



Queensland

Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004

Explanatory Notes for SL 2004 No. 240

made under the

Marine Parks Act 1982

General Outline

Short title

The short title of the regulation is the *Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004*

Authorising legislation

Marine Parks Act 1982 (the *Act*).

Policy objectives of the legislation

The objective of the subordinate legislation is to—

- conserve the marine biodiversity and world heritage values of the Great Barrier Reef region; and
- ensure use of the marine resources of the Great Barrier Reef region is ecologically sustainable; and
- simplify, where practicable, the complex legal situation created by uncertain boundaries between the Queensland and the Commonwealth jurisdictions.

Reasons for the subordinate legislation

The subordinate legislation creates a zoning plan for the new Great Barrier Reef Coast Marine Park (GBRCoastMP). The zoning plan in effect extends the new Commonwealth zoning plan for the Great Barrier Reef Marine Park (GBRMP) from the low water mark to either the high water mark or the seaward edge of significant mangrove forests.

There are two parts to the zoning plan, firstly the rules that apply to the use of, and entry to, each zone, and, secondly the location of each type of zone.

Use and entry provisions

The use and entry provisions are the same as in the GBRMP zoning plan to the greatest possible extent. Some provisions of existing Queensland zoning plans will be retained as they deal with matters solely within State jurisdiction. These include—

- the estuarine conservation zones in the former Cairns and Trinity Inlet/Marlin Coast Marine Parks; and
- certain designated areas for works and special management.

Zoning arrangements

In zoning the GBRCoastMP the following principles are applied—

- where the Commonwealth and State marine parks meet at a boundary that is uncertain, then the Commonwealth zoning will be extended to the high water mark or a specified line; and
- existing State zoning will be retained in Queensland internal waters, for example—
 - some bays such as Rodds Bay, Corio Bay and Trinity Inlet;
 - narrow channels such as The Narrows and Hinchinbrook Channel;
 - estuaries such as the Mourilyan River and Daintree River; and
 - significant mangrove forest areas, such as the Starcke and Bowling Green Bay.

This will create a seamless management regime across the jurisdictional boundary to provide protection for inshore ecosystems of the Great Barrier Reef and create certainty and clarity for users.

Administrative costs

Day-to-day management of State and Commonwealth marine parks and island national parks in the Great Barrier Reef is funded 50:50 by the two Governments and undertaken by staff of the EPA and other agencies. This includes management activities such as signage, education and enforcement. Costs for management of any new Queensland marine park areas will be met from existing day-to-day management budgets.

The Commonwealth Government has announced an allocation of \$13.2 million over three years for implementation of their new zoning plan. This covers compliance enforcement and public education.

The Queensland Government considers that the Commonwealth Government should include the impacts of zoning of State waters in its Structural Adjustment Package. There are therefore no financial considerations for Queensland regarding industry adjustment.

Fundamental legislative principles

The proposed regulation is consistent with fundamental legislative principles.

Consultation

The provisions of the subordinate legislation have been developed following the completion of a consultation strategy involving stakeholders representing conservation, tourism, commercial and recreational fishing, local government, industry and science. A public consultation period ran from 22 July 2004 to 27 August 2004. The Minister for Environment met with most key stakeholder groups in developing the proposal and during the consultation period.

The subordinate legislation is supported by the tourism, conservation, science and about half the recreational fishing sectors, although these stakeholders all want the proposal to include protection of the adjacent excluded waterways and mangroves.

The proposal is opposed by the commercial fishing sector and about half the recreational fishing sector who do not believe the response is necessary and has too great an impact on fishing and regional communities. The provisions of the subordinate legislation provide a balanced outcome to the complex legal situation created by uncertain boundaries between the Queensland and the Commonwealth jurisdictions.

Notes on Provisions

Part 1 Preliminary

Division 1

Division 1 provides the short title of the regulation and states that the regulation commences on 1 November 2004.

Division 2

Division 2 provides for the interpretation of the zoning plan. Generally, words used in the zoning plan have the same meaning as in the Commonwealth Zoning Plan. However references in the Commonwealth Zoning are to be read as their Queensland equivalents, for example, Marine Park means the GBR Coast Marine Park and the Authority is to be taken as the chief executive.

Division 3

Division 3 provides the rule for working out the zoning or designated area that applies to areas of the GBR Coast Marine Park adjacent to the GBRMP. This rule is referred to in schedule 1 and schedule 6, which

allocate particular zones and designated areas respectively, to particular areas of the GBR Coast Marine Park.

Division 4

Division 4 provides the rule for a boundary line crossing a river or creek that may be subject to erosion and accretion.

Division 5

Division 5 provides additional aids for interpretation of the zoning plan through providing details on references to latitudes and longitudes, and explanation of sequences of numbers used in this plan.

Part 2 Zones

Division 1

Subdivision 2 provides a list of the classes of zones that will apply in the GBR Coast Marine Park. The classes of zones are the same as those used in the Commonwealth Zoning Plan for the Great Barrier Reef Marine Park with the addition of estuarine conservation zone, which occurs exclusively in State waters in the former Cairns and Trinity Inlet/Marlin Coast Marine Parks.

The zones are listed in ascending order of protection.

Division 2

Division 2 provides the objective and use and entry provisions for general use zones. These provisions are the same as those in the Commonwealth Zoning Plan with the addition of the followin—

- Bait gathering—without permission.
- With permission, in a relevant area, exploration and mining under the *Mineral Resources Act 1989* or the *Petroleum Act 1923*. A relevant area is defined in the dictionary as within the Mackay/Capricorn Management Area but not in the Great Barrier Reef Region. This is the situation as provided for in the former *Mackay/Capricorn Marine Park Zoning Plan 1988*.

Division 3

Division 3 provides the objective and the use and entry provisions for habitat protection zones. These provisions are the same as those in the Commonwealth Zoning Plan with the exception of bait gathering and the exploration or mining for minerals. Exploration of, or mining for minerals is allowed in The Narrows without permission but in accordance with any directions of the chief executive. This is the existing situation in The Narrows in the former *Mackay/Capricorn Marine Park Zoning Plan 1988*.

Division 4

Division 4 provides the objective and the use and entry provisions for estuarine conservation zones. The use and entry provision are the same as they were in the former Cairns and Trinity Inlet/Marlin Coast Marine Park zoning plans, only updated to reflect the equivalent provisions in the new Commonwealth zoning plan.

Division 5

Division 5 provides the objective and use and entry provisions for conservation park zones, these provisions are the same as those in the Commonwealth Zoning Plan. The former Cairns Marine Park provided for the use of a maximum of 2 lines per person in conservation park, however this limit is now 1 line per person. Rivers that were zoned as conservation park in the former Cairns Marine Park are returned to allowing 2 lines per person because the policy intent was for rivers and estuaries to retain the *status quo*.

Division 6

Division 6 provides the entry and use provisions buffer zones, these provisions are the same as those outlined for buffer zones in the Commonwealth Zoning Plan.

Division 7

Division 7 provides the entry and use provisions for scientific research zones, these provisions are the same as those outlined for scientific research zones in the Commonwealth Zoning Plan.

Division 8

Division 8 provides the entry provisions for marine national park zones, these provisions are the same as those outlined for marine national park zones in the Commonwealth Zoning Plan.

Division 9

Division 9 provides the entry provisions for preservation zones, these provisions are the same as those outlined for preservation zones in the Commonwealth Zoning Plan.

Part 3 Designated areas

Division 1

Division 1 provides areas of the Marine Park set aside for special management.

Division 2

Division 2 provides the use and entry provisions for remote natural areas; these provisions complement the provisions for remote natural areas in the Commonwealth Zoning Plan.

Remote natural areas are designed to ensure their areas of the marine parks that remain largely unaltered by works or facilities. The remote natural area is in the Far Northern Management Area.

Division 3

Division 3 provides the use and entry provisions for shipping areas, these provisions complement the Commonwealth Zoning Plan. Shipping areas provide for shipping to use the route they currently use without the need for permission, which would otherwise be needed outside of a general use zone.

Division 4

Division 4 provides the special management provisions for the Princess Charlotte Bay special management area. These provisions complement the Commonwealth Zoning Plan. This management area restricts netting to those netters who can demonstrate a history of use in the area.

Division 5

Division 5 provides the special management provisions for species conservation (dugong protection) special management areas. These provisions complement the Commonwealth Zoning Plan. These areas require a person to comply with restrictions in the Fisheries Regulation regarding dugong protection areas.

Division 6

Division 6 provides the special management provisions for restricted access special management areas. The division includes general management provisions and management provisions specific to individual special management areas, that is the Raine Island Reef, Moulter Cay Reef, and MacLennan Cay Reef restricted access special management areas, the Australian Institute of Marine Science restricted access special management area and the One Tree Island Reef restricted access special management area. These provisions complement the Commonwealth Zoning Plan. These areas all retain existing restrictions.

Division 7

Division 7 provides the management provisions for public appreciation special management areas; these provisions complement the Commonwealth Zoning Plan. These areas generally are retaining existing limitations.

Division 8

Division 8 provides the special management provisions for no dories detached (marine national park zone) special management areas. These provisions complement the Commonwealth Zoning Plan. This provision prohibits the use of commercial fishing dories in green zones, except in certain circumstances for direct transport or emergencies.

Division 9

Division 9 provides the special management provisions for one dory detached (conservation park zone) special management areas. These provisions complement the Commonwealth Zoning Plan. This provision prohibits the use of commercial fishing dories in yellow zones, except in certain circumstances.

Division 10

Division 10 provides the special management provisions for one dory detached (buffer zone) special management areas. These provisions complement the Commonwealth Zoning Plan. This provision prohibits the use of commercial fishing dories in buffer zones, except in certain circumstances.

Division 11

Division 11 provides the special management provisions for fisheries experimental areas. This allows for the long running effects of line fishing experiment to continue. These provisions expire on 30 November 2005 when the relevant phase of the experiment finishes.

Division 12

Division 12 provides the provisions for seasonal closure areas. These areas are generally to provide for the management of breeding sites for particular species. These provisions retain existing arrangements.

Division 13

Division 13 provides the entry and management provisions for the Michaelmas Cay restricted access area. This retains the existing arrangements, which are to manage the interaction of visitor and nesting seabirds.

Division 14

Division 14 provides the special management provisions for commercial crab fishery areas. These allow commercial crabbing to occur in limited areas within the conservation park zones at Cape Bowling Green, Bowling Green Bay, Cleveland Bay and Missionary Bay. Commercial crabbing must comply with the applicable provisions of the Fisheries Regulation.

Part 4 Additional purposes for use and entry

Part 4 contains provisions that outline the purposes for which a person may use or enter an area within a zone without permission. These purposes are related to emergencies, undertaking functions under the Act, maintaining navigation aids, defense activities and other similar functions. These provisions are complementary with the Commonwealth and retain existing arrangements.

Part 4 also provides for existing non-conforming uses to be continued in specific locations with permission of the chief executive. These relate to water skiing, vessel repair and oyster gathering. This provision retains

existing arrangements, except regarding oyster gathering leases where existing arrangements are applied to new national park zones.

Part 5 Provisions about accreditations

Division 1 provides for the accreditation of educational or research institutions. This allows for certain types of research to be conducted by the institutions without the need for further permission. Accreditation is linked to appropriate environmental practices and standards. These provisions complement the Commonwealth Zoning Plan.

Division 2 allows for the accreditation of harvest fisheries, such as beche-de-mer and trochus. Taking in accordance with a harvest fishery that is not accredited requires permission. These provision complement the Commonwealth Zoning Plan.

Division 3 provides for the accreditation of traditional use of marine resources agreements. A traditional use of marine resources agreement will allow traditional owners of marine resources to enter into an agreement with the chief executive regarding the use of marine resources. These provision complement the Commonwealth Zoning Plan and it is intended that plans relating to both Commonwealth and State marine parks will be prepared with the traditional owners.

Division 4 allows for persons to be authorized to operate under an accredited traditional use of marine resources agreement by the holder of that accreditation.

Part 6 Requirements for particular applications for permission

This part specifies the matters to which the chief executive must have regard in considering an application for the traditional use of marine resources. An accredited plan under division 3 removes the need for individual applications.

Schedule 1 Zones

Schedule 1 allocates zones to specific areas of the marine park. Areas of the marine park that are also in the Commonwealth marine park have the same zone as the Commonwealth marine park. Areas of the marine park adjacent to the Commonwealth marine park have the same zone as the adjacent Commonwealth marine park worked out used the rules detailed in clause 7.

Schedules 2–6 Internal areas

Schedules 2 to 6 define the areas to which the rule-based approach to zoning in schedule 1 does not apply. Areas area defined by boundary descriptions. Each schedule specifies the areas for each zone type.

Schedule 7 Conservation park line fishing areas

Schedule 7 specifies the area of marine park in each of the designated areas, that is, remote natural areas; shipping areas; Princess Charlotte Bay, species conservation (dugong protection), restricted access, public appreciation, no dories detached (marine national park zone), one dory detached (conservation park zone) and one dory detached (buffer zone) special management areas; fisheries experimental areas; seasonal closure areas, Michaelmas Cay restricted access area and commercial crab fishery areas.

Schedule 8 Designated areas

Schedule 8 specifies the closed periods for seasonal closure areas.

Schedule 9 Closed periods for seasonal closure areas

Schedule 8 specifies the area of the marine park, type of non-conforming use and conditions that apply for non-conforming uses of the marine park.

Schedule 10 Non-conforming uses

Schedule 10 specifies conservation park line fishing areas where the current standard zoning restrictions have been relaxed so as to allow two lines or rods in the Daintree River and other northern estuaries as per the existing State zoning.

Schedule 11 Dictionary

Schedule 11 is the dictionary where relevant terms are defined.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Environmental Protection Agency.