief executive may refuse the application if the applicant does not, without reasonable excuse, give the chief executive the further information or documents by the stated day.
- (3) If the chief executive agrees, the applicant may amend the application before the chief executive has finished considering it.

67 Chief executive must grant or refuse application

- (1) The chief must consider each proper application and either grant or refuse the application.
- (2) In this section—
proper application means an application—
 - (a) that complies with section 64; and

- (b) for which any requests for information made under section 66 have been complied with.

68 Refusing application

If the chief executive decides to refuse the application, the chief executive must, within 14 days after making the decision, give the applicant a written notice stating the decision and the reasons for it.

69 Granting application

- (1) This section applies if the chief executive grants the application.
- (2) The chief executive must also decide—
 - (a) when the accredited traditional use of marine resources agreement is to come into effect; and
 - (b) when the accredited traditional use of marine resources agreement is to cease to have effect.
- (3) Also, the chief executive must—
 - (a) give the applicant a copy of the accredited traditional use of marine resources agreement and a written notice stating the following—
 - (i) the day the accredited traditional use of marine resources agreement comes into effect;
 - (ii) the day the accredited traditional use of marine resources agreement cease to have effect;
 - (iii) any conditions imposed on the accreditation under section 70; and
 - (b) publish a notice in the gazette stating the agreement is an accredited traditional use of marine resources agreement for this plan.

70 Conditions on accreditation

- (1) The chief executive may impose the following types of conditions on an accreditation of a traditional use of marine resources agreement—
 - (a) conditions allowing the holders of the accreditation to authorise other persons to carry out activities under the agreement and stating the maximum number of persons the holders may authorise;
 - (b) conditions that are appropriate for achieving the purposes of the Act, including, for example, conditions requiring particular persons to give the chief executive a written undertaking for activities carried out under the agreement.
- (2) The accreditation remains in force, unless sooner cancelled or suspended, for the period—
 - (a) starting on the day the chief executive has decided as the day when the accredited traditional use of marine resources agreement is to come into effect; and
 - (b) ending on the day the chief executive has decided as the day when the accredited traditional use of marine resources agreement is to cease to have effect.

Subdivision 3 Amendment, suspension or cancellation of accreditations**71 Amendment of accreditation—grounds**

The chief executive may amend an accreditation of a traditional use of marine resources agreement, including, for example, by adding a further condition to the accreditation if—

- (a) the holder of the accreditation has given written agreement to the amendment; or
- (b) the chief executive believes on reasonable grounds the amendment is necessary or desirable for the conservation of the marine park; or

- (c) the holder of the accreditation has failed to comply with a condition of the accreditation or the agreement.

72 Suspension—grounds

The chief executive may suspend an accreditation of a traditional use of marine resources agreement if—

- (a) the chief executive believes on reasonable grounds the suspension is necessary or desirable for the conservation of the marine park; or
- (b) the holder of the accreditation has failed to comply with a condition of the accreditation or the agreement; or
- (c) the holder of the accreditation has committed, or is committing, an offence against the Act.

73 Cancellation—grounds

The chief executive may cancel an accreditation of a traditional use of marine resources agreement if the chief executive believes on reasonable grounds—

- (a) the accreditation was granted in error or because of a materially false or fraudulent document, statement or representation; or
- (b) the holder of the accreditation—
 - (i) has failed to comply with a condition of the accreditation or the agreement; or
 - (ii) has committed, or is committing, an offence against the Act.

74 Amendment, suspension or cancellation—procedure

- (1) Before amending, suspending or cancelling an accreditation of a traditional use of marine resources agreement, the chief executive must give the holder of the accreditation a written notice inviting the holder to show why the accreditation should not be amended, suspended or cancelled (the *proposed action*).
- (2) The notice must state the following—

- (a) the proposed action;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is suspension of the accreditation, the proposed suspension period;
 - (e) if the proposed action is to amend the accreditation, the proposed amendment;
 - (f) that representations may be made about the notice;
 - (g) how the representations may be made;
 - (h) where the representations may be made or sent;
 - (i) a day and time for making the representations or a period within which the representations must be made.
- (3) The stated day or period must be, or must end, at least 28 days after the notice is given.
- (4) If, after considering all representations made by the stated day or within the stated period, the chief executive still considers the proposed action should be taken, the chief executive may—
- (a) if the proposed action is to amend the accreditation—amend the accreditation; or
 - (b) if the proposed action is to suspend the accreditation—suspend the accreditation for no longer than the proposed suspension period; or
 - (c) if the proposed action is to cancel the accreditation—cancel the accreditation or suspend it for a period.
- (5) This section does not apply if the accreditation is amended under section 71(a).

75 Notice and effect of amendment, suspension or cancellation

- (1) If the chief executive amends, suspends or cancels an accreditation, notice and particulars of the amendment,

suspension or cancellation must be given to the holder of the accreditation.

- (2) The notice must state the decision and the reasons for it.
- (3) If the chief executive amends the accreditation, the amendment takes effect from the day, not earlier than 28 days after the holder receives the notice, stated in the notice.
- (4) If the chief executive suspends the accreditation, it is ineffective during the period of suspension.
- (5) The suspension—
 - (a) may be for the period the chief executive decides; and
 - (b) has effect from—
 - (i) the day the notice is given; or
 - (ii) if a later day is stated in the notice—the stated day.
- (6) If the chief executive cancels the accreditation, it ceases to have effect from—
 - (a) the day the notice is given; or
 - (b) if a later day is stated in the notice—the stated day.

76 Termination of agreement by holders

- (1) The holder of an accredited traditional use of marine resources agreement may terminate the agreement at any time by giving written notice to the chief executive.
- (2) The agreement ceases to have effect on—
 - (a) the day the chief executive receives the notice; or
 - (b) if the notice states a later day, not later than the day the accreditation of the agreement ceases to have effect—the later day stated in the notice.
- (3) The accreditation of the agreement ceases to have effect on the day the agreement ceases to have effect.

Division 2 Authorisations under accredited traditional use of marine resources agreements

77 Giving authorisation under agreement

- (1) This section applies if an accreditation of a traditional use of marine resources agreement includes a condition stating that the holder of the accreditation may authorise another person to carry out an activity that may be lawfully carried out in relation to the agreement for a stated period.
- (2) The holder of the accreditation must keep a record of the relevant matters for any authorisation given under the agreement.
- (3) In this section—
relevant matters, for an authorisation, means the following—
 - (a) the name of the person to whom the authorisation is given;
 - (b) the date on which the authorisation was given;
 - (c) the nature of the activity the person is authorised to carry out under the authorisation.

78 Effect of authorisation given under agreement

- (1) A person to whom an authorisation is given under an accredited traditional use of marine resources agreement may carry out an activity that is stated in the record kept by the holder of the accreditation under section 77(2).
- (2) For subsection (1)—
 - (a) the person to whom the authorisation is given is taken to be a traditional owner; and
 - (b) the conditions imposed on the accreditation of the agreement, and the conditions stated in the agreement, apply to the person.
- (3) To remove any doubt, it is declared that a person who gives an authorisation under an accredited traditional use of marine resources agreement may still carry out, in relation to the

agreement, any activity for which the person has given an authorisation under the agreement.

Part 6

Requirements for particular applications for permissions

79 Matters chief executive must consider for applications for permission

- (1) This section applies to an application for a permission, under the Regulation, part 3, for an area in the marine park for a particular purpose.
- (2) Without limiting the matters the chief executive must, under the Regulation, part 3, have regard to in considering the application, the chief executive must have regard to the following—
 - (a) any effect the proposed entry or use of the zone will have on the environment as a result of the marine park's natural hydrological pattern or natural coastal processes;
 - (b) the cumulative impact on the marine park of the proposed entry or use of the zone and any other entry or use of the marine park, particularly the cumulative impact of small-scale developments for which an environmental impact statement is not required.

80 Matters chief executive must consider for applications relating to traditional use of marine resources

- (1) This section applies to an application for a permission, under the Regulation, part 3, for an area in the marine park for the traditional use of marine resources involving fishing or collecting.
- (2) Without limiting the matters the chief executive must, under the Regulation, part 3, have regard to in considering the application, the chief executive must have regard to the following—

- (a) the need for the conservation of protected species in the area or marine park and, in particular, the capability of the relevant population of that species in the area or marine park to sustain harvesting;
- (b) the means to be employed in the proposed taking;
- (c) the number of animals or plants, or the amount of marine product, proposed to be taken;
- (d) the purpose of the proposed taking;
- (e) whether the entry and use of the area will be in accordance with Aboriginal tradition or Island custom;
- (f) whether the applicant is a traditional owner.

Part 7

Restrictions applying to activities carried out in marine park

81 Bait netting

A person who is bait netting in the marine park—

- (a) may use only—
 - (i) a cast, scoop or seine net complying with the Fisheries Regulation, schedule 8, section 12; or
 - (ii) a cast net complying with the Fisheries Regulation, schedule 13, section 6; or
 - (iii) a mesh or seine net complying with the Fisheries Regulation, schedule 13, section 7; or
 - (iv) a seine net complying with the Fisheries Regulation, schedule 13, section 25 (1); and
- (b) must use the net in the following ways—
 - (i) for a net mentioned in paragraph (a)(i)—as required under the Fisheries Regulation, schedule 8, section 13;

- (ii) for a net mentioned in paragraph (a)(ii) or (iii)—as required under the Fisheries Regulation, schedule 13, sections 4, 6 and 7;
- (iii) for a net mentioned in paragraph (a)(iv)—as required under the Fisheries Regulation, schedule 13, sections 22(4) and 25(2).

82 Crabbing

- (1) A person who is crabbing in the marine park must comply with subsections (2) and (3).
- (2) Only the following, within the meaning of the Fisheries Regulation, may be used—
 - (a) crab pots;
 - (b) collapsible traps;
 - (c) dillies;
 - (d) inverted dillies.
- (3) The apparatus mentioned in subsection (2) must be used as required under the Fisheries Regulation.

83 Fishing or collecting

- (1) A person who is fishing or collecting in the marine park must not take or possess—
 - (a) an animal or plant of a protected species; or
 - (b) a specimen of an animal of a species mentioned in schedule 4, part 1; or
 - (c) if the person is limited collecting, line fishing, spear fishing or trolling—more than a total of 5 specimens of any animal of a species mentioned in schedule 4, part 2, in any 28 day period.
- (2) If a person takes or possesses an animal or plant of a species that is authorised to be taken under fisheries legislation—
 - (a) the person must not take or possess more than the number of specimens authorised by that legislation to be taken or possessed; and

- (b) the taking or possessing must be in accordance with that legislation.
- (3) A person must not detach more than 1 dory from a primary commercial fishing boat in the conservation park zone or the buffer zone.
- (4) A person must not detach a dory from the relevant primary boat for the dory in the marine national park zone unless—
 - (a) the dory is engaged in the rescue or attempted rescue of an endangered person; or
 - (b) the dory is providing assistance to an endangered aircraft, boat or structure to prevent or mitigate damage to the environment or to the aircraft, boat or structure; or
 - (c) the dory is conveying a person on a direct journey from land to the relevant primary boat, or from the relevant primary boat to land, and throughout the journey the relevant primary boat remains within 1 nautical mile of both the dory and the land.
- (5) In this section—

dory means a commercial fishing boat identified in a tender commercial fishing boat licence issued under the Fisheries Regulation.

primary commercial fishing boat means a commercial fishing boat identified in a primary commercial fishing boat licence issued under the Fisheries Regulation.

relevant primary boat, for a dory, means the primary commercial fishing boat identified in the tender commercial fishing boat licence in which the dory is identified.

tender commercial fishing boat licence means a tender commercial fishing boat licence issued under the Fisheries Regulation.

84 Limited crabbing

A person who is limited crabbing in the marine park must not use, alone or in combination, more than a total of 4 crab pots, dillies or inverted dillies, within the meaning of the Fisheries Regulation.

85 Limited impact research (extractive)

- (1) A person installing or operating minor research aids for limited impact research (extractive) in the marine park must ensure the aids are installed and used in compliance with the following—
 - (a) not more than 10 stakes may be used for each research project;
 - (b) a stake must not protrude 300mm or more from the substrate;
 - (c) not more than 20 subsurface marker buoys may be used for each research project or for each location;
 - (d) a surface marker buoy or sub-surface marker buoy must be attached by lines to—
 - (i) concrete nails driven into dead coral substrate; or
 - (ii) inverted U-shaped metal rods less than 6mm in diameter driven into sand;
 - (e) not more than 10 surface marker buoys may be used for each research project and for each location;
 - (f) if surface marker buoys are used, a researcher associated with the research project must be present at all relevant times at the location.
- (2) In this section—

location means a discrete, identified reef, or a continuous non-reef area of up to 10km².

86 Limited research sampling

- (1) A person who is limited research sampling in the marine park must ensure the following for the sampling—
 - (a) fishing or collecting is done—
 - (i) by hand; or
 - (ii) by the use of a hand-held implement that is not motorised or pneumatically or hydraulically operated; or
 - (iii) by the use of a minor research aid;

- (b) explosives or chemicals are not used;
 - (c) a specimen of an animal species mentioned in schedule 4, part 1, is not taken;
 - (d) for each location and research project, not more than 5 specimens of fish or invertebrates mentioned in schedule 4, part 2, are taken in any 28 day period;
 - (e) a specimen of an animal species that is a protected species is not taken;
 - (f) not more than the following are taken for each research project in each year—
 - (i) 20L of wet sediment;
 - (ii) 100L of seawater.
- (2) In this section—
- location** means a discrete, identified reef, or a continuous non-reef area of up to 10km².

87 Limited spearfishing

- (1) A person who is carrying out limited spearfishing in the marine park must not use any of the following for the activity—
- (a) a power-head;
 - (b) a firearm;
 - (c) a light;
 - (d) underwater breathing apparatus, other than a snorkel.
- (2) In this section—
- power-head** means a device that—
- (a) contains an explosive charge; and
 - (b) may be attached to a spear or spear gun.

88 Netting other than bait netting

A person who is netting, other than bait netting, in the marine park must comply with the Fisheries Regulation, schedule 13, other than sections 22(4) and 25 of part 3 of the schedule.

Part 8 Repeal provision**89 Repeal of legislation**

The following legislation is repealed—

- (a) the *Marine Parks (Hervey Bay) Zoning Plan 1989* (previously the zoning plan for the Hervey Bay Marine Park approved in the instrument made as an order in council under the Act and gazetted on 16 September 1989 at page 544);
- (b) the *Marine Parks (Woongarra) Zoning Plan 1991* (previously the zoning plan for the Woongarra Marine Park approved by the Governor in Council by the Marine Parks (Woongarra Zoning Plan) Order 1991 SL No. 170).

Schedule 3 Non-conforming uses

section 60

Column 1 Part of marine park	Column 2 Non-conforming use	Column 3 Conditions
1 habitat protection and conservation park zones in the marine park	<ul style="list-style-type: none"> • conducting an aquaculture operation 	<ul style="list-style-type: none"> • the requirements that apply to the relevant fishery under the conditions of a permission for the use • taking in the relevant fishery in compliance with any requirements that apply to the taking under the <i>Fisheries Act 1994</i> • use may be continued only— <ul style="list-style-type: none"> (a) by a person who holds, or is acting under, an authority to carry out aquaculture operations under the <i>Fisheries Act 1994</i>; and (b) while the authority is in force
2 conservation park zone located north of Big Woody Island	<ul style="list-style-type: none"> • coral fishery 	<ul style="list-style-type: none"> • taking in the relevant fishery in compliance with any requirements that apply to the taking under the <i>Fisheries Act 1994</i> • use may be continued only— <ul style="list-style-type: none"> (a) by a person who holds, or is acting under the authority of, authority to take permit number AUT00036A or AUT00100G under the <i>Fisheries Act 1994</i>; and (b) while the permit is in force

Schedule 3 (continued)

Column 1 Part of marine park	Column 2 Non-conforming use	Column 3 Conditions
3 conservation park zones located in the Great Sandy Strait, Baffle Creek, Elliot River and Burrum River	• crab fishery	<ul style="list-style-type: none"> • taking in the relevant fishery in compliance with any requirements that apply to the taking under the <i>Fisheries Act 1994</i> • use may be continued only— <ul style="list-style-type: none"> (a) by a person who holds, or is acting under, an authority to carry out crabbing under the <i>Fisheries Act 1994</i>; and (b) while the authority is in force
4 conservation park zone located in the Great Sandy Strait	• developmental fishery (jellyfish fishery)	<ul style="list-style-type: none"> • taking in the relevant fishery in compliance with any requirements that apply to the taking under the <i>Fisheries Act 1994</i> • use may be continued only— <ul style="list-style-type: none"> (a) by a person who holds, or is acting under the authority of, general fisheries permit number PRM37540C or PRM37541A under the <i>Fisheries Act 1994</i>; and (b) while the permit is in force
5 conservation park zone located in the Great Sandy Strait near the mouth of Snapper Creek	• spoil disposal for beach replenishment purposes	• the conditions of a permission for the use

Schedule 3 (continued)

Column 1 Part of marine park	Column 2 Non-conforming use	Column 3 Conditions
6 conservation park zone located in the Mary River and waters from its mouth to 1 km seaward of its mouth	• beam trawl fishery	<ul style="list-style-type: none"> • taking in the relevant fishery in compliance with any requirements that apply to the taking under the <i>Fisheries Act 1994</i> • use may be continued only— <ul style="list-style-type: none"> (a) by a person who at the commencement of this schedule holds, or is acting under, an authority to carry out beam trawling under the <i>Fisheries Act 1994</i>; and (b) while the authority is in force
7 conservation park zone located between Beelbi Creek and Torquay	• shell grit fishery	<ul style="list-style-type: none"> • the conditions of a permission for the use • use may be continued only— <ul style="list-style-type: none"> (a) by a person who holds, or is acting under the authority of, authority to take permit number AUT00011F (Dundowran), AUT00010H (Pt Vernon) or AUT00009D (Pt Vernon) under the <i>Fisheries Act 1994</i>; and (b) while the permit is in force
8 marine national park zone located east of Little Woody Island	• aquarium fish fishery	<ul style="list-style-type: none"> • taking in the relevant fishery in compliance with any requirements that apply to the taking under the <i>Fisheries Act 1994</i> • use may be continued only— <ul style="list-style-type: none"> (a) by a person who holds, or is acting under, an authority to carry out aquarium fish collecting under the <i>Fisheries Act 1994</i>; and (b) while the authority is in force

Schedule 4 Species restricted for taking or possessing

sections 83(1) and 86 and schedule 5, definition *limited collecting*

Part 1 No specimens to be taken or possessed

A Invertebrates

Class	Species	Common name
Anthozoa	all	anemone
		corallimorpharian
		coral (hard, soft and black)
		seafan
Hydrozoa	all	fire coral
		hydroid

B Plants

all species of plants

C Reptiles, birds and mammals

all species of reptiles, birds and mammals

D Sharks

Family	Genus	Species	Common name
Heterodontidae	<i>Heterodontus</i>	<i>galeatus</i>	crested Port Jackson shark
Odontaspidae	<i>Carcharias</i>	<i>taurus</i>	grey nurse shark

Schedule 4 (continued)

Part 2**Specimens to be taken or possessed subject to restrictions****A Fish**

Family	Genus	Species	Common name
Acanthuridae	all	all	moorish idol surgeonfish unicornfish
Anomalopidae	all	all	
Antennariidae	all	all	
Aploactinidae	all	all	
Apogonidae	all	all	
Aulostomidae	all	all	
Balistidae	all	all	
Batrachoididae	<i>Batrachomoeus</i>	all	
Batrachoididae	<i>Haplophryne</i>	all	
Blenniidae	all	all	
Callionymidae	all	all	
Caracanthidae	all	all	
Centriscidae	all	all	
Chaetodontidae	all	all	
Cirrhitidae	<i>Cirrhitichthys</i>	all	
Cirrhitidae	<i>Paracirrhites</i>	all	
Clinidae	all	all	
Diodontidae	all	all	
Eleotrididae	all	all	
Ephippidae	all	all	
Fistulariidae	all	all	
Gobiidae	all	all	
Grammistidae	<i>Diploprion</i>	all	
Grammistidae	<i>Grammistes</i>	all	

Schedule 4 (continued)

Family	Genus	Species	Common name
Holocentridae	all	all	
Labridae	All genera, other than the following— <i>Achoerodus</i> (all species) <i>Bodianus frenchii</i> <i>Bodianus perditio</i> <i>Bodianus unimaculatus</i> <i>Cheilinus chlorourus</i> <i>Choerodon</i> (all species) <i>Epibulus insidiator</i> <i>Hemigymnus</i> (all species) <i>Hologymnosus</i> (all species) <i>Pseudolabrus</i> (all species)		fox fish gold spot wrasse pigfish floral maori wrasse sling jaw wrasse thick lipped wrasse
Malacanthidae	all	all	sand tilefish
Microdesmidae	<i>Ptereleotris</i>	all	dartfish wormfish
Monacanthidae	<i>Pervagor</i>	all	leatherjacket
Monacanthidae	<i>Chaetodermis</i>	<i>penicilligerus</i>	filefish
Monacanthidae	<i>Oxymonacanthus</i>	<i>longirostris</i>	filefish
Monacanthidae	<i>Paraluteres</i>	<i>prionurus</i>	filefish
Monocentridae	<i>Cleidopus</i>	<i>gloriamaris</i>	pineapple fish
Muraenidae	<i>Gymnothorax</i>	all	moray eel
Muraenidae	<i>Echidna</i>	all	moray eel
Muraenidae	<i>Siderea</i>	all	moray eel
Ophichthidae	all	all	snake eel

Schedule 4 (continued)

Family	Genus	Species	Common name
Ostraciidae	<i>Ostracion</i>	all	box fish
Ostraciidae	<i>Lactoria</i>	all	box fish
Ostraciontidae	all	all	box fish cowfish turretfish
Pataecidae	<i>Pataecus</i>	<i>fronto</i>	red Indian fish
Pegasidae	all	all	dragonfish
Periophthalmidae	all	all	mudskipper
Plesiopidae	all	all	longfin
Pomacanthidae	all	all	angelfish
Pomacentridae	all	all	anemone fish damsel fish puller sergeant-major
Priacanthidae	all	all	bigeye
Pseudochromidae	all	all	cichlop dottyback
Scorpaenidae	All genera, other than the following—		
	<i>Scorpaena incisipinnis</i>		butterfly cod
	<i>Neosebastes</i> (all species)		lionfish or red firefish
Scorpaenidae	<i>Dendrochirus</i>	all	dwarf lionfish
Serranidae	<i>Epinephelus</i>	<i>lanceolatus</i>	groper
Serranidae	<i>Epinephelus</i>	<i>tauvina</i>	greasy cod or estuary cod
Siganidae	<i>Lo</i>	all	fox-face
Synanceidae	all	all	stonefish
Syngnathidae	all	all	pipefish seahorse
Tetraodontidae	<i>Arothron</i>	all	fat puffer

Schedule 4 (continued)

Family	Genus	Species	Common name
Tetraodontidae	<i>Canthigaster</i>	all	sharpnosed puffer
Tripterygiidae		all	triplefin
Zanclidae	<i>Zanclus</i>	<i>cornutus</i>	moorish idol

B Invertebrates

All species of marine invertebrates over 5mm in length, other than the following—

Family Nereidae (bait worms)

Family Eunicidae (bait worms)

Family Panuliridae, other than *Stenopus hispidus* (crayfish and shrimps)

Family Penaeidae (prawns)

Family Scyllaridae (mud crabs and Moreton Bay bugs)

Family Portunidae (sand crabs)

Family Raninidae (spanner crabs)

Family Grapsidae (rock crabs)

Family Xanthidae (rock crabs)

Family Anomura (hermit crabs and yabbies)

Family Ocypodidae (ghost crabs)

Family Mictyridae (soldier crabs)

Family Alpheidae (clicking shrimps)

Class Stomatopoda (mantis shrimps)

Family Ostreidae (oysters)

Family Amusidae, species *Plebidonax deltoides* (eugaries or pippies)

Family Mytilidae (mussels)

Family Arcidae (cockles)

Family Onuphidae

Family Phyllodocidae

C Marine products

coral limestone

sea shells

shell grit

star sand

Schedule 5 Dictionary

section 3

accredited harvest fishery means a harvest fishery accredited by the chief executive under the Regulation, part 5, division 4.

accredited traditional use of marine resources agreement means a traditional use of marine resources agreement accredited by the chief executive under section 62.

aircraft means an aircraft under the Regulation, schedule 6.

aquaculture operation—

- 1 An ***aquaculture operation*** is an operation for propagating, rearing, keeping, growing or breeding an aquatic plant or animal, including a fish, crustacean, reptile or mollusc, or other marine product.
- 2 An ***aquaculture operation*** includes the construction, operation, maintenance, modification, demolition or removal of any structure associated with an activity mentioned in paragraph 1.

area restrictions, for the grey nurse shark area, means any restrictions on diving activities applying in the area under—

- (a) part 3, division 6; or
- (b) a declaration of a restricted access area under the Regulation, section 98; or
- (c) a prohibited area notice.

bait gathering means taking, in compliance with the *Fisheries Act 1994*, crabs, eugaries, worms or yabbies by hand or by a hand-held implement.

cultural resources means places or objects having anthropological, archaeological, historical, scientific, sociological, spiritual or visual significance or value, including significance or value of that kind under Aboriginal tradition or Island custom.

defence activities means activities for defence purposes—

Schedule 5 (continued)

- (a) conducted by the Australian Defence Force; or
- (b) conducted by an arm of the defence forces of another country that is in Australia with the approval of the Commonwealth Government; or
- (c) conducted or authorised by the Commonwealth Department of Defence.

designated area means an area set aside under part 3.

developmental fishery program means a program of fishing or collecting that—

- (a) uses equipment or techniques not previously used in a commercial fishery, within the meaning of the Fisheries Regulation, in the marine park; or
- (b) targets, either wholly or in part, a species for which there is no commercial fishery in the marine park.

dive club means an entity that facilitates, organises or coordinates diving activities for its members.

educational program means the provision, whether as a single act or a series of acts, of transport, accommodation or services for a group of 6 or more persons, none of whom is a tourist, principally for the purpose of systematically educating those persons.

facility includes—

- (a) a building, structure or vessel; and
- (b) equipment, goods or services.

fisheries legislation means the following—

- (a) the *Fisheries Act 1994*;
- (b) the Fisheries Regulation;
- (c) the *Fisheries (Coral Reef Fin Fish) Management Plan 2003*;
- (d) the *Fisheries (East Coast Trawl) Management Plan 1999*;
- (e) the *Fisheries (Spanner Crab) Management Plan 1999*.

Schedule 5 (continued)

Fisheries Regulation means the *Fisheries Regulation 1995*.

fishing industry service vessel means a vessel that provides fuel, goods or services to, or carries products for, a commercial fishing operation in the marine park.

fishing or collecting means the taking of an animal, plant or marine product.

Great Sandy Marine Park see the *Marine Parks (Declaration) Regulation 2006*, schedule 3.

group, of divers, means a number of persons associated in any way through diving activities.

Examples—

- persons who are members of the same dive club
- persons diving from the same boat
- persons who are clients of the operator of a tourism program

harvest fishery means a harvest fishery under the Regulation, schedule 6.

holder, of an accreditation of a traditional use of marine resources agreement, means each member of the traditional owner group in whose name the application for the accreditation was made.

hook includes the following—

- (a) a single-shanked double or treble hook;
- (b) a lure that is an artificial bait with not more than 3 hooks attached to it;
- (c) an artificial fly;
- (d) a jig for taking squid;
- (e) a ganged hook set, consisting of not more than 6 hooks, each of which is in contact with at least 1 of the other hooks in the set;
- (f) a bait jig that is a hook, or a group of hooks consisting of not more than 6 hooks, if the hook, or each of the group of hooks, is of a size between number 1 and number 12 inclusively or an equivalent size.

Schedule 5 (continued)

limited collecting means collecting, in any 28 day period, not more than 5 specimens of an animal or plant of a species mentioned in schedule 4, part 2—

- (a) other than for a commercial purpose; and
- (b) by hand or hand-held implement that is not motorised or pneumatically or hydraulically operated.

limited crabbing means crabbing in compliance with the following—

- (a) the Fisheries Regulation, schedule 8, part 1, or schedule 11;
- (b) the *Fisheries (Spanner Crab) Management Plan 1999*, part 5 or 6.

limited educational program means an educational program not involving fishing or collecting.

limited impact research (extractive)—

- 1 **Limited impact research (extractive)** is research that is a component of—
 - (a) an educational program; or
 - (b) a project carried out for the purposes of research.
- 2 Research involving the following is also **limited impact research (extractive)**—
 - (a) fishing or collecting by limited research sampling;
 - (b) the installation and operation of minor research aids that do not pose a threat to safety or navigation.

limited impact research (non-extractive)—

- 1 **Limited impact research (non-extractive)** is research not involving fishing or collecting.
- 2 Subject to paragraph 1, **limited impact research (non-extractive)** includes the following—
 - (a) visual surveys, other than visual surveys of cetaceans;

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- (b) research not involving an activity that would, if it were not part of a research activity, require permission;
- (c) social research not involving the conduct of archaeological excavations.

limited media activity means the recording of images or sounds, including, for example, by photography, filming or sound recording, in a way that has, or is likely to have, negligible impact on the marine park.

limited research sampling means taking samples of marine products only for purposes of research.

limited spearfishing—

- 1 **Limited spearfishing** is fishing with a spear or spear gun.
- 2 A person is not carrying out **limited spearfishing**—
 - (a) only because the person has a loaded spear gun in the person's possession out of the water; or
 - (b) if the person is engaging in spearfishing in any part of the marine park to which the Fisheries Regulation, schedule 3, part 5, applies.

low impact activity means an activity that is likely to have a negligible impact on the marine park.

managed vessel or aircraft means a vessel or an aircraft that is any of the following—

- (a) a hovercraft;
- (b) a wing in ground effect craft, within the meaning of the *Transport Operations (Marine Safety) Regulation 2004*;
- (c) a hydrofoil.

minor research aid means any of the following—

- (a) apparatus and equipment authorised under Queensland fisheries legislation for recreational use;
- (b) a fish tag;

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- (c) a stake less than 12mm in diameter;
- (d) a data logger for attachment to a marker buoy, bolt or dive weight;
- (e) a non-fixed plankton net;
- (f) a water sampling device or sediment sampling device, if the device is not motorised or pneumatically or hydraulically operated;
- (g) a sub-surface marker buoy less than 100mm in diameter;
- (h) a surface marker buoy less than 200mm in diameter;
- (i) a bolt or dive weight for attachment to a data logger.

navigate includes moor, or anchor, in the course of navigation.

operator, for part 3, division 6, subdivision 3, means a person who operates a tourism program involving diving in the grey nurse shark area.

oyster includes an oyster that is not in its shell.

oyster gathering means taking oysters in compliance with the *Fisheries Act 1994*.

pelagic species means—

- (a) a species in any of the following families—
 - (i) Carangidae;
 - (ii) Coryphaenidae;
 - (iii) Sphyraenidae;
 - (iv) Istiophoridae;
 - (v) Scombridae; or
- (b) a species in either of the following genera—
 - (i) *Aphareus*;
 - (ii) *Aprion*; or
- (c) *Rachycentron canadum*; or
- (d) *Xiphias gladius*.

Schedule 5 (continued)

possess, a thing, means—

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

prescribed matters, for a traditional use of marine resources agreement, means all of the following—

- (a) the area of the marine park covered by the agreement;
- (b) the names, or other identification, of the persons covered by the agreement;
- (c) the name and address of a person to whom correspondence can be sent on behalf of the traditional owner group for which the agreement is made;
- (d) a detailed description of the area and traditional use of marine resources covered by the agreement, including a description of the activities proposed to be undertaken at stated locations in the area;
- (e) the animal species proposed to be harvested and, if the species include 1 or more protected species, how many of each protected species is proposed to be harvested;
- (f) the management arrangements proposed by the traditional owner group for implementing the agreement, including the proposed role of the traditional owner group in ensuring compliance with the provisions of the agreement;
- (g) the way in which the traditional use of marine resources is to be monitored and reported under the agreement, including the recording and reporting of information about the taking of protected species;
- (h) a statement about the process used to develop the agreement by the traditional owner group, including, for example, any consultation with government authorities and interested persons;
- (i) any other information the chief executive reasonably requires by written notice given to the traditional owner group for which the agreement is made.

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prohibited area means the area to which a prohibited area notice applies.

prohibited area notice means a notice prohibiting—

- (a) entry into the grey nurse shark area, or a stated part of the area; or
- (b) entry into the water in the grey nurse shark area or a stated part of the area.

protected species means—

- (a) a species that, within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), is a listed marine species, a listed migratory species or a listed threatened species; or
- (b) a species of marine mammal, bird or reptile prescribed under the *Nature Conservation Act 1992* as endangered wildlife, vulnerable wildlife or rare wildlife; or
- (c) a species of the genus *Epinephelus*, other than *E. tukula* or *E. lanceolatus*, but only to the extent of animals that are more than 1000mm long.

relevant designated area, for part 3, division 2, see section 21.

relevant person, for a dive club that is not an incorporated entity, means a person who takes part in directing the club's diving activities.

representative Aboriginal/Torres Strait Islander body has the meaning given by the *Native Title Act 1993* (Cwlth).

ship—

- 1 A **ship** is a vessel that is—
 - (a) 50m or more in overall length; or
 - (b) an oil tanker, within the meaning given by the Protocol of 1978 relating to the 'International convention for the prevention of pollution from ships, 1973', regardless of its length; or

Schedule 5 (continued)

- (c) a chemical carrier or liquefied gas carrier, regardless of its length; or
 - (d) a ship to which the 'International code for the safe carriage of packaged irradiated nuclear fuel, plutonium and high-level radioactive wastes on board ships' (commonly known as the 'INF code') applies, regardless of its length; or
 - (e) adapted to carry oil or chemicals in bulk in cargo spaces; or
 - (f) engaged in towing or pushing another vessel if the other vessel is a ship under paragraph (a), (b), (c), (d) or (e), or, if the vessel is towing the other vessel, the total length of the tow, from the stern of the towing vessel to the after end of the tow, is greater than 150m.
- 2 However, a *ship* does not include—
- (a) a vessel of the Defence Force; or
 - (b) a vessel of the armed service of another country, if the vessel is in Australian waters with the consent of Australia; or
 - (c) a vessel more than 50m in overall length used for private recreational activities.

shorebird includes any seabird or wading bird.

stowed or secured, for equipment used for fishing or collecting—

- (a) generally, means that the equipment is rendered inoperative and stored inboard a vessel; and
- (b) if the equipment is trawl fishing apparatus, means—
 - (i) that the nets are out of the water or that the fore ends of the nets are drawn up to the booms; and
 - (ii) that the otter boards are drawn up to the trawl blocks on the booms or are inboard a vessel; and

Schedule 5 (continued)

- (iii) that the net's lazy lines are through the blocks; and
- (iv) that the net's cod ends are open.

the marine park means the Great Sandy Marine Park.

the Regulation means the *Marine Parks Regulation 2006*.

this plan means this zoning plan.

tourism program means an activity, whether consisting of a single act or a series of acts, that—

- (a) is carried out in the course of carrying on business; and
- (b) is, or includes, the provision of transport, accommodation or services for tourists or for persons who include tourists.

tourist means a person who is in the marine park mainly for recreation, including, for example, recreational fishing or collecting.

traditional owner, for an area of the marine park, means a person of Aboriginal or Torres Strait Islander descent who—

- (a) is recognised in the Aboriginal or Torres Strait Islander community generally, or by a representative Aboriginal/Torres Strait Islander body for an area that includes the area of the marine park—
 - (i) as having spiritual or cultural affiliations with the area of the marine park; or
 - (ii) as holding native title in relation to the area; and
- (b) is entitled to undertake activities under Aboriginal tradition or Island custom in the area.

traditional owner group, for an area of the marine park, means the group of traditional owners for the area who, in accordance with Aboriginal tradition or Island custom, speak for the area.

traditional use of marine resources means the undertaking of activities in an area of the marine park, in accordance with Aboriginal tradition or Island custom, to satisfy the personal,

Schedule 5 (continued)

domestic or communal needs of a traditional owner for the area.

traditional use of marine resources agreement—

- 1 A ***traditional use of marine resources agreement*** is an agreement that—
 - (a) is prepared by a traditional owner group for an area of the marine park; and
 - (b) provides for the traditional use of marine resources in the area; and
 - (c) includes the prescribed matters for a traditional use of marine resources agreement.
- 2 However, an agreement does not fail to be a ***traditional use of marine resources agreement*** only because it does not contain all the prescribed matters.

trawling means trawling in compliance with the *Fisheries (East Coast Trawl) Management Plan 1999*.

trolling—

- 1 ***Trolling*** is fishing with a line or lines trailed behind a vessel that is under way—
 - (a) using no more than 3 lines for each person on the vessel; and
 - (b) with no more than 6 hooks in total for each person.
- 2 For paragraph 1, a vessel is taken to be under way only if it is being propelled through the water in a forward direction, whether by engine, sail or human power, and is not adrift.

turtle means a turtle of the family Cheloniidae or Dermochelyidae and includes the turtle's egg and hatchling.

vessel or aircraft charter operation means an activity, whether consisting of a single act or a series of acts, involving a vessel or aircraft that—

- (a) is available for charter or hire; and

Schedule 5 (continued)

- (b) is being used in the course of carrying on a business that is, or includes, the provision of accommodation, transport or services for a purpose other than an educational program or tourism program; and
- (c) travels in or into the marine park; and
- (d) is not merely transiting through the park by the most direct and reasonable route to a place outside the park.

wreck includes derelict, flotsam and jetsam, lagan, and things of any kind that belonged to, came from, or were part of, a vessel or aircraft wrecked, stranded, sunk or abandoned, or in distress.

zone means a zone established under part 2.

ENDNOTES

- 1 Approved by the Governor in Council on 24 August 2006.
- 2 Notified in the gazette on 25 August 2006.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Environmental Protection Agency.