



Queensland

Recreation Areas Management Regulation 2007

Regulatory Impact Statement for SL 2007 No. 201

made under the

Recreation Areas Management Act 2006

1 Regulatory Impact Statement

1.1 Proposed subordinate legislation

This part of the discussion paper constitutes a Regulatory Impact Statement (RIS) for proposed subordinate legislation, prepared pursuant to sections 43 and 44 of the Statutory Instruments Act.

The proposed legislation would be called the *Recreation Areas Management Regulation 2002* and would be subordinate legislation under the *Recreation Areas Management Act 1988*. It would be created in accordance with the authorisation given by section 58 of that Act.

1.2 Context of the proposed legislation

1.2.1 Background

Under 'sunset provisions' in the *Statutory Instruments Act 1992*, subordinate legislation expires on 1 September following the tenth

anniversary of its making (unless sooner ‘re-made’ or the expiry date is extended). The *Recreation Areas Management Regulation 1989* (‘the Regulation’) and *Recreation Areas Management By-law 1991* (‘the By-law’) are subordinate legislation under the *Recreation Areas Management Act 1988* (‘the Act’).

The Regulation and By-law were due to expire, under these sunset provisions, in 1999 and 2001 respectively. However, an extension of time has been granted on the basis that the Act is under review. The Regulation and By-law are now due to expire on 1 September 2002.

The proposed legislation is a ‘re-make’ of the Regulation and will supersede the By-law. In other words, the proposed legislation is intended to replace the Regulation and By-law before they expire.

In the context of this Regulatory Impact Statement, the term ‘the proposed legislation’ refers only to the planned new Regulation, and does not include potential changes to the Act. However, some provisions of the proposed legislation will be dependent on proposed changes to the Act (for example, provisions may be moved from the Act to the Regulation), and on proposed changes to other legislation (for example, to allow infringement notices to operate under the State Penalties Enforcement Act).

An outline of the proposed Regulation is at appendix 1.

1.2.2 Recreation Areas Management Act

The objectives of the *Recreation Areas Management Act 1988* are (section 3 of the Act):

‘to provide for the establishment of a system of recreation areas throughout Queensland and in relation to those recreation areas—

- (a) to provide, coordinate, integrate and improve recreational planning, recreational facilities and recreational management on recreation areas taking into account their conservation, recreation, education and production values and the interests of the proprietors;
- (b) to provide for joint management of any recreation area where necessary or desirable without derogating from the rights, duties, powers and responsibilities of—
 - the chief executive of the department that deals with matters arising under the *Nature Conservation Act 1992*; or

- the chief executive of the department responsible for the administration of the *Forestry Act 1959*; or
 - any other proprietor in relation to a recreation area;
- (c) to provide for the collection of funds from the users or intending users of the recreational facilities and services provided within recreation areas.’

The Act allows for consistent management of recreation on areas of land under multiple tenure, without eroding the rights of landholders. It embodies the principles of multiple use management, and promotes co-operation between and among landowners, including government agencies responsible for public lands included in recreation areas.

Declaration as a recreation area does not change the existing tenure of the lands included in the area and requires the consent of landholders within the area. Four areas are declared as recreation areas under the Act—Fraser Island, Moreton Island, Green Island and Inskip Peninsula.

The Act applies specifically to recreation. Land management activities that are not recreation-related are outside the scope of the Act. For example, in parts of recreation areas which are also declared as national parks, environmental management is carried out by the Queensland Parks and Wildlife Service (QPWS) under the provisions of the *Nature Conservation Act 1992*.

The Act is administered by the Recreation Areas Management Authority (‘the Authority’). The Authority consists of the Minister or Ministers charged with the administration of the Nature Conservation Act and the Forestry Act. The Act also establishes the Recreation Areas Management Board (‘the Board’), and provides the Board with certain powers and responsibilities. The Board consists of the chief executives (or their nominees) of the departments that deal with matters under the Forestry Act and the Nature Conservation Act. The Act does not allow the Board to own land.

1.2.3 Regulations and By-laws

The Act (sections 57 and 58) provides for the making of regulations and by-laws.

The *Recreation Areas Management Regulation 1989* and the *Recreation Areas Management By-law 1991* currently apply. They contain permit provisions and identify obligations of visitors to

recreation areas, as well as prescribing penalties for breaches of conditions or obligations. Schedule 1 of the Regulation lists fees that apply to users of facilities and services provided in a recreation area. Schedule 2 designates the recreation areas that have been declared.

The proposed legislation will replace the current Regulation and By-law.

The *Recreation Areas Management Act 1988*, *Recreation Areas Management Regulation 1989* and *Recreation Areas Management By-law 1991* can be purchased from Goprint, telephone (07) 3246 3399, or 1800 679 778 for callers outside the Brisbane area. The legislation can also be viewed, downloaded and printed from the website of the Office of Queensland Parliamentary Counsel <www.legislation.qld.gov.au>.

1.2.4 Use of revenue from fees and penalties

Revenue received by the Board such as fees, penalties and money from sales of maps is paid into the Queensland Recreation Areas Management Board Fund in accordance with Part 7 of the Act. These funds are then spent on recreation management in recreation areas, including the provision of facilities and services, for example campgrounds, day-use facilities, roads and walking tracks, signs and visitor information.

In 1999–2000, a total of \$4.69 million was received by the Board from user charges, fees and fines.

Further detail about Board activities and funds is provided in the annual report of the Board which is contained within the annual report of the Environmental Protection Agency (EPA). The annual reports for the past three years can be viewed and printed from the EPA website <www.env.qld.gov.au/environment/about/reporting/>.

1.3 Policy objectives and legislative intent

The proposed legislation is intended to replace the *Recreation Areas Management Regulation 1989* and the *Recreation Areas Management By-law 1991* before they expire.

The primary objective of the proposed legislation is to provide for effective and co-ordinated management of recreation in designated areas in order that—

- visitor use does not create serious or unsustainable environmental impacts;
- the quality of visitor experiences is maintained or enhanced; and
- visitor safety issues are addressed.

The principal means of achieving this policy objective is to institute a regulatory framework that provides for the issue of permits, the collection of fees and the regulation of visitor conduct within recreation areas.

The proposed legislation is crucial to fulfilling the objectives of the Act. The proposed legislation will—

- provide for the management and regulation of recreational activities in recreation areas to enable environmental impact and visitor safety issues to be effectively addressed;
- allow for the collection of funds that will be spent on recreational planning, facilities and management in accordance with the intention of the Act;
- allow a consistent permit regime and other visitor management requirements to apply across recreation areas regardless of variations in tenure; and
- provide for the continued operation and management of recreation areas currently declared under the Act.

It is reasonable and appropriate to use legislation for these purposes. In fact, the proposed legislation is largely modelled on existing legislation, in particular the current Regulation and By-law and the *Nature Conservation Regulation 1994*.

Alternative options to legislation, such as public education programs, voluntary codes of practice and self-regulation do not provide sufficient ability to ensure the payment of fees or apply penalties for non-compliance. The ability to impose and enforce penalties acts as a strong incentive to comply with conditions associated with using recreation areas and therefore mitigates against possible environmental damage and other issues associated with inappropriate use.

1.4 Consistency with the authorising law

The proposed legislation is totally consistent with the authorising law. It serves as the principal means for those objectives of the Act to be realised. It complies with all provisions of the Act, including those that delineate the functions and powers of the Board and the powers of authorised officers.

1.5 Consistency with other legislation

The proposed legislation is consistent with other relevant legislation that includes provision for the management of recreation, such as the *Nature Conservation Act 1992*, *Forestry Act 1959*, *Marine Parks Act 1982* and their subordinate legislation. This consistency applies at a broad level, for example in intent and approach, and generally at a more specific level, for example in the application of permits, fees and penalties, recognising that there is some variation across these statutes. In particular, consistency with the *Nature Conservation Regulation 1994* would be significantly improved.

1.6 Fundamental legislative principles

Fundamental legislative principles are set out in the *Legislative Standards Act 1992* to ensure that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

The Regulation will impose some minor restrictions on recreation area users through permit requirements and visitor obligations (which generally reflect those currently in place under the existing Regulation and By-law), as follows—

- Permits will be required for specified activities that need to be managed in order to protect the environment and provide for public safety. For example, the camping permit system will match camping levels to the capacity of the environment and facilities. Applicants for, and holders of, commercial activity permits and group activity permits will have formal avenues for appeal over permit decisions. Funds from permit fees will be

used for recreation planning, facilities and management, for example, the provision and maintenance of roads to defined standards. Penalties will apply for non-compliance with permit requirements.

- Restrictions and prohibitions will apply to certain actions or behaviour in order to protect the environment and to provide for public safety and the rights of other visitors. These restrictions are similar to, and no more demanding than, those that apply in most public places. They include prohibitions on pollution and littering, and restrictions relating to noise, use of fires, use of facilities, and the driving and parking of vehicles. Penalties will apply for non-compliance.

These minor impositions are heavily outweighed by a demonstrated benefit to recreation area users in that they facilitate sustainable environmental management and the provision of facilities and services, and enhance public safety and enjoyment. Persons likely to be most adversely affected are those who fail to comply with the regulation, and are therefore those most likely to cause detriment to the environment and other visitors.

1.7 National Competition Policy considerations

National Competition Policy requires that laws should not place restrictions on competition not justified by public interest.

The proposed legislation will provide a consistent approach across all declared recreation areas in the State. It will apply uniformly and without discrimination to all recreation users, or to all persons conducting specified activities, for example all persons conducting commercial filming.

However, the proposed legislation will impose some restrictions on access or activities, as outlined above under the heading 'Fundamental Legislative Principles'. Such restrictions are allowable under National Competition Policy on the basis of public interest considerations, including matters relating to ecological sustainability, public and workplace health and safety, community standards, access and equity, and efficient allocation of resources.

1.8 Risk assessment

At present, recreation management in recreation areas is undertaken by the Queensland Parks and Wildlife Service on behalf of the Board. It is expected that this arrangement will continue. Risk management in the context of recreation areas management legislation therefore occurs as a composite of risk management policy and procedures of the Queensland Government as a whole, the Queensland Recreation Areas Management Board, the Environmental Protection Agency and QPWS. Recreation areas have been in operation for more than 12 years and risks are generally well known, with a range of risk management strategies in place.

In this overall context, a risk assessment of the proposed legislation was conducted with reference to Australian/NZ Standard for Risk Management AS/NZS 4360:1999. The assessment concluded that—

- The proposed legislation will contain more effective provisions than the present Regulation and By-law in relation to permit procedures, commercial activities, visitor conduct, penalties and enforcement, and will have greater consistency with other relevant legislation, such as the *Nature Conservation Act 1992*.
- Implementation of the proposed legislation will result in better management of risk than would apply if the existing Regulation and By-law were to continue to operate.
- Implementation of the proposed legislation will result in far better management of risk than would apply if the existing Regulation and By-law were allowed to expire without replacement.

The proposed legislation contains enforcement provisions that target the areas of greatest risk, including risks of potential harm to the environment, infrastructure and visitors. Significant penalties apply to 'high risk' offences, for example those involving the use of fire (in recognition of the safety and environmental risks associated with wildfire) whereas lower penalties apply in cases of lesser risk, such as the dumping of rubbish.

1.9 Alternatives considered

Several alternatives to the proposed legislation were considered, including ‘do-nothing’ (no intervention), public education, self regulation, voluntary standards and codes of practice, extending the coverage of existing statutes, and co-regulation (a combination of measures).

Most of these alternatives were rejected on preliminary assessment because they would not ensure satisfactory environmental, social and safety outcomes, generally because of compliance difficulties. However, the option of ‘extending the coverage of existing statutes’ was considered to warrant further assessment and is discussed below, with the ‘do-nothing’ and ‘proposed legislation’ options for comparison.

1.9.1 Do-nothing option

For the purposes of this assessment, the ‘do-nothing’ option is taken to mean that the Regulation and By-law cease to exist. This is because the Regulation and By-law are scheduled to expire under the sunset provisions of the Statutory Instruments Act.

Under the ‘do-nothing’ option—

- The four current recreation areas would expire and permit requirements, permit fees, visitor conduct requirements and penalties under the current Regulation and By-law would disappear.
- The responsibility for recreation management on lands within the current recreation areas would revert to the relevant landholders or authorities. For example, on Fraser and Moreton Islands, most of the land above high-water mark is national park. Recreation in these areas would be managed by QPWS under the Nature Conservation Act and its regulations, which includes permit and visitor conduct requirements, permit fees and penalties. Depending on individual jurisdictional arrangements, beach areas would be managed by either the Department of Natural Resources and Mines or the relevant local governments, who would have the power to regulate beach use (including by permit).

- The *Recreation Areas Management Act 1988* would remain in force, but would have no effect without any recreation areas or regulations.

The ‘do-nothing’ option would have significant implications for the management of current recreation areas—

- The expiry of the current Regulation and By-law would result in the management of recreation across different tenures by different authorities under different laws. Aside from the legal and administrative difficulties that this creates in terms of delivering co-ordinated planning and management, financial issues also arise, for example, jurisdictional restrictions on the collection and use of funds.
- Visitors would become subject to differing rules and multiple permits across different jurisdictions, with consequent inconvenience and confusion, and a greater chance of inadvertent breaches of the law.
- There would be a considerable drop in overall revenue available to be spent on recreation facilities and services. For example, revenue from vehicle permit fees would be lost. In 1999–2000, some 47,000 vehicle permits generated more than \$1.4 million in revenue.
- Environmental impacts are likely to substantially increase as a result of reduced management co-ordination and a fragmented regulatory and enforcement regime, leading to less effective management of visitor use and a higher incidence of inappropriate visitor conduct.
- Safety and risk management issues would be associated with lower levels of co-ordination and revenue, particularly in terms of ensuring delivery of adequate safety enforcement, safety audits and facility maintenance.

The Recreation Areas Management Act and the Regulation and By-law were developed specifically to address difficulties such as those above, by providing a framework for consistent and co-ordinated recreation management (including the collection of fees used to provide recreation facilities and services).

1.9.2 Extending the coverage of existing statutes

The *Recreation Areas Management Act 1988* (with its subordinate legislation) is specifically designed to provide for co-ordinated recreation management across a range of tenures. Other statutes, with the possible exception of the *Nature Conservation Act 1992*, do not readily lend themselves to this purpose, even with modification.

Use of the *Nature Conservation Act* was considered as a potential alternative to the proposed legislation. Under this alternative scenario, the current *Recreation Areas Management Act*, *Regulation* and *By-law* would be replaced by a modified *Nature Conservation Act* and *Nature Conservation Regulation*.

The *Nature Conservation Act* allows for the declaration of a 'coordinated conservation area' (CCA) over lands or waters. There are some similarities between CCA provisions under the *Nature Conservation Act* and recreation area provisions under the *Recreation Areas Management Act*, including—

- A CCA can cover various tenures including freehold land with the landholder's consent (in the form of a conservation agreement);
- A CCA can cover land that involves more than one landholding and more than one landholder;
- On State Land within CCA, regulations apply to the management of recreational use and activities, including permits and permit fees (under the *Nature Conservation Regulation 1994*); where private land is involved, the same regulations (in full or part) can apply if so arranged;
- Similar safeguards apply to the rights and obligations of landholders.

However, there are significant differences between recreation areas and CCAs—

- The primary purposes of recreation areas and CCAs are different (recreation management and conservation management respectively). The objectives of the *Recreation Areas Management Act* are 'to provide, coordinate, integrate and improve recreational planning, recreational facilities and recreation management on recreation areas, taking into account their conservation, recreation, education and production values ...'. Under the *Nature Conservation Act*, a CCA must be

managed to 'conserve the area's natural and cultural values by coordinated management involving the area's various landholders ...'. These differences have implications for land declaration and management.

- A recreation area can be declared over land of high recreation value regardless of its conservation value, whereas a CCA can only be declared over land with significant conservation values. One of the four recreation areas, Inskip Peninsula, might be inappropriate for CCA declaration because of its relatively low conservation values. The same situation would apply to potential new areas, for example, a large water-supply dam and adjoining cleared lands might benefit from declaration as a recreation area but would not be appropriate for declaration as a CCA.
- The Nature Conservation Act is concerned with the management of natural and cultural resources of a CCA as well as management of recreation, whereas the Recreation Areas Management Act is concerned only with recreation, albeit taking into account conservation and other values.
- The Recreation Areas Management Act requires permit fees and other revenue collected under the Act to be accounted for as a separate fund and spent only for recreation area purposes (recreation planning, facilities and management of recreation areas). The Nature Conservation Act has no such requirements for retaining and expending funds collected from recreational use of CCAs.
- Administrative arrangements differ, for example the recreation areas legislation is administered by the Queensland Recreation Areas Management Board, subject to the Recreation Areas Management Authority (the Minister/s responsible for the Nature Conservation Act and Forestry Act).
- Vehicle permits (and fees) apply to the Fraser and Moreton Island Recreation Areas but are not provided for under the Nature Conservation Act and therefore do not apply to CCAs.

These differences are such that the present provisions under the Nature Conservation Act could not replace, without some significant disadvantage, the recreation area provisions under the Recreation Areas Management Act. It would be technically possible to amend the Nature Conservation Act in order to mirror the advantages of the

Recreation Areas Management Act, but the required amendments would be extensive.

Amending the Nature Conservation Act in an attempt to mirror recreation area provisions would also have particular disadvantages, for example—

- CCAs are a valuable means of providing for conservation protection across multiple tenures. It would be inappropriate to weaken this protection. In order to allow co-ordinated recreation management over areas of low conservation significance, a new class of declared area would need to be created under the Nature Conservation Act, with associated provisions. This would add to the complexity of the Act, and would not deliver any significant advantage over separate recreation areas legislation.
- It would be possible for the Nature Conservation Regulation to incorporate requirements for vehicle permits for Fraser and Moreton Islands to bring permit and revenue provisions into line with the recreation areas legislation. Provision could also be made to ensure that the revenue collected from these permits and other recreation revenue from CCAs (or any new ‘coordinated recreation area’ class) is accounted for separately and spent only for recreation purposes in those areas. However, this provision would appear at odds with the treatment of revenue collected from other protected area classes, unless broadened to include all classes, and the system would be complex and inflexible.
- It has been suggested that some landholders might be more prepared to enter into an agreement to allow lands to be managed under the Recreation Areas Management Act than under the Nature Conservation Act due to the narrower (recreation) focus of the former Act.
- For the amendments to have practical effect, areas would need to be declared as coordinated conservation areas (or any new class). This is an involved process that would take considerable time and effort as well as incurring considerable costs, again with no significant advantage over current recreation areas legislation and management. There is no certainty that proprietors of lands in the current recreation areas would agree to those lands becoming part of a CCA.
- The necessary policy, legislative and negotiation processes might fail to reach successful resolution.

It is considered that, because of the issues outlined above, the use of the proposed legislation represents a better alternative than extending the coverage of the Nature Conservation Act. The Recreation Areas Management Act was created for the specific purpose of co-ordinating multi-tenure recreation management and has served this purpose well. There is no compelling reason why it should not continue to apply. The proposed legislation will provide for effective delivery of the Recreation Areas Management Act's objectives, and is generally consistent with regulations under the Nature Conservation Act.

1.9.3 Proposed legislation

The proposed legislation is intended to replace the *Recreation Areas Management Regulation 1989* and *Recreation Areas Management By-law 1991* and would be used in combination with other measures, such as public education and voluntary standards. It does not differ greatly in its approach from the legislation it is to replace, but is intended to be more effective, and more consistent with related legislation such as the Nature Conservation Regulation.

See appendix 1 for a detailed outline of the proposed provisions. (Some of these provisions are dependent on appropriate changes being made to the Recreation Areas Management Act, and therefore will require the support of Parliament to pass a Bill to amend the Act.)

The proposed legislation provides a regulatory framework that includes legally enforceable permit provisions and requirements for visitor conduct, and includes the following—

- The current recreation areas would continue to operate.
- Permits would be required to camp, carry out a commercial activity (such as a commercial tour or commercial filming), conduct a group activity that may interfere with general public use of the area, and take a vehicle into the Fraser and Moreton Island Recreation Areas. Permit fees would apply.
- Procedures would be specified for permit application and permit issue and for appeal against permit decisions relating to commercial activity permits and group activity permits.
- Visitor conduct provisions would cover matters such as fires, pollution, firearms, litter, noise, interference with natural resources, unauthorised structures, introduction of plants or animals, feeding dangerous animals and vehicle use.

- Penalties would apply for specified offences, including the issue of infringement notices ('on-the-spot' fines or 'tickets').

As stated under 'Fundamental Legislative Principles' above, permits would be used to regulate activities that need to be managed in order to protect the environment and provide for public safety. Restrictions and prohibitions would apply to protect the environment and to provide for public safety and the rights of other visitors. These restrictions are similar to, and no more demanding than, those that apply in most public places.

Funds from permit fees will be used for recreation planning, facilities and management, for example, the provision and maintenance of roads and other facilities, and the provision of visitor information. Fees payable by individual users of facilities and services represent a very small charge for the level of recreational benefits provided. Penalties will apply for breaches of permit provisions or visitor obligations, in order to encourage compliance.

The combination of permit requirements, permit fees and visitor conduct obligations in the proposed legislation has been specifically compiled as the most appropriate means of delivering the policy objective of the proposed legislation—to provide for effective and co-ordinated management of recreation in designated areas in order that—

- visitor use does not create serious or unsustainable environmental impacts;
- the quality of visitor experiences is maintained or enhanced; and
- visitor safety issues are addressed.

In summary, the required outcomes cannot be delivered satisfactorily by non-legislative means. The proposed legislation, being specifically tailored to the job, is the best option.

1.10 Who is likely to be affected

The proposed legislation is likely to have some effect on a range of 'stakeholders', including indigenous people, private (non-commercial) recreational users, tourism and commercial interests, government agencies (Commonwealth, State and Local),

conservation groups, educational interests and landholders and residents in or near recreation areas, as indicated below.

These are the same stakeholders affected by the current Regulation and By-law.

1.10.1 Indigenous people

Current declared recreation areas are important to Aboriginal people. It is likely that any other areas considered for recreation area declaration would also be of significance to indigenous people.

Indigenous people wish to be involved in decision processes and management of recreation areas. In this regard, there are Aboriginal representatives on community advisory committees currently established for Green Island and Fraser Island.

The Board represents another ‘layer’ of administration (in addition to other Government agencies and proprietors). However, the Board also presents a significant opportunity, through its co-ordinating role, for liaison about overall recreation management.

1.10.2 Recreational users

Recreation areas are declared to allow co-ordinated management of recreational use. Recreational users are therefore, by definition, significant stakeholders. As previously described, the proposed legislation will apply permit requirements and permit fees to recreational visitors and impose restrictions on certain conduct and activities. At the same time, the proposed legislation will deliver, in large part through the use of revenue from fees, substantial benefits in the form of facilities and services, as well as enhanced environmental protection and visitor safety.

That this level of regulation is supported, or at least acceptable on balance, is indicated by the high level of visitation to current recreation areas—more than 300,000 people a year in the case of Fraser Island.

1.10.3 Tourism and commercial interests

This stakeholder group includes providers of accommodation, tours and transport, and persons who conduct other activities for gain, such as commercial filming and photography.

Under the current legislation, commercial activities within recreation areas need to be conducted under a permit or with the written approval of the Board. Under the proposed legislation, commercial activities within recreation areas would need to be conducted under a permit, or an agreement with the Board (under which a negotiated payment could apply). This is consistent with the approach taken by the Nature Conservation Regulation for commercial activities on national parks and other protected areas.

The proposed legislation would continue a similar permit and fee regime to the current legislation, except as discussed below.

The current legislation allows for the issue of a ‘temporary commercial tour operator permit’ for a fee of \$100 a tour, with no application fee payable. A different fee structure applies to ‘longer-term’ commercial tour operator permits, which are subject to an application fee (\$200 initial application, \$100 renewal) and a permit fee (\$40 for each three months or part thereof). The proposed legislation would not provide for separate ‘temporary tour permits’—all tour operators would be subject to the same application and permit requirements and fees, for the following reasons—

- ‘Temporary’ permits apply to operators conducting one or more tours within a short period of time, rather than conducting a regular ongoing operation. However, the short-term nature of these ‘temporary’ tour activities does not remove the need for assessment of the permit application. The assessment needs to consider, for example, environmental impacts, site capacities, effect on other users, and suitability of the applicant to conduct the activity.
- Application fees are intended to recover the cost of assessing the application. The same application fee should apply to all applications, whether for ‘temporary’ tour permits or otherwise, because the same level of assessment is generally required. In some cases, ‘transient’ operations could present a higher risk and might need more thorough assessment.
- The omission of ‘temporary’ commercial tour operator permit provisions would have some cost impact on one-off tours, but

little effect in other circumstances. For example, the fee cost of a ‘one-off’ tour would be \$240 (including \$200 application fee), rather than the present \$100, whereas for two tours within three months the fee cost would be \$240, rather than \$200, and there would be no cost impact for more than two tours in a three month or six month period.

- Few operators would be affected by the change. Between seven and 10 temporary commercial tour operator permits are issued each year.
- By not providing for ‘temporary’ permits, the proposed legislation will be consistent with other relevant legislation, such as the Nature Conservation Regulation and Forestry Regulation.

Various kinds of commercial operations other than tours or photography currently operate in recreation areas subject to approvals from the Board (rather than under permit), for example, mobile vending, transport services and vehicle recovery services. Under the proposed legislation, these operations would be conducted under an agreement with the Board, and a negotiated payment could apply.

In line with existing policy that requires advance notice of fee changes affecting commercial operations, any negotiated payment for commercial operations conducted under an agreement would not be levied for 12 months from the commencement of the proposed legislation.

1.10.4 Government (Commonwealth, State and local)

Governments have various interests in recreation areas. For example, the Commonwealth Government has a national interest where World Heritage areas are involved, such as at Green Island and Fraser Island. State or local governments have an interest where recreation areas include land or waters under their management, or over which they have planning or other regulatory jurisdiction, including responsibilities for environmental protection.

The principal Government involvement occurs through the Queensland Recreation Areas Management Board, a Queensland Government entity which the Act establishes, and which undertakes the co-ordination of recreation management of recreation areas, including the collection of fees and the provision of facilities and services. The Queensland Parks and Wildlife Service carries out

recreation management of the recreation areas on behalf of the Board. This situation is expected to continue under the proposed legislation.

Governments also have environmental, social, and economic responsibilities to their communities and must comply with a diverse range of legislative obligations, for example, in relation to biodiversity and nature conservation, health and safety, native title rights, financial administration and fair competition. The proposed legislation is framed in this overall context.

1.10.5 Conservation groups

Three of the four current recreation areas have very high conservation values—Green Island (national park, marine park and World Heritage area), Fraser Island (national park and World Heritage area) and Moreton Island (national park). Conservation groups have an interest in their management. While conservation management responsibilities in these areas remain unaffected by the overlying recreation area declaration, the management of recreation has implications for protection of conservation values.

The proposed legislation seeks to be more effective in its management of recreation, and hence recreational impacts, than the current legislation. This is generally to be achieved by ‘fine-tuning’ current provisions so that regulation, compliance and enforcement will work better, rather than by instituting sweeping changes to the current approach.

1.10.6 Educational interests

Schools and other educational groups undertake a range of outdoor educational activities in recreation areas. School groups can undertake their own excursions, or can engage the services of a commercial provider who holds a commercial tour operator permit for the relevant recreation area.

Under the current legislation—

- a commercial tour operator carrying a school group on an approved educational tour is exempted from the payment of ‘daily client fees’ that would otherwise be payable by the operator; and

- a reduced rate of camping fees applies to school groups on approved educational tours, except where the camping is provided by a commercial tour operator, in which case the operator is responsible for the payment of camping fees at the full rate.

These arrangements would not change under the proposed legislation.

1.10.7 Landholders and residents

All of the lands and waters within current recreation areas fall under the jurisdiction of State Government entities and local governments. No private lands are included.

However, there are private lands on Fraser Island and Moreton Island that are not included in the recreation areas, but which can only be accessed by their resident or visiting property holders via the recreation area. Board policy allows such property holders to be exempted from the need to pay for a service (vehicle) permit in order to directly access their properties; a written approval is issued instead of a permit.

If a property holder wishes to use a vehicle within the recreation area for other than direct property access, then a vehicle permit must be obtained, consistent with any other recreation area user paying vehicle permit fees that contribute to the cost of maintaining facilities and roads.

The proposed legislation would continue the ability of the Board to give effect to a vehicle permit exemption policy. Vehicle permit fees are proposed to remain at the current levels.

1.10.8 The community as a whole

All stakeholder groups and the community/general public benefit from sustainable management, that is management that ensures that use of recreation areas is ecologically sustainable, recreational values are maintained, the diversity of recreational opportunities is protected and the quality of recreational experiences is maintained or enhanced.

The proposed legislation cannot deliver these outcomes on its own, but it is intended to provide a management framework capable of ensuring that these outcomes are delivered. The appropriate application of the legislation will require suitable policies to be

implemented by the Board, in conjunction with landholders within recreation areas and other stakeholders.

1.11 Consultation with stakeholders

In 1999, public comment was sought on a Regulatory Impact Statement for a proposed minor revision of the Recreation Areas Management Regulation, involving changes to some penalties and a rewrite of the fee schedule. The proposed revision was not completed because it was expanded into the current review process. Comments received in 1999 have been considered in preparing the proposed legislation.

In March 2001, preliminary comment was sought from a range of stakeholders representative of the above groups including—

- the 14 members of the Fraser Island World Heritage Area Community Advisory Committee;
- the 13 members of the Green Island and Reef Community Advisory Committee;
- the three members of the Inskip Peninsula Recreation Area Local Management Committee;
- Local Government Association of Queensland;
- the five local governments with recreation areas within their area;
- National Parks Association of Queensland;
- Outdoor Educators' Association of Queensland;
- Queensland Conservation Council;
- Queensland Indigenous Working Group;
- Queensland Outdoor Recreation Federation;
- various State Government departments.

Letters sent to these stakeholders invited them to submit ideas for, or concerns about, the recreation areas management legislation, for example, problems or issues that need to be addressed by the legislation and why; changes that need to be made to the legislation and why; aspects of the legislation that should not be changed, and

why; or suggested alternatives to the approach taken by the legislation.

Six responses were received—from Cairns City Council, Local Government Association of Queensland, National Parks Association of Queensland, Fraser Island Defenders Organisation, Queensland Outdoor Recreation Federation, Environment Australia, and Department of Aboriginal and Torres Strait Islander Policy.

Most suggestions raised in these responses relate to the provisions of the Act. These included matters relating to the objectives of the Act and the recognition of Aboriginal and Torres Strait Islander customary and legal rights. These suggestions are covered earlier in the discussion paper.

Other suggestions, for example priorities for revenue use on Fraser Island, relate to policy decisions in the application of the legislation, rather than the legislation. These matters are being referred to the Board for consideration.

Suggestions relevant to the proposed Regulation have been considered in the development of this Regulatory Impact Statement. In brief, these suggestions include—

- Fraser Island access fees should be adjusted in accordance with any ‘missed’ CPI increases since 1985, and that future CPI increases should be automatic. [Comment—There is a need for consistent application of CPI increases across related legislation. CPI increases are subject to Government policy regarding fee increases].
- Commercial operators, such as those who currently operate on written approvals, should not be allowed to operate in recreation areas without paying fees. [Comment—All commercial activities would operate subject to permits and permit fees, or subject to an agreement which can apply a negotiated payment].
- Commercial activity permit decisions should be consistent and applied impartially. [Comment—Detailed provisions will be included to allow appeals over commercial activity permit decisions].

1.12 Cost-benefit assessment

As with most economic analysis dealing with environmental values, most costs and benefits under the three evaluated options (see 4.9) could not be quantified, that is, expressed in dollar terms. However, the close similarities between the proposed Regulation and the current Regulation and By-law allow information from the current situation to be used to estimate the effect of the proposed Regulation, for example, estimates of visitor numbers and revenue from permit fees.

A qualitative cost-benefit assessment was carried out in accordance with the methodology in the RIS Assistant software developed by the Business Regulation Review Unit (BRRU) of the Department of State Development, supported by an additional assessment to quantify costs and benefits where possible.

The assessment considered the relative costs and benefits to Government, business and community of the options listed above. This was done by comparing the net costs and benefits of the 'proposed legislation' option, the 'extending the coverage of existing statutes' option, and the 'do-nothing' option.

As discussed previously, under the 'do-nothing' option the current Regulation and By-law would expire. The 'do-nothing' option therefore equates to an absence of regulation under the Recreation Areas Management Act.

1.12.1 Assumptions

For cost-benefit assessment purposes, assumptions were made about the options as follows—

The same fee levels and similar management will apply under the proposed legislation as at present, so it was assumed that, under the proposed legislation—

- Visitor demand will start at the current level.
- Funds for management, raised from fees and charges including vehicle fees, will be at current levels and will be spent on management of the four current recreation areas.
- Visitor impacts can be managed within environmentally sustainable limits.

Under the ‘do-nothing’ option, the current Regulation and By-law will expire. There is some variability in the possible scenarios, but likely consequences are—

- In most parts of current recreation areas, fees would be payable under the Nature Conservation Act or Marine Parks Act. However, some permit fees would not apply (for example, vehicle permit fees for Fraser and Moreton Islands, and camping permit fees for Inskip Peninsula).
- This loss of permit revenue would result in a significant loss of available revenue for facilities and services, and therefore a lessened capacity to maintain the current quantity and quality of facilities and services in some places.
- Facilities and services would need to be scaled back to match the lower revenue. In order to avoid undesirable consequences, visitor numbers and access would then need to be actively reduced (by permit restrictions) to match the reduced level of facilities and services. This reduction in visitor numbers would in turn result in further revenue loss.
- If facilities were not scaled back to match lower revenue levels, and visitor numbers were not actively reduced, the likely outcomes would include environmental degradation, deteriorating standards of facilities, poorer services, and poorer safety management.
- Longer term consequences would be reduced visitor numbers and revenue (due to degradation and poorer services), increased public dissatisfaction and complaints, increased injuries, greater litigation and compensation costs, and increased costs to landholders (including local government) for resuming recreation management roles.
- Any fee savings to visitors would disappear in the short or medium-term due to permits and fees likely to be introduced by landholders (including Government landholders) to cover increased management costs and to address environmental and safety issues.

Under the ‘extending the application of existing statutes’ option (by amending the Nature Conservation Act and Regulation), outcomes could vary. Likely consequences are—

- There is a significant risk that the necessary policy, legislative and negotiation processes would fail to reach successful resolution, so that this option might not in fact be viable.
- Resolution of the necessary policy issues, amendments to the legislation, negotiations with landholders (over declaration of coordinated conservation area or new class of reserve) and implementation measures would be costly and could take years to achieve.
- During this lengthy ‘pre-implementation’ period, the situation would be the same as the ‘do-nothing’ option above, with its various recreational, environmental and safety issues.
- Inskip Peninsula may not meet criteria for reserve declaration under an amended Nature Conservation Act. It would therefore need to be managed by the landholders under other laws, with consequent additional costs and complex management and co-ordination issues.
- Funds from revenue generated on the coordinated conservation areas (or new reserve class) would not necessarily be returned to those areas.

1.12.2 Impacts on Government

For the purposes of this assessment, ‘Government’ means the Queensland Government, including the Queensland Recreation Areas Management Board. However, impacts on the Commonwealth Government and local governments were also considered.

The proposed legislation will impose costs on Government for its implementation, and for undertaking ongoing recreation planning and management services. Implementing the proposed legislation will incur costs such as printing new legislation and new permit formats. Other implementation costs will be minimal, given that the existing recreation area management regime already in place would be continued. Planning and management of recreation, including the provision of facilities and services, will be delivered by Government, but these costs will be offset by user-pays revenue, as occurs under the current legislation.

There are significant benefits to Government in terms of improved delivery of functions to meet community concerns and expectations - in terms of environmental protection, public safety, sustainable

recreational use, sustainable business opportunities and quality recreational experiences.

1.12.3 Impacts on business

The proposed legislation will deliver substantial benefits to business in terms of protection of the resource base on which business depends, as well as improved access, facilities and services, sustainable commercial opportunities, client safety, and quality of client experiences within recreation areas. These benefits will be delivered by a regulatory regime that will impose some restrictions on access and activities in the interests of environmental protection and maintaining sustainable, high-quality recreation experiences.

Fees will be levied on persons undertaking permitted commercial activities to cover the cost of administration of the commercial permit system, with additional fees for the right to derive a commercial gain from use of a recreation area. These fees will remain at the same level as those under the current Regulation (apart from a small increase for replacement of a lost permit or label and the introduction of a small fee for amendment of a permit at the permit holder's request). The proposed legislation will allow for the collection of fees from all permitted commercial activities within recreation areas, not just from commercial tours and commercial filming/photography as at present. Revenue collected from fees will be used for recreation area management purposes.

1.12.4 Impacts on the community

Under the proposed legislation, the community would derive benefits in terms of environmental protection, access, facilities, services, sustainable recreation opportunities, public safety, and quality of recreational experiences within recreation areas. The proposed legislation will also help to secure sustainable economic benefits for local communities adjacent to recreation areas.

Some restrictions would apply to access and activities within recreation areas in the interests of environmental protection and maintaining sustainable, high-quality recreation experiences. User-pays fees applying to non-commercial visitors (including camping permit fees and vehicle permit fees) would remain the same as those under the current Regulation (apart from a small increase for replacement of a lost permit or label and the introduction of a small

fee for amendment of a permit at the permit holder's request). Revenue collected from user-pays fees will be used for recreation area management purposes.

1.12.5 Cost-benefit assessment

A qualitative cost-benefit assessment (using RIS Assistant software) indicated that the proposed regulation would result in a low to medium net benefit to all stakeholder groups through the provision of facilities and services, protection of environmental values, maintenance of high-quality visitor opportunities and improved public safety.

Additional assessment was carried out to quantify costs and benefits where possible (see appendix 3).

Estimates of revenue available to Government for management over a 10-year period are—

- \$38.8 million under the proposed legislation option;
- \$26.6 million under the 'do-nothing' option;
- \$35.8 million under the extended Nature Conservation Act option, but with significant additional costs.

'Consumer surplus' was used as an indicative economic measure to quantify and compare benefits to visitors. Consumer surplus (CS) is the difference between the fees visitors would be willing to pay (WTP) and the fees that would actually be payable (FP). The greater the consumer surplus ($CS = WTP - FP$), the greater indication of benefit to visitors.

Consumer surplus figures indicate that the proposed legislation option delivers the greatest net benefit to visitors—

- Consumer surplus under the proposed legislation option is estimated at \$9.5 million dollars a year—a 'net present value' of \$75.6 million dollars over 10 years (discounted at 7 percent a year).
- Consumer surplus for the 'do-nothing' option varies under different possible scenarios, but is less than a net present value of \$75.6 million. For example, a scenario of lower revenue levels and diminished facility capacity (which leads to restrictions on visitor numbers) gives a net present value for consumer surplus of \$54.1 million dollars over 10 years.

- Consumer surplus for the ‘extending the Nature Conservation Act’ option would also vary according to scenarios, but would be lower than that for the proposed legislation.

1.13 Argument for proceeding with the proposed regulation

The ‘do-nothing’ option is unsatisfactory in that it would leave unresolved the management issues that the recreation areas management legislation was enacted to address, and would result in greater levels of environmental impact, increased public safety concerns and diminished standards of facilities and services.

The ‘extending the coverage of existing statutes’ option may not be viable, and in any case would be costly and slow to implement, with a series of management problems occurring in the meantime.

There are considerable net benefits to Government, business and community under the proposed legislation option. These benefits are greater than under the alternative options. The proposed legislation provides better outcomes in terms of—

- the level and standard of access, facilities and services;
- sustainable commercial and recreation opportunities;
- environmental protection;
- public safety;
- quality of visitor experiences; and
- sustainable economic benefits for local communities adjacent to recreation areas.

Appendices

Appendix 1 Proposed new Recreation Areas Management Regulation

Introduction

The proposed Regulation is intended to replace the current *Recreation Areas Management Regulation 1989* and the *Recreation Areas Management By-law 1991*.

This appendix consists of two parts—

- Part A is a summary of the main differences between the proposed new Regulation and the current Regulation and By-law, in response to suggestions that it would be useful to people who are familiar with the current Regulation and By-law. However, Part A does not attempt to list all of the differences, particularly where the intent is relatively unchanged.
- Part B presents a comprehensive set of proposed provisions. These provisions are provided for the purposes of comment. Additional suggestions or alternative suggestions are welcome.

Part A **Summary of main differences between the proposed Regulation and the current Regulation and By-law**

Provisions to be moved from the Act

Subject to amendment of the Act, matters currently in the Act that deal with permits and visitor conduct would be incorporated in the Regulation, for example, permit procedures, commercial activity permits, movement of vehicles/boats, abandoned property, unauthorised structures, interference with facilities or resources, behaviour likely to cause fear or danger.

Permits and permit procedures

The Regulation would—

- include avenues for appeal over permit decisions for commercial activity permits and group activity permits;
- clarify that the Board may consider various matters when deciding a permit application, including conservation of resources, public safety, management plans and policies, international agreements, likely effects of the proposed activity, interests and rights of landholders and other parties, and the public interest;
- provide that Board must not issue a commercial activity permit unless the applicant is an appropriate person with adequate insurance cover (if required);
- allow for ‘self-registration camping areas’, where campers who follow designated procedures can ‘self-issue’ a camping permit;
- include a maximum term for each permit—vehicle permit, one year; commercial activity permit, three years; camping permit or group activity permit, 30 days;
- introduce a demerit point system to accompany infringement notice penalties. Accumulation of 10 or more points in three years would be grounds to suspend, cancel or refuse to renew a permit;
- change the name ‘service permit’ to ‘vehicle permit’;
- change the term ‘commercial tour operator permit’ to ‘commercial activity permit’;
- provide that any ‘temporary’ commercial tours would operate under standard permit arrangements rather than under a separate permit category;
- prohibit permit transfer;
- provide that a group activity permit is required for a group activity that may interfere with general public use of the area; and
- require that a written approval is required for a person to solicit donations or information in a recreation area.

Direction to move camp

An authorised officer could direct a person to move camp to another available site for reasons of conservation or public safety, to reduce disturbance to other persons or if one camp has been in place for an extended period of time.

Visitor conduct

Regulations relating to visitor conduct would be included, similar in intent to those in the current Regulation or By-law, but with some new provisions, for example, non-combustible material is not to be left in a fire or fireplace; and a boat or vehicle or waste materials must not be dumped or abandoned in a recreation area.

Fees

Current scheduled fees would be maintained without increase (other than a potential CPI adjustment), except that—

- the fee for replacement of a lost or destroyed permit or label would rise from \$5.00 to \$10.00;
- a fee of \$10.50 would apply to an amendment of a permit at the holder's request (this would not apply to permits for which no fee is charged, or to a change of address).

Penalties

Offence penalties would be consistent with related legislation (particularly the *Nature Conservation Regulation 1994*).

Infringement notices would operate under the *State Penalties Enforcement Act 1999*.

Part B Detailed outline of proposed provisions for new Recreation Areas Management Regulation

Abbreviations

In this outline—

- ‘the Act’ or ‘RA’ means the *Recreation Areas Management Act 1988*
- ‘the By-law’ or ‘BL’ means the *Recreation Areas Management By-law 1991*
- ‘NCR’ means the *Nature Conservation Regulation 1994*
- ‘the proposed regulation’ or ‘the Regulation’ means the new regulation to be drafted to replace the *Recreation Areas Management Regulation 1989* and *Recreation Areas Management By-law 1991*
- ‘the current Regulation’ or ‘RR’ means the *Recreation Areas Management Regulation 1989*

Notes regarding the proposed provisions

Many of the proposed provisions are based (to a greater or lesser extent) on similar provisions in existing legislation, for example—

- the *Nature Conservation Regulation 1994*;
- the *Recreation Areas Management Regulation 1989* and *Recreation Areas Management By-law 1991* (which will expire or be repealed); and
- the *Recreation Areas Management Act 1988* (specifically in respect of provisions proposed to be moved from the Act to the Regulation).

Any such ‘comparable’ or similar provisions are referenced throughout this document, in bold type.

Consistency with the Nature Conservation Regulation (including penalties) has been given priority. However, where appropriate, the intent of existing provisions from the Recreation Areas Management Act, Regulation or By-law has been continued.

Requirements for infringement notices for particular offences are indicated. Infringement notices would operate through regulations under the State Penalties Enforcement Act.

Proposed provisions for the Regulation are as listed below, with numbers for reference purposes to assist readers making comments and suggestions.

General

Short title of the Regulation

1. The Regulation would be called the *Recreation Areas Management Regulation 2002*.

Dictionary

2. A 'dictionary' should be inserted as a schedule to the Regulation to contain definitions as indicated in various provisions below.

Recreation Areas

3. Provide a schedule to the Regulation in which to list declared recreation areas. Provide that the land and water specified in that schedule is a recreation area with the name given to it in the schedule. Include the current recreation areas in the schedule. [Comparable provisions—section 3 RR, schedule 2 RR].

Rights of proprietors

4. It would be useful, solely by way of clarification, to indicate that the Regulation operates subject to section 12 of the Act, which protects the rights of proprietors of land or waters within a recreation area. This provision of the Act allows a landholder to legitimately undertake actions which might otherwise appear to be prohibited under the Regulation. For example, a landholder could display a

notice without the Board's written approval, provided that the landholder displays the notice on the landholder's own land.

Weapons

5. Provide that a weapon under the *Weapons Act 1990* is a weapon for the purposes of section 5 of the Act (definition of weapon). [Comparable provision—section 5 RR].

Prescribed Acts

6. Provide that the *Fisheries Act 1994* is an Act to which section 6(1)(b) of the Act applies. This means that the *Recreation Areas Management Act 1988* is to be read and interpreted in conjunction with this Act, in addition to the Forestry Act, Land Act and Nature Conservation Act. [Comparable provision—section 4 RR].

Fees

7. A schedule of fees should be inserted in the Regulation as indicated later in this document.
8. Clarification is required in regard to the setting of fees, particularly permit fees. Section 18(4)(a) of the Act gives the Board power to set permit fees, while section 6 of the current Regulation states that 'fees payable under the Act are fixed by schedule 1 of the (current) Regulation'.

The desired situation is that—

- where a fee is listed in a schedule to the Regulation (for a particular permit or other authority), then that fee is payable; and
- where no fee is listed in the schedule, the fee payable for a particular type of permit or other authority is the fee set by the Board.

The suggested approach is to insert a line in the fee schedule, below the specific permits listed in the schedule, to the effect that fees payable for 'permits and other authorities, apart from those listed above' are 'as determined by the Board'. [Comparable provision—section 6 RR].

Meetings of the Board

9. Provide that the Board may meet as often as necessary to discharge its functions. [Comparable provision—section 7 RR].

Duties of Secretary

10. Clarification is required in regard to the Secretary's duties. Section 17(2) of the Act states that the Secretary's duties are to be decided by the Board, while section 8 of the current Regulation specifies particular duties.

A provision of the Regulation should indicate that the Secretary shall record and keep the minutes of every meeting of the Board, issue notices for each meeting of the Board, attend to correspondence of the Board and carry out such other duties as may be decided by the Board. [Comparable provision—section 7 RR].

Power of Board to erect notice

11. It is necessary to confirm that the Board has the power to erect notices that indicate restrictions or prohibitions. This is a well-established practice under the current By-law. A provision is therefore required to the effect that, if the Regulation specifies a notice as a way in which a particular requirement may be specified for a recreation area, the Board may erect a notice in or near the area or part of the area to which the notice applies and must be clearly visible to passers-by. [Comparable provision—section 255(1) NCR].

In this context, provide a definition to the effect that a 'notice' includes a pictorial sign or symbol erected by the Board to indicate restrictions or prohibitions under the Act on persons in a recreation area. [Comparable provisions—section 3 BL (definition of 'notice'), schedule 14 NCR (definition of 'regulatory notice')].

Demerit points

12. A demerit point system is required, consistent with that in the Nature Conservation Regulation, to the effect that a person who is given an infringement notice under the State Penalties Enforcement Act for an infringement notice offence against the Act or the Regulation and pays the infringement notice penalty for the offence, accumulates demerit points for the offence.

The number of demerit points the person accumulates should be consistent with the Nature Conservation Regulation—

If the maximum penalty specified for the offence is—

20 penalty units—1 demerit point; or

over 20 but not over 50 penalty units—2 demerit points; or

over 50 but not over 80 penalty units—3 demerit points; or

over 80 but not over 120 penalty units—4 demerit points; or

over 120 but not over 165 penalty units—5 demerit points.

[Comparable provision—section 257 NCR].

The application of the demerit point system is covered by the requirements below relating to the issue of permits.

Permit application, issue and appeal

Procedures are required for permit application, issue, suspension, cancellation, amendment and appeals.

The procedures should be generally consistent with Parts 2 and 3 of Chapter 1 of the Nature Conservation Regulation, except that—

- the procedures would refer to the Board rather than the chief executive;
- an application for a permit must be made in the manner approved by the Board and must be accompanied by the application fee, if any, as well as the permit fee;
- the requirement to apply for renewal of a permit at least 30 days before the permit ends should apply only to commercial activity permits and group activity permits (not to vehicle permits and camping permits);
- appeal provisions would not apply to refusal to issue or renew vehicle permits or camping permits, or to conditions imposed on these permits;
- specified matters are to be listed that the Board may have regard to when considering an application; and

- the Board may refuse to grant or renew a commercial activity permit if the applicant owes fees for commercial activities (including camping fees) to the Board or the State.

Appeal provisions would only apply to commercial activity permits and group activity permits, and to the refusal to replace a lost or inadvertently destroyed permit. Appeal provisions for refusal to issue or renew vehicle permits and camping permits, and for conditions imposed on these permits, are considered unwarranted for the following reasons—

- Vehicle permits and camping permits are rarely refused (except for camping permits refused when a campground is full). Some 50,000 vehicle permits and 40,000 camping permits are issued for recreation areas each year.
- Conditions on vehicle permits and camping permits are usually simple requirements related to safety and environmental protection, for example, ‘no more than 50 litres of fuel is to be stored at a developed campsite’.
- Fewer than 10 complaints would be received each year in relation to vehicle or camping permit refusal or conditions and such complaints are usually amicably resolved.

The required permit procedures could be provided for as indicated in the sections below.

Permit application and issue

13. An application for a permit must be made in the manner approved by the Board and must be accompanied by the application fee and the permit fee.
14. An application for a renewal of a permit must be accompanied by the application fee and permit fee and, except for an application for renewal of a camping permit or vehicle permit, must be made at least 30 days before the permit ends.
15. Failure to submit a renewal application at least 30 days before the permit ends does not prevent the Board from dealing with the application.

How Board may deal with applications

16. The Board may, by written notice given to an applicant within 30 days of receiving an application, require the applicant to give the Board additional information about the application.

[Comparable provisions—section 27 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 4 NCR].

17. The Board must consider each application and either—
- grant the permit with or without conditions; or
 - refuse to grant the permit.

[Comparable provisions—section 27 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 5 NCR].

18. The Board must make a decision whether to grant or refuse the permit within 60 days of receiving the application, unless the application is of an unusual nature and requires additional information or consultation, in which case the Board must make a decision within 90 days of receiving the application, or within 60 days of receiving the additional information (whichever is the later time).

[Comparable provision—section 5 NCR].

19. A provision is required, similar to section 39A of the Nature Conservation Regulation, to allow a commercial activity permit to continue in force pending determination of a renewal application.

The commercial activity permit would be regarded as continuing in force until the Board grants or refuses the renewal application, provided that the following circumstances apply—

- the person holding the permit makes application for renewal of the permit at least 30 days before the permit ends, accompanied by the application fee and permit fee; and
- the Board has not granted, or refused to grant, the renewal of the permit before it ends; and
- the person has not withdrawn the application.

However, if the Board has not granted, or refused to grant, the application within three months after the day on which the permit

would have ended, the application would be taken to have been refused.

[Comparable provision—section 39A NCR].

Matters that the Board may consider

20. A listing is required of specified matters that the Board may consider when deciding a permit application or an application for renewal of a permit. The intention of this provision is to remove any doubt over the Board's power to have regard to these matters, for example in the context of an appeal against the Board's decision.

The matters listed below are in addition to other matters that the Board may consider in relation to the grant or renewal of a permit, such as—

- restrictions on the grant of a commercial activity permit;
- adequacy of insurance cover;
- unpaid or outstanding fees; and
- grounds for suspension, cancellation or refusal to renew a permit.

The matters that the Board may have regard to, when deciding a permit application or an application for renewal of a permit, without limiting the power of the Board to consider other relevant matters, should include—

- the conservation of the land resources, marine resources and cultural resources of the area;
- the orderly and proper management of the area, including public safety;
- any statement or policy endorsed or approved by the Board relating to the management intent for the recreation area or part of the area, including the statement of intent contained in the proposal relating to the declaration of the recreation area;
- any statement or policy endorsed or approved by the Board relating to the use of the recreation area or part of the area, including the application of limits or restrictions on use or activities;
- any draft management plan or approved management plan under the Act or another Act, for the recreation area or part of the recreation area;

- any obligations under international treaties, agreements or conventions (for example in relation to World Heritage areas or migratory bird habitat);
- any applicable Commonwealth Government, State Government or local government plans, standards, agreements or requirements, including inter-governmental agreements;
- the amenity of the area and of adjacent areas;
- the nature of the proposed activity and any equipment to be used, including the proposed means of access to and travel within the area;
- the size, extent and location of any proposed use in relation to other use of the area or nearby areas;
- the adequacy of facilities or provisions for persons and vehicles, boats or aircraft involved in the proposed activity;
- the likely effects of the proposed activity on the area and users of the area and the arrangements for making good any damage caused to the area by the proposed activity;
- the interests, rights and responsibilities of proprietors and other interested parties; and
- the public interest.

[Comparable provisions—section 44 of *Environmental Protection Act 1994* (regarding use of ‘standard criteria’) and section 9A of *Marine Parks Regulation 1990*].

A definition of ‘amenity’ could be included, if necessary, to indicate that the amenity of a site or area includes its scenic appeal and other environmental aspects relating to its appeal, taking into account the effect of human activities, both transient and persistent. (Environmental aspects could include landscapes and natural features, natural sounds and smells, prevalence of biting insects, levels of shade and exposure to breezes or winds. Transient effects of human activities might include noise, dust, odours, traffic and crowding. Persistent effects of human activities might include erosion, damage to natural features or vegetation, and the construction of buildings or other structures or works.)

Restriction on grant of commercial activity permit

21. For a commercial activity permit—

- The Board may grant the permit only if the Board is satisfied that the applicant is an appropriate person to hold the permit.
- In deciding whether the applicant is an appropriate person to hold the permit, the Board must consider whether the applicant has the character, knowledge and ability relevant to the activities that may be carried out under the permit.
- The Board may make inquiries into the fame, character and suitability of the applicant (or, if the applicant is a corporation, of the executive officers of the corporation).
- The Board must refuse to grant the commercial activity permit—
 - if the applicant holds a permit and has accumulated 10 or more demerit points in the three years immediately before the day the application is refused; or
 - if the applicant is a former permit holder whose permit was cancelled because the person accumulated 10 or more demerit points and the application is made within two years after the person's permit was cancelled; or
 - if the applicant has had an equivalent permit, permit or other authority (however described) in another State or country suspended or cancelled in the three years immediately before the day the application is made; or
 - if the applicant, or a person who has effective management or control of the applicant's operations for which the application is made, has, in the three years immediately before the application is made, been convicted of an offence against the Act or this regulation, or an offence relating to a place equivalent to a protected area (however described) in Queensland, another State or country; or
 - if a former permit holder whose permit has been cancelled has effective management or control of the applicant's operations for which the application is made; and the application is made within two years after the cancellation.

[Comparable provisions—sections 5(1C), 5(1D), and 5(2) NCR]

22. The Board may also refuse to grant or renew a commercial activity permit if the applicant, or a person who has effective management or

control of the applicant's operations, owes to the Board or to the State, fees in relation to commercial activities carried out under a permit or other authority issued under the Act or another Act.

Insurance requirements for commercial activity permits and group activity permits

23. The Board must not grant a commercial activity permit or group activity permit unless satisfied the applicant has adequate liability insurance cover for the activities to be conducted under the permit.

However, this does not apply if the Board is satisfied insurance cover is not required for the activities to be conducted under the permit having regard to the nature of the activities.

[Comparable provision—section 37A NCR].

Notice of opportunity for appeal

24. For a commercial activity or group activity permit—

- if the Board decides to grant the permit, the Board must promptly give the applicant the permit and, if a condition imposed by the Board is stated on the permit, must also give the applicant—
 - the reasons for the condition; and
 - a written notice stating that the applicant may appeal against the imposition of the condition within 28 days to a Magistrates Court. [Comparable provision—section 5(3) NCR].
- if the Board decides not to grant the permit, the Board must promptly give the applicant a written notice stating—
 - the decision; and
 - the reasons for the decision; and
 - that the applicant may appeal against the decision within 28 days to a Magistrates Court. [Comparable provision—section 5(4) NCR].

Grounds for suspension, cancellation or refusal to renew a permit

25. Grounds for the suspension or cancellation of, or refusal to renew a permit, include the following—

- the permit was obtained on the basis of incorrect or misleading information;
- the permit holder has contravened a condition of the permit;
- the permit holder has committed an offence against the Act or the Regulation;
- the permit holder has accumulated 10 or more demerit points in any period of three years.

For a commercial activity permit, the following grounds will apply in addition to the grounds listed above—

- the permit holder or someone else required to be an appropriate person for the grant of the permit, is not, or is no longer an appropriate person;
- someone whose permit has been cancelled has effective management or control of the permit holder's operations under the permit;
- the permit holder has had an equivalent licence, permit or other authority (however described) in another state or country suspended or cancelled;
- the permit holder has been convicted of an offence relating to a place equivalent to a protected area (however described) in Queensland, another state or country.

[Comparable provision—section 8(1) NCR].

Grounds for refusal to renew a permit would not be limited to those specified in the previous two paragraphs. For example, renewal could also be refused in the interests of conservation or public safety. (See item 20 above, 'Matters that the Board may consider').

In relation to the suspension or cancellation of, or refusal to renew a commercial activity permit, the question whether a person is, or continues to be, an appropriate person is decided in the same way as the question whether the person would be an appropriate person for the grant of the permit. [Comparable provision—section 8(2) NCR].

Procedure for suspension, cancellation or refusal to renew a permit

26. If the Board considers there is a ground to suspend, cancel or refuse to renew a permit, the Board may give the permit holder a written notice that—

- states the proposed action; and
- states the grounds for the proposed action; and
- outlines the facts and circumstances forming the basis of the grounds; and
- if the proposed action is suspension of the permit, states the proposed suspension period; and
- invites the permit holder to show cause within a stated time, of at least 28 days, why the proposed action should not be taken. [Comparable provision—section 9(1) NCR].

If, after considering all written representations made within the stated time, the Board still considers there is a ground to take the proposed action, the Board may—

- if the proposed action was to suspend the permit for a stated period, suspend the permit for not longer than the proposed suspension period; or
- if the proposed action was to cancel the permit, either cancel the permit or suspend it for a period; or
- if the show cause notice was a notice of intention not to renew the permit, refuse to renew the permit. [Comparable provision—section 9(2) NCR].

The Board must inform the permit holder of the decision by written notice.

[Comparable provision—section 9(3) NCR].

For a commercial activity permit or group activity permit, if the Board decides to suspend, cancel or refuse to renew the permit, the notice must also state—

- the reasons for the decision; and
- that the permit holder may appeal against the decision within 28 days to a Magistrates Court. [Comparable provision—section 9(4) NCR].

The decision takes effect on the later of—

- the day the notice is given to the permit holder; or
- the day of effect stated in the notice. [Comparable provision—section 9(5) NCR].

The procedures in the previous three paragraphs should not apply to the suspension of a permit if the suspension is necessary in the particular circumstances for the immediate protection of life or property; or the immediate control of a fire or another natural disaster. [Comparable provision—section 9(5A) NCR].

However, if the permit is suspended or cancelled because of the conviction of a person for an offence, the suspension or cancellation does not take effect until—

- the end of the time to appeal against the conviction; and
- if an appeal is made against the conviction, the appeal is finally decided.

The suspension or cancellation has no effect if the conviction is quashed.

Comparable provision—section 9(6) NCR].

A suspension or cancellation of a permit may be for a particular recreation area or a particular part of a recreation area. [Comparable provision - section 10(6) NCR].

Procedure for urgent suspension or cancellation of permit

27. If the Board is satisfied that urgent action is necessary in the particular circumstances for the conservation of nature or in the interest of public safety, the Board may suspend or cancel a permit without prior written notice to the permit holder. [Comparable provisions—sections 10(1), 10(2) NCR].

The Board must immediately inform the permit holder of the decision by written notice. [Comparable provision—section 10(3) NCR].

The notice must state—

- the reasons for the decision; and
- for a commercial activity permit or group activity permit, that the permit holder may appeal against the decision within 28 days to a Magistrates Court.

[Comparable provision—section 10(4) NCR].

The decision takes effect on the later of—

- the day the notice is given to the permit holder; or
- the day of effect stated in the notice.

[Comparable provision—section 10(5) NCR].

The procedures in the previous three paragraphs should not apply to the suspension of a permit if the suspension is necessary in the particular circumstances for the immediate protection of life or property; or the immediate control of a fire or another natural disaster. [Comparable provision—section 10(5A) NCR].

A suspension or cancellation of a permit may be for a particular recreation area or a particular part of a recreation area. [Comparable provision—section 10(6) NCR].

Return of permit

28. The holder of a suspended permit, or former holder of a cancelled permit, must return the permit to the Board within 14 days after the suspension or cancellation takes effect, unless the person has a reasonable excuse for not returning it or not returning it within that time. Maximum penalty—20 penalty units. [Comparable provision—section 11(1) NCR].

If a suspended permit is returned to the Board, the Board must return it to the permit holder at the end of the suspension period. [Comparable provision—section 11(2) NCR].

Replacement permits

29. Insert provisions to the effect of the following—
- A permit holder may apply to the Board for the replacement of a lost, stolen or destroyed permit.
 - The application must be made in the manner specified by the Board and be accompanied by the required fee.
 - The Board must consider each application and either replace the permit or refuse to replace the permit.

- If the Board is satisfied the permit has been lost, stolen or destroyed, the Board must replace the permit.
- If the Board decides to refuse to replace the permit, the Board must give the applicant a written notice stating the decision and the reasons for the decision and that the applicant may appeal against the decision within 28 days to a Magistrates Court.

[Comparable provision—section 12 NCR].

30. Provide that a person must not knowingly make a false application for replacement of a lost, stolen or destroyed permit. Maximum penalty—20 penalty units.

Amendment of permits on application

31. A permit holder may apply to the Board for an amendment of the permit.

The application must be made at least 30 days before the permit holder wants the amendment to take effect and be accompanied by the required fee. However, failure to comply with this requirement does not prevent the Board dealing with the application. (The Nature Conservation Regulation provides for application 10 days in advance, but this period is insufficient given other permit processing demands.)

The Board must decide the application by amending the permit in the way sought or refusing to amend the permit.

The Board may amend the permit only if the Board is satisfied on reasonable grounds the amendment is desirable in the interests of the management of the recreation area or the effective administration of the Act.

[Comparable provision—section 13 NCR].

Amendment of permits without application

32. If the Board considers the conditions of a permit should be amended, the Board must give the permit holder a written notice that—
- states the reasons for the amendment; and
 - outlines the facts and circumstances that form the basis of the reasons; and

- invites the permit holder to show cause within a stated time, of at least 28 days, why the conditions should not be amended. [Comparable provision—section 14(1) NCR].

The Board may amend the conditions if, after considering all representations made within the stated time, the Board still believes the conditions should be amended in the way mentioned in the notice or in another way, having regard to the representations. [Comparable provision—section 14(2) NCR].

If the Board decides to amend the conditions, the Board must give the permit holder a written notice stating—

- the way in which the conditions have been amended; and
- if the permit is a commercial activity permit or a group activity permit, that the permit holder may appeal against the decision within 28 days to a Magistrates Court.

[Comparable provision—section 14(3) NCR].

The procedures in the previous three paragraphs do not apply if the conditions of a permit are to be amended only—

- by omitting a condition; or
- to correct an error; or
- to make a change (other than a change of substance); or
- in another way that does not adversely affect the permit holder's interests.

The Board may make such an amendment by written notice given to the permit holder. [Comparable provisions—sections 14(4), 14(5) NCR].

Notice to return permit for alteration

33. The Board may, by written notice, require the permit holder to return the permit to the Board within a stated time, of at least 14 days, to enable the Board to amend the statement of conditions on the permit.

After amending the statement of conditions, the Board must return the permit to the permit holder.

A permit holder must comply with the notice to return the permit, unless the person has a reasonable excuse not to comply with it. Maximum penalty—20 penalty units.

However, failure of the permit holder to return the permit in accordance with the notice does not prevent the Board amending the conditions of the permit.

[Comparable provision—section 15 NCR].

Surrender of permit

34. A permit holder may surrender the permit by written notice given to the Board. The permit must accompany the notice.

A surrender of a permit takes effect—

- on the day the notice is given; or
- the day of effect stated in the notice.

[Comparable provision—section 16 NCR].

Decisions open to appeal

35. An applicant for a commercial activity permit or group activity permit may appeal against the Board's decision to refuse to grant the permit.

36. A commercial activity permit holder or group activity permit holder may appeal against one of the following decisions of the Board—

- a decision to impose a condition on a permit;
- a decision to amend a condition of a permit;
- a decision to refuse to amend a condition of a permit;
- a decision to suspend or cancel a permit;
- a decision to refuse to renew a permit; or
- a decision to refuse to replace a permit.

[Comparable provision—section 17 NCR].

37. A vehicle permit holder or camping permit holder may appeal against a decision of the Board to refuse to replace the permit.

How to start an appeal

38. An appeal is started by filing a written notice of appeal with the clerk of the court of the Magistrates Court nearest the place where the

applicant or permit holder lives, carries on, or proposes to carry on, business.

The clerk of the court must give the Board a copy of the notice.

The notice of appeal must be filed within 28 days after the appellant receives written notice of the decision appealed against.

The Magistrates Court may at any time extend the period for filing the notice of appeal.

The notice of appeal must state the grounds of the appeal.

[Comparable provision—section 18 NCR].

Stay of operation of decisions

39. The Magistrates Court may stay a decision appealed against to secure the effectiveness of the appeal.

A stay—

- may be given on the conditions the Magistrates Court considers appropriate;
- operates for the period specified by the Magistrates Court; and
- may be revoked or amended by the Magistrates Court.

The period of a stay specified by the Magistrates Court must not extend past the time when the Magistrates Court decides the appeal.

The starting of an appeal against a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

[Comparable provision—section 19 NCR].

Hearing procedures

40. The procedure for an appeal to a Magistrates Court is to be in accordance with the rules of court applicable to the appeal or, in the absence of relevant rules, the directions of the court.

In deciding an appeal, the Magistrates Court—

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

In deciding an appeal, the court must consider, among other things, the objectives of the Act, and the interests, rights and responsibilities of proprietors.

[Comparable provision—section 20 NCR].

Powers of court on appeal

41. In deciding an appeal, the Magistrates Court may—

- confirm the decision appealed against; or
- set aside the decision and substitute another decision; or
- set aside the decision and return the matter to the Board with directions the Magistrates Court considers appropriate.

In substituting another decision, the Magistrates Court has the same powers as the Board. For example, the court may decide an unsuccessful applicant for a permit be granted the permit either unconditionally or on particular conditions. However, in making the decision the court must consider, among other things, the objectives of the Act and obligations of the Board (such as preserving the rights of proprietors and complying with various requirements under the Regulation).

If the Magistrates Court substitutes another decision, the substituted decision is taken to be the decision of the Board.

[Comparable provision—section 21 NCR].

Appeal to District Court on questions of law only

42. Provide that a party dissatisfied by the decision of the Magistrates Court may appeal to the District Court, but only on a question of law. [Comparable provision—section 22 NCR].

Permits

Permit duration

43. Provide for a maximum duration for each of the following permits, as follows—

- vehicle permit 1 year;
- commercial activity permit 3 years;
- camping permit 30 days; and
- group activity permit 30 days.

These times are consistent with section 39 of the Nature Conservation Regulation, except for camping permits. This recognises that many campers on Fraser Island and Moreton Island stay for longer periods than campers in most protected areas, and will match the maximum duration for group activity permits.

Some current recreation area commercial activity permits have been issued for a longer duration longer than three years (for example, up to six years) and will be allowed to run their full term unless sooner suspended or cancelled.

Permit details

44. Provide that a permit must state the recreation area or areas to which it applies and how long the permit is in force. Provide also that a permit commences on the date of issue or on another day stated in the permit. [Comparable provisions—section 27 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), sections 38, 39 NCR].

Compliance with conditions of permit

45. Provide that if a condition imposed by the Board is stated on a permit, the permit holder must comply with the condition. Maximum penalty-80 penalty units. [Comparable provisions—section 6 NCR, section 43 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation).]

Infringement notice required—1 penalty unit.

Permit or approval taken to be comparable permit or approval

46. Provide that, subject to section 6 of the Act, a permit or other written approval granted by the Board is, for the purposes of the *Nature Conservation Act 1992*, the *Forestry Act 1959* and any other Act or provision prescribed under section 6(1)(b) of the Act, to be taken to be

a comparable permit or approval lawfully granted under that Act or provision. [Comparable provision—section 27(5) of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation).]

The intention is to remove the need for issue of duplicate permissions when an activity takes place in (for example) a national park or state forest within a recreation area. The provision is intended to cover comparable approvals even if they are differently named (for example, where a ‘written approval’ under one Act is comparable to a ‘permit’ under the other Act).

Assignment or transfer of permits

47. Provide that a permit or other authority is not transferable. [Comparable provision—section 7 NCR.]

[The current Recreation Areas Management Regulation (section 22) allows for transfer of commercial tour operator permits (and requires payment of the transfer fee in schedule 1, but no fee is listed). However, a contrasting approach is taken by the Nature Conservation Regulation (section 7), which prohibits commercial activity permit transfer. Issues associated with commercial activity permit transfer are now being examined as part of a consultative process between the Queensland Government and the tourism industry. It would be inappropriate to provide for commercial activity permit transfer before this process is concluded.]

Commercial activities

Commercial activities to be conducted under a permit or agreement

A permit system and fees are required to apply to commercial activities carried out in a recreation area. These should be generally consistent with permit requirements, fees and penalties applying under the Nature Conservation Regulation.

48. A provision is required to the effect that a person must not conduct a commercial activity in a recreation area unless the activity is conducted under a permit or an agreement. Maximum penalty—165 penalty units. [Comparable provisions—section 63(1) NCR and

section 1(3) of schedule 13, NCR, section 26 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation)].

Infringement notice required—5 penalty units. [Comparable to infringement penalty, section 63(1) NCR].

The provision would be applied, as already occurs under the Nature Conservation Regulation, as follows—

- A commercial activity permit would be used to authorise activities such as commercial tours or commercial filming or photography in a recreation area. In such cases, specified daily fees would be payable for activities under the permit.
- An agreement would be used to authorise commercial activities in situations where the scheduled daily fees are inappropriate, or where the Board desires to negotiate a specific fee. Examples of such situations could include—
 - a resort adjacent to a recreation area which conducts a range of guest activities on the recreation area;
 - the Board offering access to a commercial recreation opportunity by expression of interest.

A definition of ‘commercial activity’ is required, which should be generally consistent with that in schedule 13 of the Nature Conservation Regulation. The definition would state that a commercial activity includes an activity conducted for gain under an agreement between the Board and a person authorising the person to conduct a stated activity on a stated recreation area for a stated time and on payment of a stated amount.

Definitions of ‘filming’ and ‘photography’ are also required, to the effect that ‘filming’ and ‘photography’ include the capture and use of images using ‘non-film’ means such as digital or videotape technology. This would remove any doubt about whether photography and filming include digital and magnetic taping processes. These processes are sometimes referred to separately, for example the phrase ‘photography and digital imaging’ is seen in some advertising.

Fees applying to commercial activity permits will be specified in a schedule of the Regulation.

Person conducting a commercial activity to carry permit

49. Provide that a person conducting a commercial activity under a commercial activity permit (whether or not that person is the permit holder) must always carry the permit, or a copy of the permit, while conducting the activity. Maximum penalty—50 penalty units. [Comparable provision—section 63(2) NCR].

Infringement notice required—2 penalty units. [Comparable to infringement penalty, section 63(2) NCR].

Records to be kept and outstanding fees to be paid by holder of commercial activity permit

The holder of a commercial activity permit should be required to keep records and to provide records to the Board on a monthly basis, together with any outstanding fees. The requirements should be generally consistent with those under the Nature Conservation Regulation, but with the following differences—

- the provisions would apply to all commercial activity permits, including permits for filming or photography;
- allowance would be made for the use of an approved form of record, including a computer record, as an alternative to a record book;
- the record for each day would need to be completed by noon of the following day;
- there would be no requirement to keep the record in the vehicle or boat used for the activity;
- the record would include the sites visited in conducting the activities; and
- a commercial activity permit could contain a condition that would replace the requirement to pay outstanding fees with the monthly record. (The intention is to be able to vary payment requirements by a condition of permit, although this is not expected to be common. For example, if a permit holder persistently reserves a large number of camping sites in excess of requirements, the permit could be amended to require the permit holder to pay camping fees in advance.)

The necessary requirements could be achieved by provisions to the effect of the following sections—

50. The holder of a commercial activity permit shall keep or cause to be kept in the manner specified by the Board, a daily record of—
- the activities conducted by the permit holder under the permit; and
 - the sites visited or used for the activities; and
 - if the permit is for filming or photography, the number of persons taking part in each activity and the number of persons who camp as part of the activity; or
 - if the permit is for other than filming or photography, the number of clients taking part in each activity; and the number of clients who camp as part of the activity.

Maximum penalty—120 penalty units.

Infringement notice required—2 penalty units. [Comparable to infringement penalty, section 63(3) NCR].

51. The record for each day on which an activity takes place shall be completed accurately and in full by noon of the following day. Maximum penalty—120 penalty units.

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 258(3) NCR].

52. The permit holder may apply to the Board for approval of a manner for the keeping of the daily record. The approval may be revoked or cancelled at any time by the Board and notice of the revocation or cancellation shall be given in writing by the Board to the permit holder.

53. If a record book is supplied to the permit holder by the Board, the record book remains the property of the Board.

54. The permit holder must—

- produce the record for inspection if asked by an authorised officer; and
- surrender the record to the Board on the Board's written request; and
- keep the record in a secure place; and
- if the record is a computer record, keep the record in a secure manner and keep a secure, full and accurate backup copy of the record; and

- give the Board written notice immediately the permit holder becomes aware of the loss or destruction of, or damage to, the record.

Maximum penalty—120 penalty units.

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 258(3) NCR].

55. The permit holder must not—

- deface, erase or obliterate an entry in the record; or
- allow a person to deface, erase or obliterate an entry in the record; or
- if the record is kept in a record book, remove, or allow a person to remove, a page from the record book, other than an original page given to the Board.

Maximum penalty—120 penalty units.

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 258(4) NCR].

56. The permit holder shall, within 30 days of the end of each calendar month, give the Board—

- if the record is kept in a record book supplied by the Board, the original daily record for the month; or
- if the record is kept in another manner, a full and accurate copy of the record for the month, signed and dated by the permit holder.

Maximum penalty—120 penalty units.

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 260(7) NCR].

57. Unless a condition of the commercial activity permit requires otherwise, the record for the month, or copy of the record for the month, must be accompanied by any outstanding fees owed to the Board for the month (including any outstanding camping fees).
Maximum penalty—120 penalty units.

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 260(7) NCR].

58. The permit holder must complete the record and give it to the Board even if there have been no activities conducted under the permit for the month. Maximum penalty—120 penalty units.

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 259(3) NCR].

[Comparable provisions—section 21 RR, sections 63(3), 258, 259 and 260 NCR].

Group activities

Group activity permit

Group activity permit provisions are required, consistent with the Nature Conservation Regulation. A group would need a permit only if the activity is likely to interfere with public use of the area. Permit fees would be payable if special access or supervision is required, or an area is reserved for use, otherwise the permit would be free of charge.

Provisions could be as follows—

59. A person must not conduct a group activity in a recreation area unless the person holds a group activity permit. Maximum penalty—50 penalty units. [Comparable provisions—section 65 NCR, section 16 BL].

Infringement notice required—2 penalty units. [Comparable to infringement penalty, section 65 NCR].

A definition of ‘group activity’ is required, consistent with that in the Nature Conservation Regulation, for example—

A ‘group activity’ is an organised use of a part of a recreation area in a way that may interfere with general public use of the area.

Examples—

- a concert, rally or public meeting;
- a religious activity;
- a wedding;
- an organised sporting activity.

A ‘group activity’ does not include a traditional activity of a community or group of Aboriginal people or Torres Strait Islanders having traditional, customary or historical links with a recreation area under Aboriginal tradition or Island custom relating to the area.

[Comparable provision—section 2 of schedule 13 NCR].

However, a group activity permit would not be required for an activity authorised under a commercial activity permit.

Fees for a group activity permit are to be listed in the fee schedule of the regulation (see below).

60. A provision is also required to the effect that if daily fees are payable under the group activity permit, the holder of the permit must, within 30 days of the expiry of the permit, give the Board a signed and dated record, in a form approved by the Board, of the activities for which the daily fees are payable, together with the outstanding daily fees. Maximum penalty—120 penalty units.

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 260(7) NCR].

Camping

A permit system and certain restrictions are required to apply to camping carried out in a recreation area. These should be generally consistent with permit requirements, fees, penalties and related provisions applying under the Nature Conservation Regulation.

Requirements are as follows—

Definitions

61. Include a definition of ‘camp’ consistent with the definition in schedule 14 of the Nature Conservation Regulation, for example—

‘camp’ includes—

- (a) pitch, place or erect a tent, caravan or camping structure; and
- (b) place other camping equipment in position; and
- (c) stay overnight.

However, the definition should encompass leaving (as well as placing) a tent, caravan, camping structure or other camping equipment in position. For example, a person would still be ‘camping’ if the person leaves an unattended camp in place after a camping permit expires.

[Comparable provisions—schedule 14 NCR, section 3 BL].

Include a definition of ‘camping structure’ to the effect that a ‘camping structure’ includes a vehicle or boat that is being used, or can be used, for overnight shelter or accommodation. [Comparable provision—section 3 BL].

Permit needed to camp

62. Provide that a person must not camp in a recreation area unless the person is camping in the area under a permit or a written approval given by the Board. Maximum penalty—20 penalty units. [Comparable provisions—section 5(1) BL, section 40 NCR].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 40 NCR].

Fees for camping permits will be specified in schedule 1 of the Regulation.

Payment of camping fees under a commercial activity permit

63. At present, the holder of a ‘commercial tour operator permit’ is required to pay camping fees for clients who camp as part of the activity. This requirement is given effect by section 15 of the Regulation in concert with section 6 of schedule 1. It is intended that this requirement is retained, but is stated more clearly, and also that it extends to all commercial activity permits, including those for filming or photography.

Therefore, provisions are required to clearly establish that—

- The holder of a commercial activity permit (other than for filming or photography) is responsible for paying camping fees for clients of the permit holder aged five years or over who are camping as part of the commercial activity.
- The holder of a commercial activity permit for filming or photography is responsible for paying camping fees for persons

aged five years or over who are camping as part of the commercial activity.

(Camping fees would be payable, but a camping permit would not be issued where a commercial activity permit expressly authorises camping as part of that commercial activity.)

Camping fees would be paid as specified under 'Records to be kept and outstanding fees to be paid by holder of commercial activity permit' (item 58 above), which includes a penalty for non-payment.

Restrictions on camping

64. Provide that a person must not camp within 50 metres of a lake or watercourse, unless the area is within a developed or designated camping area. Maximum penalty—20 penalty units. [Comparable provision—section 5(3) By-law].

Infringement notice required—1 penalty unit.

65. Provide that a person must not camp in any part of a recreation area in which camping is prohibited by a notice erected by the Board. Maximum penalty—80 penalty units. [Comparable provisions—section 5(2) BL, section 41 NCR].

Infringement notice required—3 penalty units. [Comparable to infringement penalty, section 41 NCR].

66. Provide that a person who is the holder of a camping permit must not camp on a site or area (or part of a site or area) contrary to a restriction stated in the permit. (As well as prohibiting camping in defined places, this would cover a situation where camping is not prohibited, but a person's camp needs to be restricted to a specified size or site.). Maximum penalty—20 penalty units. [Comparable provision—section 41 NCR].

Infringement notice required—1 penalty unit.

67. Provide that a person who is the holder of a camping permit must not, unless an endorsement on the permit allows, camp other than in a developed camping area or an area designated as a camping area. Maximum penalty—20 penalty units.

[Comparable provisions—section 13(2) RR].

Infringement notice required—1 penalty unit.

Camping conditions

68. Provide that the holder of a camping permit must not allow more people to camp under the permit than the number stated in the permit. Maximum penalty—10 penalty units. [Comparable provision—section 42(1) NCR].

Infringement notice required—½ penalty unit. [Comparable to infringement penalty, section 42(1) NCR].

69. Provide that a person camping under a camping permit must not—
- use equipment of a kind stated in the permit contrary to a condition of the permit; or
 - use a natural resource of the area for a campfire contrary to a restriction stated in the permit; or
 - dispose of human wastes and litter or make noise other than in accordance with any restriction stated in the permit.

Maximum penalty for each of the above—20 penalty units.

[Comparable provisions—section 42(2) NCR].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 42(2)(c) NCR].

Self-registration camping areas

Provision needs to be included to allow for camping permits for areas identified by notice to be issued by ‘self-registration’. The required provisions should be similar to those under the Nature Conservation Regulation, sections 43 and 44 (but with minor variation), as follows—

70. The Board may erect or display in, at or near the entrance to, a recreation area, a notice stating that, in a stated period, the area, or a stated part of the area, is a self-registration camping area.

The notice must state—

- in general terms, the procedures to be followed by persons intending to camp in the area;
- the camping fee payable for camping in the area;
- how long anyone may camp in the area;

- any other specific restrictions that apply to camping in the area; and
 - the penalty for camping in the area without a permit.
71. The Board must make camping forms and a sealed, secure camping fee container available for use for camping in the area. The forms and container must be in an easily accessible and conspicuous position. The camping form must—
- state the procedures a person using the form must follow;
 - include a detachable camping fee envelope and a camping tag to be displayed at the person's campsite; and
 - include, on the camping fee envelope, a section for use for credit card payment of camping fees.

(A camping tag will be numbered to link to the relevant camping form. The display of a camping tag will safeguard privacy, because unlike a permit, it will not include the camper's personal details. This is consistent with practices under the Nature Conservation Regulation.)

72. A person, and anyone else accompanying the person to camp in the area, is taken to have been granted a camping permit for the area and period stated in the camping form if the person—
- fills in a camping form for a self-registration camping area in the way stated on the form; and
 - either places the camping fee in cash or a cheque in the camping fee envelope, seals the envelope and puts the envelope in the camping fee container, or properly completes and signs the credit card payment section of the camping form and puts it in the camping fee container.

A permit taken to have been granted is subject to any requirement of the self-registration camping notice for the area.

73. The permit is not taken to have been granted—
- for more people than the number stated on the camping form;
 - for a time when the area is not a self-registration camping area;
 - for longer than the longest period for which anyone may camp in the area;

- for more people than the number stated on the self-registration camping notice;
- if the person paid the camping fee by cheque and the cheque is dishonoured; or
- if the person completed the credit card payment section of the camping fee envelope and the person's financial institution does not authorise the payment.

Display of camping permit or camping tag

74. Include a definition of 'camping tag' as a numbered form supplied with a camping permit or self-registration camping form for display at a person's campsite.

75. Provide that a person camping under a camping permit, including a person to whom a camping permit is taken to have been granted, must, as soon as possible after making camp, display the camping permit or camping tag by attaching it in a conspicuous position to the person's tent, caravan or other camping structure; or, if the person is not using a tent, caravan or other camping structure, to the person's camping equipment. Maximum penalty—2 penalty units.

Infringement notice required— $\frac{1}{4}$ penalty unit. [Comparable to infringement penalty, section 45 NCR].

76. Provide that a person must take reasonable steps to ensure that the permit or camping tag remains displayed while the person camps under the permit. Maximum penalty—2 penalty units. [Comparable provision - section 45 NCR].

Infringement notice required— $\frac{1}{4}$ penalty unit. [Comparable to infringement penalty, section 45 NCR].

77. Provide that it is an offence to remove or interfere with a permit or camping tag displayed at a person's campsite while the person camps under the permit. Maximum penalty—20 penalty units. [Comparable provision—section 46 NCR].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 46 NCR].

Direction to move camp

An authorised officer should be able to direct a person to move camp to another camping site when the officer considers it reasonably necessary. For example, a camper could be directed to move camp where there is a need to protect ground-nesting birds from disturbance, where there is a risk from wildfire, or where there is a need to reduce disturbance to others from the camper's use of a generator. Another applicable circumstance would be where a 'standing camp' is kept in place for an extended period, thereby denying other campers the opportunity to use that particular camping site. This is particularly relevant where equivalent sites are not readily available and where camping permits that follow on from each other are obtained by more than one person associated with the camp.

The following wording might be suitable to cover the relevant circumstances—

78. An authorised officer may give the holder of a camping permit an oral or written direction to vacate the permit holder's camping site and move to another available camping site for a specified time, if the officer believes on reasonable grounds that it is necessary—
- for the protection of the area's land resources or cultural resources; or
 - to secure the safety of a person or a person's property; or
 - to minimise disturbance to persons in a protected area.

The permit holder must comply with such a direction, unless the permit holder has a reasonable excuse. Maximum penalty—50 penalty units.

[Comparable (in part) to section 75 NCR].

79. An authorised officer may give the holder of a camping permit an oral or written direction to vacate the permit holder's camping site and move to another available camping site for a specified time, if—
- the same camp has been in place for an extended period of time; and
 - the officer believes on reasonable grounds that it is necessary or desirable to allow the camping site to become available for use by other persons.

The permit holder must comply with such a direction, unless the permit holder has a reasonable excuse. Maximum penalty—50 penalty units.

[Comparable (in part) to section 75 NCR].

[Terms would need to be defined for this provision, for example ‘the same camp’ could be defined to mean that the same camping equipment or vehicles have been used at the site during the relevant time, even though different persons may have held camping permits over that period. An ‘extended period of time’ could be defined as more than a certain number of nights. Suggestions are invited as to suitable definitions.]

Vehicles

A permit system is required to apply to vehicles in a recreation area. This is to be essentially the same as that already applying under the current Regulation and By-law, except that the term ‘vehicle permit’ will replace the existing term ‘service permit’. Fees for vehicle permits will be specified in the fee schedule of the Regulation.

Requirements are as follows—

Vehicle permits

80. Include a provision to the effect that a person must not enter or traverse a recreation area in a vehicle (or on a vehicle, in the case of a motorcycle) except under a vehicle permit or with the written approval of the Board. Maximum penalty—20 penalty units.

Infringement notice required—1½ penalty units. [In order to be effective, this penalty is approximately four times the minimum permit cost].

Add that the above requirement does not apply to—

- a bicycle; or
- the Inskip Peninsula Recreation Area; or
- the holder of a commercial activity permit and anyone else travelling under the commercial activity permit; or

- a person conducting a commercial activity under an agreement with the Board, and anyone else travelling as part of an activity under that agreement; or
- a person travelling in (or on) a vehicle permit holder's vehicle while it is in a recreation area under the permit.

[Comparable provision—section 4 BL].

81. Provide that, where a hired vehicle enters or traverses a recreation area and a vehicle permit is required, the vehicle permit must be obtained by the person who obtains the hire of the vehicle, rather than by the vehicle provider. (This is intended to remove any doubt over who has the responsibility to obtain the vehicle permit and is consistent with the current practice for Fraser Island where large numbers of hire vehicles are used.)
82. Provide that the holder of a vehicle permit must ensure that, when the permit holder's vehicle is in the recreation area under the permit, the vehicle permit or vehicle permit label is attached to left side of the vehicle's windscreen, or, if the vehicle does not have a windscreen, to another prominent position on the vehicle. However, this does not apply to an aircraft. Maximum penalty—20 penalty units. [Comparable provision—section 10 RR].

Infringement notice required—1 penalty unit.

Define 'vehicle permit label' as a numbered label supplied with a vehicle permit for display on the vehicle permit holder's vehicle.

Conduct of persons in a recreation area

Various provisions are required in relation to conduct in recreation areas, generally consistent with those in the Nature Conservation Regulation, as follows—

Conduct

83. Provide that a person must not, in a recreation area—
- act in a manner or do anything which unreasonably disturbs, offends or obstructs or which is likely to disturb, offend or obstruct any other person in a recreation area;

- act in a manner or do anything which interferes or is likely to interfere with the safety or wellbeing of any person in a recreation area;
- without the written approval of the Board, cordon off a part of the area or a barbecue, table or other facility in the area or in any other manner claim to have an exclusive right to use a part of the area or a barbecue, table or other facility in the area;
- leave human wastes unburied;
- defecate within 50 metres of a lake, watercourse or walking track (except in a facility provided by the Board for the purpose);
- bury human wastes within 50 metres of—
 - a lake or watercourse; or
 - an occupied or established campsite; or
 - a site designated by a notice erected by the Board as a campsite; or
 - a walking track or another public facility; or
- destroy, damage, mark, deface or in any other way interfere with any sign, notice, fence, gate, building or structure erected or placed in the area.

[Comparable provisions—sections 5(3)(b), 5(3)(c), 11(1)(a) BL, section 40(1)(j) of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 79 NCR].

Maximum penalty for each of the above—50 penalty units.

Infringement notice required for all but the first two of the above—2 penalty units. [Comparable to infringement penalty, section 79 NCR].

84. Provide that—

- a person must not, in a recreation area, solicit information, donations, contributions or payments of any kind without the written approval of the Board. Maximum penalty—20 penalty units;

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 64(1) NCR].

- the holder of a written approval must not solicit information, donations, contributions or payments in a way that causes

disturbance to other persons in the area. Maximum penalty—20 penalty units. [Comparable provisions—section 11(c) BL, section 64 NCR].

85. Provide that a person must not use a radio, tape recorder or other sound or amplifier system in a way that may cause unreasonable disturbance to a person or native animal in a recreation area. Maximum penalty—50 penalty units. [Comparable provisions—section 88(2) NCR, section 11(1)(d) BL].
86. Provide that a person must not use a generator or compressor or other similar motor in a recreation area unless its use is authorised by, and is in accordance with, a written approval of the Board or a notice erected by the Board. Maximum penalty—50 penalty units. [Comparable provisions—section 11(1)(g) BL, section 88(1) NCR].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 88(1) NCR].

87. Provide that a person must not display, distribute or leave any notice (other than an official traffic sign), handbill, ticket or any other literature of any kind in a recreation without the written approval of the Board. Maximum penalty—20 penalty units. [Comparable provisions—sections 11(1)(e) and 21 BL].

Infringement notice required—1 penalty unit.

88. Provide also that an authorised officer may remove such notices, handbills, etc. displayed or left in contravention of the above, and dispose of in such a manner as the Board determines. [Comparable provision—section 21 BL].

Fires

89. Provide that a person must not, at any time, light a fire on a beach surrounding or adjoining any lake in a recreation area.

Maximum penalty—80 penalty units. [Comparable provision—section 7(1) BL, penalty approx. half penalties in section 69 NCR].

Infringement notice required—3 penalty units.

90. Provide that—

- a person must not light a fire in a recreation area when or where lighting a fire is prohibited under a permit or a notice erected by the Board.

Maximum penalty—165 penalty units. [Comparable provisions—section 69(1) NCR, section 6 BL].

Infringement notice required—5 penalty units. [Comparable to infringement penalty, section 69(1) NCR].

- a person must not light, keep or use a fire in a place other than a barbecue or fireplace provided by the Board; or if a barbecue or fireplace is not provided, a place clear of flammable material for two metres in every direction.

Maximum penalty—165 penalty units. [Comparable provisions—section 69(2) NCR, section 7(2) BL].

Infringement notice required—5 penalty units. [Comparable to infringement penalty, section 69(2) NCR].

- if a person lights or assumes control of a fire, the person must put out the fire before the person leaves the fire. (This does not apply if another person assumes control of the fire.)

Maximum penalty—165 penalty units. [Comparable provisions—sections 69(3), 69(4) NCR, section 7(2) BL].

Infringement notice required—5 penalty units. [Comparable to infringement penalty, section 69(3) NCR].

- a person who leaves a fire must not leave any non-combustible material in the fire or the remains of the fire. ‘Non-combustible material’ means material that will not quickly and readily burn to ash and includes foil, cans, bottles, plastics and food scraps. (This provision will complement the provision on littering.)

Maximum penalty—20 penalty units.

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 83(1) NCR].

- a person must not throw, drop, place or leave any of the following within two metres of flammable material or in a place other than a barbecue or fireplace provided by the Board—
 - a lit match, pipe, cigar, cigarette or tobacco; or
 - hot ashes; or

- a burning or smouldering substance; or
- a substance or device that ignites on impact or by spontaneous combustion.

Maximum penalty—165 penalty units. [Comparable provisions—section 69(5) NCR, s7(4) BL].

Infringement notice required—5 penalty units. [Comparable to infringement penalty, section 69(5) NCR].

91. Provide that if an authorised officer believes, on reasonable grounds, a fire in a recreation area is, or may become, a hazard to the area, a person or property, the authorised officer may—
- give the person apparently in charge of the fire an oral or written direction to put the fire out or lower its intensity to a reasonable level; or
 - put out the fire.

Include a requirement that the person must comply with the direction. Maximum penalty—165 penalty units. [Comparable provisions—section 70 NCR, section 7(5) BL].

Infringement notice required—5 penalty units. [Comparable to infringement penalty, section 70(2) NCR].

92. Provide that if an authorised officer believes, on reasonable grounds, that the use of a stove, barbecue or other appliance fuelled by liquid or gaseous fuel in a recreation area is, or may become, a hazard to the area, a person or property, the authorised officer may give the person apparently in charge of the stove, barbecue or appliance an oral or written direction to cease using it. (Reasonable grounds may be, for example, if the appliance appears to be faulty or is being used in an inappropriate or unsafe manner.)

Include a requirement that the person must comply with the direction.

Maximum penalty—165 penalty units. [Comparable provisions—section 70 NCR, section 7(6) BL].

Infringement notice required—5 penalty units. [Comparable to infringement penalty, section 70(2) NCR].

Pollution and misuse of water

93. Provide that a person must not, in a recreation area—

- pollute a lake, watercourse or natural water storage, including, for example, by discharging waste from a boat, using soap, detergent or shampoo, or putting oil, grease or a harmful or dangerous substance, in the lake, watercourse or natural water storage; or
- take water from any lake, watercourse or natural water storage unless the water is taken for personal use within the area; or
- dam or divert a watercourse; or
- interfere with or damage a water supply or water storage facility; or
- allow water from a tap to run to waste; or
- wash a vehicle, clothing, cooking utensils or anything else in a lake or watercourse; or
- allow an animal in the person's possession to be in a lake or watercourse.

Maximum penalty for each of the above—50 penalty units. [Comparable provisions—section 80 NCR and section 8 BL].

Infringement notice required—2 penalty units. [Comparable to infringement penalty, section 80 NCR].

Firearms, explosives, traps etc.

94. Provide that—

- A person must not possess or use a bow, catapult, weapon, explosive device, trap, snare, net or birdlime in a recreation area without the Board's written approval, or in a way contrary to the approval. However, this would not apply to a crab-pot, bait net or other fishing equipment lawfully kept or used.
- A person must not carry a loaded spear gun or discharge a spear gun, unless the person is in tidal waters where spear fishing is allowed under an Act.
- However, if a recreation area includes an area that is a protected area under the *Nature Conservation Act 1992*, the use of the above things is subject to that Act.

Maximum penalty for each of the above—120 penalty units. [Comparable provisions—section 9 BL, section 77 NCR].

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 77(1) NCR].

Litter, waste etc

95. Provide that a person in a recreation area must not—

- deposit litter in a place other than a receptacle provided by the Board for that purpose; or
- deposit in a receptacle provided by the Board any litter not arising from the person's use and enjoyment of the recreation area.

Maximum penalty—20 penalty units. [Comparable provisions—section 10 BL, section 83 NCR].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 83(1) NCR].

96. Provide that a person must not dump, leave or abandon a boat or vehicle or part of a boat or vehicle in a recreation area.

Maximum penalty—120 penalty units. [Comparable provision—section 84 NCR].

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 84 NCR].

97. Provide that a person must not dump or leave used or waste materials, including, for example, building materials, fencing materials, drums or vegetation, in a recreation area.

Maximum penalty—120 penalty units. [Comparable provision—section 85 NCR].

Infringement notice required—2 penalty units. [Comparable to infringement penalty, section 85 NCR].

98. Provide that a person must not, in a recreation area deposit any noxious, offensive or harmful substance.

Maximum penalty—120 penalty units. [Comparable provisions—section 81 NCR, section 10 BL].

Infringement notice required—3 penalty units.

99. Provide that a person must not, in a recreation area deposit or dispose of any offal, carcass or skeleton.

Maximum penalty—120 penalty units. [Comparable provisions—section 81 NCR, section 10 BL].

Infringement notice required—3 penalty units.

However this would not apply to the offal, carcass or skeleton of a fish or crab taken in or immediately adjacent to the recreation area; and

- deposited in a receptacle provided by the Board specifically for that purpose; or
- buried on a coastal beach below high water mark and buried at least 50 cm below the surface level of the beach at that place; or
- disposed of in accordance with the provisions of a notice erected by the Board.

100. Provide that a person must not, in a recreation area, break any glass or cause any glass to be broken.

Maximum penalty—20 penalty units. [Comparable provision—section 10 BL].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 83 NCR].

Limited access areas

101. Provide that the Board may, by one or more notices displayed in a recreation area, limit or prohibit access to any part of a recreation area if, in the opinion of the Board, access to that part of a recreation area must be limited or prohibited, for example—

- in the interests of public safety; or
- to protect that part of a recreation area from significant environmental degradation; or
- to protect significant land resources, marine resources or cultural resources; or
- to protect a breeding area for native wildlife; or
- to enable the restoration or rehabilitation of the area.

The notice must be displayed in or at or near the entrance to the part of the area to which the notice applies and must be clearly visible to passers-by.

Provide that a person must not enter or remain in that part of a recreation area in contravention of such a notice, except in accordance with the written approval of the Board.

Maximum penalty—80 penalty units. [Comparable provisions—section 13(1) BL, sections 47, 48 and 49 NCR].

Infringement notice required—3 penalty units. [Comparable to infringement penalty, section 48(1), 49 NCR].

Interference with land resources or marine resources

102. Provide that a person must not, within a recreation area, interfere with any land resources or marine resources. Maximum penalty—165 penalty units.

However, this does not apply if the interference occurs as a result of an activity—

- under the authority of the Act; or
- under a permit or other authority granted under any other Act.

(An activity ‘under the authority of the Act’ would include, for example, unavoidable incidental interference associated with an activity under a permit or approval, or an activity undertaken in the delivery of a function under the Act, or an activity undertaken in accordance with the rights of proprietors.)

[Comparable provision—section 40(1)(k) of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation)].

Unauthorised structures or work

103. Provide that a person must not, within a recreation area, erect, retain or maintain any structure, or carry out a work—

- without the written approval of the Board; or
- in contravention of the terms of the Board’s approval.

Maximum penalty—165 penalty units.

However, this does not apply to—

- a camping structure under a camping permit;

- a structure erected, retained or maintained, or a work carried out, under the authority of the Act; or
- a structure erected, retained or maintained, or a work carried out, under a permit or other authority granted under any other Act.

(‘Under the authority of the Act’ would include, for example, a structure erected, retained or maintained, or a work carried out, in the delivery of a function under the Act, or in accordance with the rights of proprietors.)

[Comparable provisions—section 39 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 71 NCR].

Removal of unauthorised structures and works

104. Provide that, if a structure is erected, retained or maintained, or a work is carried out, in a recreation area without lawful authority, then—

- If the name of the person who erected, retained or maintained the structure or carried out the work is known, an authorised officer may give the person a written direction to—
 - (a) remove the structure or work, and anything in the structure, within a stated time; or
 - (b) if the work cannot be removed, to stabilise or rehabilitate the work within a stated time. (For example, a person who has, without due authority, carried out work to construct a walking track in a recreation area may be given a direction to rehabilitate the part of the area in which the track is constructed.)
- If the person does not comply with the direction under (a) above within the stated time, the officer may seize the structure or work, and anything in the structure, and take the steps that are reasonable and necessary to remove it, including demolishing the structure or work.
- A person must, unless the person has a reasonable excuse, comply with the direction given under (b) above to stabilise or rehabilitate the work. Maximum penalty—165 penalty units.
- If the authorised officer cannot find out the person’s name after making reasonable inquiries, the officer may seize the structure or work, and anything in the structure, and take the steps that are

reasonable and necessary to remove it, including demolishing the structure or work.

- Anything so seized shall become the property of the Crown and shall be disposed of in such manner as the Board directs.
- The amount of costs and expenses incurred in demolishing, removing and disposing of anything removed shall be a debt due and owing to the Crown by the person who caused the structure to be erected, retained or maintained, or who carried out the work, in the recreation area and may be recovered by the Board on behalf of the Crown by action for a debt in a court of competent jurisdiction.

[Comparable provisions—section 39 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 72 NCR].

Plants

105. Provide that a person must not bring a plant into a recreation area except—

- with the written approval of the Board; or
- for use by the person or someone else in the area as food; or
- for use by the person as firewood if allowed under a permit or a notice erected by the Board.

Maximum penalty—50 penalty units. [Comparable provisions—section 78 NCR, section 14 BL].

Infringement notice required—2 penalty units. [Comparable to infringement penalty, section 78(1) NCR].

Animals

106. Provide that a person in a recreation area must not, without the written approval of the Board, feed or attempt to feed, or use food to tease or lure an animal—

- that is dangerous, venomous or capable of injuring a person; or
- if a notice erected by the Board prohibits the feeding of the animal.

Maximum penalty—40 penalty units.

Infringement notice required—3 penalty units. [The level of penalties recognises the serious implications of inappropriate behaviour in relation to animals such as crocodiles or dingoes].

However, these provisions would not apply to a domesticated dog in the Inskip Peninsula Recreation Area, or to a guide dog. (Dogs are allowed at Inskip Peninsula. This will allow people to feed and care for their dogs while in the area).

[Comparable provisions—section 15 BL, section 87 NCR].

107. Provide that a person must not, with the written approval of the Board, take a live animal into a recreation area, or have a live animal under the person's control in a recreation area.

Maximum penalty—20 penalty units. [Comparable provisions—section 15 BL, section 86 NCR].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 86(1) NCR].

However, this provision would not apply—

- to a guide dog under the Guide Dogs Act 1972; or
- to a domesticated dog in the Inskip Peninsula Recreation Area; or
- to an invertebrate animal lawfully taken in the recreation area or adjacent to the recreation area for use as bait for fishing; or
- to a fish, sand crab or mud crab lawfully taken in the recreation area or adjacent to the recreation area.

[Comparable provisions—section 15 BL, section 86 NCR].

108. Provide that a person in a recreation area must not, without a the written approval of the Board, disturb (including approach, lure, pursue, tease and attempt to disturb)—

- an animal that is dangerous, venomous or capable of injuring a person; or
- another animal if a notice erected by the Board prohibits the disturbance of the animal.

Maximum penalty—40 penalty units.

Infringement notice required—3 penalty units. [The level of penalties recognises the serious implications of inappropriate behaviour in relation to animals such as crocodiles or dingoes].

However, these provisions would not apply to a person who unavoidably disturbs an animal in the course of a lawful activity.

109. Provide that a person in a recreation area must ensure that food in the person's possession or under the person's control is kept—

- in a way that prevents an animal gaining access to the food; or
- in accordance with any a notice erected by the Board that states the way food must be kept. [A notice could, for example, require food to be kept in secure lockers provided by the Board at a campsite].

Maximum penalty—40 penalty units.

Infringement notice required—3 penalty units. [The level of penalties recognises the serious implications of access to food by animals such as crocodiles or dingoes].

However, this provision would not apply to food that is being consumed or prepared for consumption or lawfully deposited or disposed of in accordance with regulations or a notice erected by the Board. Also, an animal in this case would not include a guide dog or a domesticated dog in the Inskip Peninsula Recreation Area.

Vehicles and boats

110. Provide that a person must not, in a recreation area—

- drive or ride a vehicle or boat the person is not licensed to drive or ride under a law of a State that provides for the licensing of persons who may drive or ride vehicles or boats; or
- drive or ride a vehicle or boat that is not registered under a law of a State that provides for the registration of vehicles or boats; or
- carry on a motorcycle more than one passenger; or
- drive or ride a vehicle in a way that causes or may cause the vehicle to swerve, veer or turn violently; or
- drive or ride a vehicle or boat at a speed or in a way that causes or may cause danger to the person, or danger or fear to someone else, or damage to the area; or

- in relation to a moving motor vehicle:
- ride or travel outside the vehicle (other than a motorcycle) including on an external step, footboard or tray of the vehicle; or
- ride or travel in part of the vehicle not designed for passengers;
- ride or travel on something towed by the vehicle; or
- ride or travel in or on a vehicle (other than a motorcycle) with a part of the person's body outside the vehicle; or
- use a vehicle or boat in a way that disrupts or may disrupt someone else's enjoyment of the area; or
- drive, ride or attempt to drive or ride a vehicle on a surface other than—
 - a road; or
 - a surface authorised by a permit or a notice erected by the Board; or
 - a compacted coastal beach surface (not a beach surrounding or adjoining a lake); or
- park or stand a vehicle or moor a boat in a way or in a place that may—
 - obstruct or prevent the free passage of a vehicle or boat; or
 - cause damage to or interfere with the area; or
- drive or ride in a vehicle fitted with seat belts that are not properly fastened around the person; or
- drive a vehicle fitted with seat belts or child restraints that are not properly fastened around a child in the vehicle; or
- ride a motor cycle or bicycle unless the person is wearing a helmet.

Maximum penalty for each of the above—20 penalty units. [Comparable provisions—section 17 BL, section 74 NCR, section 34 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be 'moved' to the Regulation)].

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 74(1) NCR].

111. Provide that a person must not use a motor powered boat on any fresh water lake or watercourse in a recreation area except—

- with the written approval of the Board; or
- if a notice erected by the Board permits the use of a motor powered boat, in accordance with the notice.

Maximum penalty—20 penalty units. [Comparable provision—section 18 BL].

Infringement notice required—1 penalty unit.

Traffic control

112. Provide that—

- The Board may erect or mark, at a place in a recreation area, a sign regulating driving, riding, parking or standing or use of a vehicle or boat at a place, including, for example—
 - a speed limit; or
 - a pedestrian crossing; or
 - where the driving, parking or standing of vehicles, or the driving, standing or mooring of boats, is prohibited, restricted or restricted to authorised persons, vehicles or boats. (Authorised means authorised by the Board in writing).
- The sign may be an official traffic sign. (Include a definition of ‘official traffic sign’ as in the Nature Conservation Regulation.)
- A person in control of a vehicle or boat in the recreation area must comply with the sign.

Maximum penalty—20 penalty units.

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 73(3) NCR].

- An authorised person, or the driver of an authorised vehicle or boat, must comply with the authorisation.

Maximum penalty—20 penalty units.

Infringement notice required—1 penalty unit. [Comparable to infringement penalty, section 73(4) NCR].

[Comparable provisions—section 73 NCR, section 34(1), 34(2) of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation)].

Aircraft, hovercraft etc

113. Provide that a person must not use a hot air balloon, hang-glider, paraglider, ultralight aircraft or hovercraft in a recreation area without the written approval of the Board. Maximum penalty—120 penalty units. [Comparable provisions—section 19(1) BL, section 66 NCR].

Infringement notice required—3 penalty units. [Comparable to infringement penalty, section 66 NCR].

114. Provide that a person must not land a fixed-wing aircraft or helicopter in a recreation area (other than on a designated landing area) without the written approval of the Board.

Maximum penalty—120 penalty units. [Comparable provisions—section 19(2) BL, section 82(2) NCR].

Infringement notice required—4 penalty units. [Comparable to infringement penalty, section 82(2) NCR].

Directions of authorised officer

115. Provide that—

- if an authorised officer believes it is reasonably necessary, the officer may give the person in control of a vehicle or boat in a recreation area an oral or written direction about the driving, riding, parking, mooring or use of the vehicle or boat in the area;
- a direction may also be given in a way that sufficiently shows the authorised officer's intention;
- the directions an authorised officer may give include directions—
 - for the protection of the area's land, marine and cultural resources; or
 - to secure the safety of a person or a person's property; or
 - to minimise disturbance to persons in a protected area.
- a person must comply with a direction given to the person, unless the person has a reasonable excuse for not complying with it.

Maximum penalty for each of the above—50 penalty units.

[Comparable provisions—section 20 BL, section 75 NCR].

Seizure and removal of abandoned property

Seizure of abandoned property

116. Provide that—

- An authorised officer may seize and remove a vehicle, boat or any other property or thing in a recreation area if the authorised officer believes on reasonable grounds that the vehicle, boat, property or thing has been abandoned.
- The vehicle, boat, property or thing must be dealt with under the provisions listed below for dealing with abandoned property.

[Comparable provisions—section 37 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), sections 250 to 254 NCR].

Notice of seizure of abandoned property to be given

117. Provide that, if the Board reasonably believes that the property has a market value of more than \$300, then—

- The Board must give the owner of the property written notice of its seizure.
- If the owner’s name is not known, notice must be given in a newspaper circulating generally in the State and may be given by displaying it in a prominent position on a permanent feature as close as possible to the place where the property was found.
- The notice must inform the owner that the property must be claimed within two months after the notice is given to the owner and the property may be disposed of if it is not claimed within two months.

[Comparable provisions—section 37 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 251 NCR].

What happens if property is not claimed?

118. Provide that, if the owner of seized property does not recover the property within two months after notice is given to the owner of the

property's seizure, or the property has a market value of \$300 or less, then—

- After publishing a notice in a newspaper circulating generally in the State, the Board may sell the property by auction.
- The notice must identify the property, state that the property is to be sold by auction; and state the time and place of the auction.
- However, the notice and auction may be dispensed with if the Board considers that the holding of an auction is not warranted, having regard to the cost and the likely proceeds.
- If the property is not sold by auction, the Board may decide to dispose of the property in the way the Board considers appropriate.
- Compensation is not payable for a sale or disposal of the property to which this section applies.

[Comparable provisions—section 37 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 252 NCR].

Perishable property

119. Provide that, notwithstanding the above procedures, the Board may deal with and dispose of any abandoned property that is perishable in such manner as the Board thinks fit. [Comparable provision—section 37(7) of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation)].

Application of proceeds of sale

120. Provide that, if the Board sells property, the proceeds of the sale must be applied in the following order—

- in payment of the reasonable expenses of the Board incurred in the sale;
- in payment of the reasonable cost of seizing, removing and holding the property; and giving notice of the seizure;
- if the property is a structure or work—in payment of the reasonable cost of work necessary to restore the site from which

the property is removed as nearly as practicable to its former state;

- in payment of any balance to the owner of the property.

[Comparable provisions—section 37 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 253 NCR].

Release of property

121. Provide that, if a person claims the property, the Board may release the property to the person only if the person satisfies the Board that the person has a right to the property and pays the Board’s reasonable costs of—

- seizing, removing and holding the property; and
- giving notice of the seizure; and
- if notice is given of the property’s sale—giving the notice.

[Comparable provisions—section 37 of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation), section 254 NCR].

122. Provide that a person must not obtain or remove or attempt to obtain or remove property other than in accordance with the procedures specified above. Maximum penalty—50 penalty units.

[Comparable provision—section 37(9) of the Act (proposed to be omitted from the Act—so that, in effect, the provision will be ‘moved’ to the Regulation)].

Consequential amendments

123. Infringement notices are required to be provided for in regulations under the State Penalties Enforcement Act. The requirements for infringement notices for particular offences are indicated in relevant paragraphs above (indented in italic type).

Savings and transitional arrangements

124. Provide savings and transitional provisions as necessary to ensure that—

- existing recreation areas as designated in the *Recreation Areas Management Regulation 1989* are continued;
- existing valid ‘commercial tour operator permits’ and ‘temporary commercial tour operator permits’ are to be regarded as ‘commercial activity permits’ and remain valid until they expire or are cancelled or surrendered;
- existing valid ‘service permits’ are to be regarded as ‘vehicle permits’ and remain valid until they expire or are cancelled or surrendered;
- any other existing valid permits or approvals are to remain valid until they expire or are cancelled or surrendered;
- any actions begun prior to commencement of the regulation (for example in regard to infringement notices or other provisions, or where penalties have changed), continue to be dealt with in accordance with the existing provisions, and are subject to the existing penalties.

Scheduled fees

125. A schedule of fees is required (as indicated in the example fee schedule, below). The schedule would be similar to that in the current Regulation, but with the following variations (most of which relate to terminology or other clarifications)—

- the term ‘vehicle permit’ replaces ‘vehicle service permit’;
- the term ‘commercial activity permit’ replaces ‘commercial tour operator permit’;
- the word ‘activity’ replaces ‘tour’ in the phrases ‘guided tour’ and ‘educational tour’, and there is no reference to a ‘temporary commercial tour permit’;
- ‘Vehicle service permit for 1 month’ becomes ‘Vehicle permit for a recreation area for 1 month or less’. (The intention is to clarify that a vehicle permit is specific to a particular recreation area, and can be issued for less than a month if particularly necessary.);
- ‘Vehicle service permit for 1 year’ becomes ‘Vehicle permit for a recreation area for 1 year’;

- for ease of reference, permit fees for commercial activity permits (other than for filming or photography) will be shown for periods of up to three months, one year, two years and three years.
- for camping fees payable by the holder of a commercial activity permit, the term ‘client’ replaces ‘person carried on a guided tour’;
- camping fees are payable by the holder of a commercial activity permit for filming or photography for persons camping as part of the activity. (This facilitates camping being authorised under the commercial activity permit if so desired, rather than by separate camping permits.);
- vehicle permits and camping permits are to be free of charge for persons in a national park that is part of a recreation area to prepare a claim to, or management plan for, the national park under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991*. (This is consistent with the Nature Conservation Regulation.);
- the fee for any permit or approval other than those specifically listed is to be ‘as determined by the Board’;
- the fee for replacement of a lost or destroyed permit or label is to be \$10.00 instead of the current \$5.00. (This is closer to the real cost of checking and reissue.); and
- a fee of \$10.50 is to be included for amendment of a permit at the permit holder’s request. (This is consistent with the Nature Conservation Regulation). No fee would be charged for change of address or other contact details.

Some items in the suggested schedule below are subject to a 10 percent Commonwealth Government Goods and Services Tax (GST), which has been incorporated in the fee shown. The relevant items are marked with an asterisk (*). For example, a camping permit fee shown as \$3.85* consists of a \$3.50 permit charge, plus 35 cents GST.

From time to time scheduled fees in legislation are adjusted in accordance with the Consumer Price Index (CPI) to take account of inflation. It is likely that, before the proposed Regulation is finalised, a CPI adjustment will be applied to the proposed fees shown below, particularly if a CPI adjustment is being made to fees in related legislation, such as the *Nature Conservation Regulation 1994* and the *Forestry Regulation 1998*.

Suggested example of Fee schedule

	\$
1. Vehicle permit for a recreation area for 1 month or less—	
(a) if purchased in a recreation area	40.00
(b) if purchased elsewhere	30.00
2. Vehicle permit for a recreation area for 1 year	150.00
3. Vehicle permit for a person in a national park that is part of a recreation area to prepare a claim to, or management plan for, the national park under the <i>Aboriginal Land Act 1991</i> or <i>Torres Strait Islander Land Act 1991</i>	nil
4. Camping fee payable by the holder of a commercial activity permit (other than for filming or photography) for each client 5 years and older who camps as part of the activity—each night	3.85*
5. Camping fee payable by the holder of a commercial activity permit for filming or photography for each person 5 years and older who camps as part of the activity—each night	3.85*
6. Camping permit (other than if a commercial activity permit is required)—	
(a) for a person 5 years or older taking part in an approved educational activity or camp—each night	2.20*
(b) for anyone else 5 years or older—each night	3.85*
(c) for a family—each night	15.40*
(d) for a person in a national park that is part of a recreation area to prepare a claim to, or management plan for, the national park under the <i>Aboriginal Land Act 1991</i> or <i>Torres Strait Islander Land Act 1991</i>	nil
7. Group activity permit—	
(a) application fee	20.00
(b) additional daily fee for special access, special supervision, or reserving an area for—	
(i) a vehicle-based activity—each vehicle	3.00
(ii) a people-based activity—each person	1.50
8. Commercial activity permit (other than for filming and photography)—	
(a) application fee	200.00
(b) application fee for renewal of permit	100.00
(c) permit fee—3 months or less	40.00
(d) permit fee—more than 3 months but not more than 1 year	160.00
(e) permit fee—more than 1 year but not more than 2 years	320.00
(f) permit fee—more than 2 years but not more than 3 years	456.00

	\$
9. Additional daily fee payable by the holder of a commercial activity permit other than for filming or photography, for each client 5 years or older taking part in the activity (other than an educational activity approved by the Board)—	
(a) Green Island Recreation Area	1.80
(b) Moreton Island Recreation Area for—	
(i) an activity lasting less than 3 hours	1.15
(ii) an activity lasting 3 hours or more	2.30
(c) another recreation area for—	
(i) an activity lasting less than 3 hours	2.50
(ii) an activity lasting 3 hours or more	5.00
10. Commercial activity permit for filming or photography—no structures involved—	
(a) 1 or 2 people involved—each day	21.00
(b) 3 to 5 people involved—	
(i) application fee	105.00
(ii) daily site fee	52.00
(c) 6 or more people involved—	
(i) application fee	210.00
(ii) daily site fee	105.00
11. Commercial activity permit for filming or photography involving the use of a structure—	
(a) 1 to 5 people involved—	
(i) application fee	105.00
(ii) daily site fee	105.00
(b) 6 to 25 people involved—	
(i) application fee	525.00
(ii) daily site fee	525.00
(c) 26 to 50 people involved—	
(i) application fee	1050.00
(ii) daily site fee	1050.00
(d) 51 or more people involved—	
(i) application fee	2100.00
(ii) daily site fee	2100.00
12. A permit or approval, other than those listed above	as determined by the Board
13. Replacement of a lost or destroyed permit or label	10.00
14. An amendment for a permit or approval for which a fee is charged, at the holder's request (other than a change of address or other contact details)—each amendment	10.50

Appendix 3

Cost-benefit assessment report

Introduction

This assessment report is divided into two main sections. The first section examines the costs and benefits of three options—a ‘proposed legislation option’, a ‘do-nothing’ option (no intervention), and an ‘enhanced Nature Conservation Act’ option. It provides a detailed and technical analysis explaining how the costs and benefits under the three options have been obtained. The second section provides a quick summary of the three options, and facilitates direct comparison of the options.

Section 1 Cost-benefit analysis of options

This part of the assessment includes a cost-benefit analysis of options, as well as an analysis of impacts on various stakeholder groups.

Purpose of cost-benefit analysis

The purpose of cost-benefit analysis is to determine the broad community benefits and costs of options in order to determine whether society will be better off, or not, with particular options. Benefits and costs are measured as changes in welfare and are usually measured against a ‘business as usual’ base case.

For example, the net benefits or costs of an option to introduce the proposed legislation, which has a number of impacts including fees, would be measured against what can be expected under the ‘do-nothing’ option.

In the case of this assessment, there are regulations in place but those regulations are subject to sunset (expiry) provisions, so that the ‘base case’ is considered to be the ‘do-nothing’ option (under which the current Recreation Areas Management Regulation and Recreation Areas Management By-law will cease to exist). In analysis of the proposed legislation option, we have considerable information from the current situation to draw upon. Most of the assumptions that have

to be made will actually be about the 'do-nothing' base case. The third option of amendments under the Nature Conservation Act is also considered.

Benefits and costs associated with tourism and recreation in protected areas

Tourism and recreation in natural environments provides benefits to those who visit and to commercial operators who provide tourism services¹. Costs may arise if there is damage to the environment or crowding or visitor safety effects which reduce the visitor experience. The amount of environmental damage or crowding or safety risk that occurs can be varied with the application of management which can reduce these costs. Management in the form of research, planning, providing and maintaining infrastructure, providing a ranger presence and information and education services, in turn has a cost. In calculating the net benefits or costs of tourism in natural environments, it is the balance of use and the management applied which determines whether there are net benefits or costs at any site.

Benefits to tourists and recreation visitors are measured as their 'willingness to pay' (WTP) to visit the site. The difference between what visitors are willing to pay and what they do have to pay is termed the 'consumer surplus' (CS) and this is the true welfare measure of visitor benefits. Willingness to pay may be estimated using economic methodologies such as Travel Cost Analysis (TCA). If there are no entry or use fees, visitors experience their full willingness to pay as a surplus. The formula for consumer surplus is $CS = WTP - \text{fees paid (FP)}$.

The benefit accruing to commercial operators is termed the 'producer surplus' (PS) and this is generally equivalent to profit, or returns minus cost of production.

Costs of environmental damage and crowding or safety risk are termed 'externalities' as they are costs that fall on others, on other visitors either now or in the future or on the whole community in the case of environmental damage. In natural environments, damage generally does not have an evident dollar value attached. A number of

1 It is also possible that benefits may accrue to the general community if visits to natural areas reduce stress, illness, crime rates etc. Such benefits are not considered further here.

economic methodologies exist to estimate dollar values, for example by calculating the cost of replicating the environmental conditions. There are difficulties in placing dollar values on natural environments and the losses due to damage. The impact of damage and crowding is often evident in declines in popularity of sites if the damage or crowding reduces the attraction of the site over time.

As noted above, the application of management can reduce the damage and crowding costs. To optimise net benefits of tourism in natural environment, managers must strike a balance between the amount of visitor use and its potential damage and the amount to invest in management to offset any damage. A natural environment can accommodate an increasing visitor presence as long as management is increased, but a threshold may be reached where management can no longer be effective in preventing damage. Management costs for protected areas are often provided by government but may accrue totally to visitors if a user-pays policy is pursued.

The cost-benefit analysis will compare the Net Present Value (NPV) of benefits minus costs over a period of years² of the options. NPV is calculated according to the formula:

NPV = Discounted sum over 10 years of—(CS to visitors + PS to commercial tourism operators) – (Management costs to government + Environmental damage costs and other negative externalities such as crowding and decreased safety), where CS= WTP – FP.

In the following analysis, it has not been possible to place dollar values on all items in the equation. Willingness to pay has been estimated based on studies undertaken at a number of similar natural areas. Producer surplus has not been estimated, but is assumed to be positive. Information on expenditure on recreation area management is available. Environmental damage or crowding/safety costs are not available, instead assumptions have been made about whether these are higher or lower under the different options. Because it has not been possible to quantify all the benefits and costs, the analysis concentrates on the likely size of the NPV of the different options relative to each other.

2 In this case NPV is over 10 years, which is the life of the regulation, discounted at the rate recommended by Queensland Treasury of 7percent a year.

The number of stakeholder groups considered in the cost-benefit analysis is reduced to allow a simple analysis. Groups considered are: visitors, tour operators, government (all levels) and the community. This latter grouping includes all people who benefit from good management of the natural and cultural heritage of recreation areas.

Option 1—Proposed legislation

Assumptions under option 1—

- Visitor demand for recreation areas will start at the current level and increase over time.
- Funds for management will be raised from visitor fees, including vehicle fees, and will all be spent on recreation area management in the four current areas.
- Management is currently at or close to the level which could be considered to provide for environmentally sustainable visitor use.

Benefits to visitors

The benefits to visitors is their consumer surplus, made up of willingness to pay minus fees actually paid. Under the proposed legislation option, a similar situation to the current system is proposed. All fees collected in recreation areas are directed back to management of those areas, so it is a user-pays system. Fees include camping fees, and vehicle fees. Currently fees raise \$4.9 million, which in turn is most of the budget for management. Of that amount, \$1.4 million is from vehicle fees.

The number of visitor days to recreation areas is 1,192,789 a year, see table 1.

Table 1—Numbers of independent visitors and passengers using commercial operators, 1999–2000

Recreation area	Visitors					Commercial operators			**Number of visitor-days
	Service permits		Permits to camp		Campers nights	No. of paying passengers	No. of free passengers	Total passengers	
	Permits	No. of people	Permits	No. of people					
Fraser Island	39,084	135,667	23,576	100,582	321,768	176,868		176,868	634,303
Green Island						198,478	9875	208,353	208,353
Moreton Island	7,939		6,986	*20,958		65,890		65,890	260,544
Inskip Peninsula			10,104	29,863					89,589
Total	47,023	135,667	40,666	130,445	321,768	441,236	9875	451,111	1,192,789

Source—Queensland Recreation Areas Management Board, 2000.

Note—* Number of people estimated to be three persons/permit as for Inskip Peninsula.

** Number of visitor-days estimated to be on average three days for camping and one day for all others (which is a very conservative estimate).

The average fee for each visitor day is \$4.10.

It has not been possible to conduct surveys to determine the current willingness to pay for access to recreation areas. However it is possible to estimate both willingness to pay and consumer surplus based on studies of similar natural areas. Table 2 shows results of studies which estimate consumer surplus.

Table 2—Estimates of consumer surplus for various recreational areas

Location	Authors	Average value estimated (\$)	Lower value estimated (\$)	Higher value estimated(\$)
Camraron Gorge	Beal (1995)	2.50/person		
Centennial Park, Sydney	Lockwood and Tracey (1995)		7.42/visitor day	10.56/visitor day
Fraser Island	Hundloe et al. (1990)		15.70/visit*	32.63/visit*
Green Mountains, Lamington National Park	Scoccimarro (1992)		8.09/visitor day	9.23/visitor day
Dorrigo National Park (NSW)	Bennett (1995)	15.83 (average 2 days)		
Queensland protected areas	Kinhill (1998)*		8/visitor-day	17/visitor-day
Wet Tropics World Heritage Area	Driml (1996)	49/visitor day (Australian tourists)		

*number of days not specified

There are many other studies for which the consumer surplus has been estimated (see Driml (1996). Using a medium value for the consumer surplus of \$8 for recreation areas (Kinhill Economics, 1998, pp 4–17), the annual consumer surplus for each recreation area has been estimated (table 3).

Table 3 Consumer surplus (recreation areas)

Recreation area	Number of visitor-days	Consumer surplus (\$)
Fraser Island	634,303	5,074,424
Green Island	208,353	1,666,824
Moreton Island	260,544	2,084,352
Inskip Peninsula	89,589	716,712
Total	1,192,789	9,542,312

Based on these estimates, consumer surplus for each visitor day is at least \$8 and willingness to pay could be estimated at \$8 plus fees paid or approximately \$12. Total consumer surplus, after fees are deducted is \$9.5 million a year or \$75.6 million (discounted at 7 percent) over 10 years.

Benefits to operators

It has not been possible to survey commercial operators to determine the producer surplus, but it is assumed to be a positive figure.

Government—Management costs to government

On the cost side, because management costs are raised from visitors, the cost to the government for recreation management is zero under this option.

Community—Environmental damage and other negative externalities

According to managers of recreation areas, the funds available for visitor and environmental management have allowed areas to be managed at or close to an environmentally sustainable level. Furthermore, the brief of recreation areas to provide recreation management has allowed visitor conditions and safety to be a major focus. For this reason, it can be assumed that any negative externalities are low, or perhaps zero.

The continued availability of funds for management under this option should allow the recreation areas to be managed at a sustainable level, even if growth in visitor days occurs over the 10 years.

Table 4—NPV of values over 10 years

Year	User-pays management fees (\$ million)	Visitors consumer surplus (\$ million)
2001/2	4.9	9.5
2002/3	5.0	9.8
2003/4	5.2	10.0
2004/5	5.4	10.4
2005/6	5.5	10.7
2005/7	5.7	11.1
2007/8	5.9	11.4
2008/9	6.0	11.7
2009/10	6.2	12.1
2010/11	6.4	12.5
Total	56.2	109.4
NPV (7%)	38.8	75.6

The net present value is equal to the consumer surplus (willingness-to-pay less the fees paid) plus the unknown producer surplus less other externalities (environmental harm, crowding effect and safety impacts) assumed to be nil under this option (Sustainable option because the level of management expenditure (and revenue) is growing with the number of tourists).

$$\text{NPVO1} = (\$75.6 \text{ million} + \text{PRODUCER SURPLUS}) - (0)$$

Option 2—Do-nothing (no intervention)

Assumptions with the ‘do-nothing’ option

Under this option, a number of assumptions need to be made as to what would change from the current situation as the sunset provisions allow the current regulatory arrangements to lapse.

General assumptions

Vehicle permit fees would definitely no longer be collected, therefore user-pays funding available for management would be \$1.4 million less each year. With no recreation areas legislation, the areas would revert to management under a variety of tenures. Major areas would

be managed as national parks and camping and other visitor permit fees would continue to be collected under the Nature Conservation Act (NCA), and this would be roughly equal to the \$3.5 million currently collected (\$26.6 million over 10 years). However with no recreation areas legislation, there is no guarantee that this money would be spent in recreation management of these areas as there is no hypothecation (return of revenue) required under the Nature Conservation Act.

Option 2 (a) assumptions

Because there is less money raised from visitors for management, managers would reduce visitor numbers and limit growth over time (to keep visitation to a level consistent with management capacity).

Funds for management will be raised from national park camping fees, and national park commercial activity fees, but vehicle fees would no longer be raised. There is no guarantee that all funds raised would be used for management.

Management would continue at or close to the level which could be considered to provide for environmentally sustainable (reduced) visitor use.

Benefits to visitors

Under this option, managers limit visitor days to the level considered sustainable under the lower management budget. This could be approximately 853,658 visitors-days (@\$4.10/visitor-days)(a 39.7 percent reduction in visitor-days compared with Option 1). The consumer surplus is reduced to \$54.1 million over 10 years (discounted at 7 percent).

Benefits to operators

These may fall with the fall in visitor numbers. However, operators may capture some of the WTP no longer paid in management fees, at least for a while.

Government—Management costs to government

Less money for management will be raised from fees. Government must decide whether to supplement this from consolidated revenue. Costs may increase with greater co-ordination across tenures and responsibilities required without the recreation areas legislation.

Community—Environmental damage and other negative externalities

Under this option, visitor numbers will be limited so that current standards can be maintained with reduced funding.

Option 2 (b) assumptions

- Visitor demand for recreation areas will start at the current level and increase over time, but may then decline if the areas become less attractive due to lower management expenditure for environmental protection and facilities and services.
- Funds for management will be raised from national park camping fees, and commercial activity fees, but vehicle fees would no longer be raised. There is no guarantee that all funds raised would be used for management.
- Management would not be able to keep impacts within an environmentally sustainable level.

Benefits to visitors

If visitor demand is not limited, environmental damage and other negative externalities are likely to increase. In particular, if there is no specific recreation management brief, the quality of visitor sites may suffer and crowding and visitor safety problems may increase. In turn, this may lead to a reduction in visitor demand or WTP for the areas over time.

Benefits to operators

These will remain as current but may fall if visitor numbers decline due to decline in recreation facilities or environmental quality.

However, operators may capture some of the WTP no longer paid in management fees, at least for a while.

Government—Management costs to government

Less money for management will be raised from fees. Government must decide whether to supplement this from consolidated revenue. Costs may increase with greater co-ordination across tenures and responsibilities required without the recreation areas management legislation.

Community—Environmental damage and other negative externalities

Under this option, less funding for management means a decline in recreation facilities and environmental quality.

Option 3—Amended Nature Conservation Act and Regulation

The Recreation Areas Management Act, Regulation and By-laws cease to exist and are replaced through amendment of the Nature Conservation Act and Nature Conservation Regulation.

Assumptions

- Visitor demand for recreation areas will be maintained at the current level and grow over time.
- Funds for management will be raised from visitor fees, including vehicle fees, but not necessarily spent where the funds are raised (not hypothecated).
- Revenue currently raised from visitor fees at Inskip Peninsula will no longer be raised.
- Management is at or close to the level which could be considered to provide for environmentally sustainable visitor use.

Visitor benefits

Similar to option 1, except for Inskip Peninsula and recreation sites which are outside national parks. More importantly, visitors will lose because new recreation sites outside national parks will not be developed. This will put more visitor pressure on existing facilities in areas such as national parks.

Operator benefits

Similar to option 1. The market will be limited to recreation sites which are in national parks plus areas with high conservation values which can be administered under the Nature Conservation Act once the required amendments to the Act are made. Over a 10-year period, operator surplus may suffer because of lack of development of new recreation sites outside national parks.

Government

The costs of administration, and establishing the new regulation under the Nature Conservation Act will be additional costs to the government. Furthermore, there might be a high risk that during the period of transition, there will be no regulation (up to two years). Under these circumstances, there will be a shortfall of revenue of \$2.8 million due to no vehicle fees plus the cost of QPWS officers to amend the Nature Conservation Act and regulations. Additionally, because of the low conservation value of Inskip Peninsula, fees will no longer be raised because this recreational area does not meet the Act's conservation criteria. This could result in an additional \$300,000 shortfall to be raised by the local government or other means.

The extension of recreation areas of low conservation values would not be able to proceed under the Nature Conservation Act or its regulations without changing drastically the purpose of this legislation. The cost of time to be spent by EPA/QPWS officers to come to arrangements with owners of various tenures outside national parks (local governments, private owners, and other government agencies) would be high. This process can take years, diverting resources in terms of funds and people from conservation tasks.

Community

Under this option, the absence of regulation for recreation areas which are not currently national parks, may create a burden to local communities. In particular local governments may need to introduce visitor fees and perhaps even increase rates to finance the cost of maintaining visitor facilities (picnic facilities and campgrounds), currently about \$300,000 a year on Inskip Peninsula.

**Section 2 Summary of costs and benefits
(quantified and non-quantified)**

As in most economic analyses dealing with environment values, not all costs and benefits under the three options could be quantified (for example, expressed in dollar terms) and therefore the benefits and costs under each option were compared to each other in terms of possible enhancement or decline relative to the 'proposed legislation' option for which the EPA/QPWS has data.

Summary Table

	Option 1: Proposed legislation	Option 2: No intervention		Option 3: Amendment of Nature Conservation Act and Regulation to replace the Recreation Areas Management Act, Regulation and By-laws (similar to Option 2(b) except that vehicle fees are added to N.C. Regulation and current recreation areas of high conservation value declared as reserves under NCA)
		Scenario a: Managers limit visitor numbers because less money for management	Scenario b: No limit on visitor numbers, decline in non-core facilities management	
Characteristics and assumptions	• See main document	• See main document	• See main document	• See main document
Visitor numbers	• Current numbers, growing over 10 years	• Fewer than current, limited by managers	• Current numbers, may grow then decline	• Current numbers, may grow then decline
Environment	• Sustainable use and managed growth over next 10 years	• Sustainable use except for Inskip Peninsula and (current) recreation areas outside national parks	• Less management leads to damage and reduced attractiveness	• Increase environmental damage for areas of low conservation value (areas not covered by NCA)
Crowding/Safety	• Well-managed	• Well-managed • Complaints about restrictions on numbers and access	• Decline in safety • Increase in complaints • Crowding	• Decline in safety standard for Inskip Peninsula and areas of low conservation value (areas not covered by NCA)
Standard of facilities	• Well-managed	• Well-managed except for (current) recreation areas outside the scope of NCA.	• Decline	• Decline for facilities outside high conservation value areas (areas not covered by NCA) • Health and safety costs
Consumer surplus (Visitors group)	• \$75.6 million	• \$54.1 million	• Unknown but less than \$75.6 million	• Unknown but less than \$76.5 million
Operator surplus (commercial operator group)	• Unknown	• Less than in Option 1 (fewer visitors)	• Less than in Option 1 (increased impacts, reduced attractiveness, therefore less clients)	• Unknown but in the medium term (two years after changes), not significantly different from Option 1)
Community	• Benefit from recreation area management (visitor expenditures, waste, roads and amenities are well-managed)	• Costs of managing (current) recreation areas outside national parks	• Cost of environmental damage • Increase in complaints	• Costs of environmental damage in areas not covered by NCA • Costs of waste disposal • Costs of maintaining common amenities
Government	• Self-funded with \$38.8 million raised over next 10 years	• Self-funded up-to \$26.6 million over 10 years and no funding for Inskip Peninsula.	• Self-funded up-to \$26.6 million over 10 years and no funding for Inskip Peninsula. • Costs of managing (current) recreation areas outside national parks	• Self-funded with \$35.8 million raised over next 10 years • Costs of administering areas outside national parks • Cost of setting amendments to NCA and Regulation with no funding to manage Inskip Peninsula • Cost of dealing with owners of various tenures and making new agreements • Shires will have to deal with health and safety issues or abandon the facilities
Relative NPV	• Probably positive as management makes environmental damage, crowding and safety costs low	• Less than Option 1 because less visitors means lower consumer surplus and producer surplus	• Less than Option 1 because increased damage, crowding and safety risk, also possible decline in visitor numbers or Willingness To Pay over time	• Less than Option 1 because increased cost to government, possibly less money directed to management, same issues as Option 2 (b)

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ENDNOTES

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