



Transport Infrastructure Act 1994

Transport Infrastructure (Ports) Regulation 2016

Current as at 1 September 2016

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Queensland

Transport Infrastructure (Ports) Regulation 2016

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Transport Infrastructure (Ports) Regulation 2016

1 Short title

This regulation may be cited as the *Transport Infrastructure (Ports) Regulation 2016*.

2 Commencement

This regulation commences on 1 September 2016.

3 Definitions

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

4 Ports managed by port authorities

- (1) Schedule 1 lists—
 - (a) each port managed by a port authority; and
 - (b) the port authority that manages the port.
- (2) Schedule 1 is for information only.

5 Limits of Port of Brisbane

- (1) For section 267AA(3) of the Act, the limits of the Port of Brisbane are the extent of the area described in schedule 2, part 1, other than the area of any land above the high-water mark.
- (2) However, at the entrance of any waterway intersecting the high-water mark, the extent of that area runs in a straight line across that entrance.

6 Limits of other particular ports

- (1) For section 274(a) of the Act, the limits of each port mentioned in schedule 2, part 2 are the extent of the area described in schedule 2, part 2 for the port, other than the area of any land above the high-water mark.
- (2) Also, if the port is mentioned in schedule 2, part 2, division 1, the limits of the port include the extent of the area of waters of navigable rivers or creeks flowing directly or indirectly into waters that are—
 - (a) within the area described in that division for the port; and
 - (b) either—
 - (i) waters, including tidal waters, of the sea; or
 - (ii) waters connecting with any waters mentioned in subparagraph (i).
- (3) Despite subsection (1), if the port is mentioned in schedule 2, part 2, division 2, the limits of the port do not include the extent of the area of waters of rivers, other than the included rivers, or of creeks, that are—
 - (a) within the area described in that division for the port; and
 - (b) upstream of the mouths of the rivers or creeks.

Note—

A port mentioned in schedule 2, part 2 is mentioned in either division 1 or division 2 of that part, but not both.

- (4) For subsection (3), the following rivers are the ***included rivers***—
 - for the Port of Burketown—the Albert River
 - for the Port of Kurumba—the Norman River
 - for the Port of Skardon River—the Skardon River
 - for the Port of Weipa—the Mission River, Embley River or Hey River.

7 Additional function conferred on Far North Queensland Ports Corporation Limited

For section 275(1)(g) of the Act, the function conferred on the Far North Queensland Ports Corporation Limited is to lease or license its strategic port land at Cairns for the development and use of the land as cultural or tourism facilities.

8 Additional purpose of Far North Queensland Ports Corporation Limited prescribed for requirement to prepare land use plans

For section 285(1)(g) of the Act, the prescribed purpose of Far North Queensland Ports Corporation Limited is to lease or license its port authority land at Cairns to which section 285 of the Act applies, for the development and use of the land as cultural or tourism facilities.

9 Protection from liability

For section 290(2) of the Act, an official, other than a director of the board of a port authority, is not civilly liable for an act or omission done honestly and without negligence for the port authority.

Schedule 1 Port management

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Port	Port authority
Abbot Point	North Queensland Bulk Ports Corporation Limited
Bundaberg	Gladstone Ports Corporation Limited
Burketown	Far North Queensland Ports Corporation Limited
Cairns	Far North Queensland Ports Corporation Limited
Cape Flattery	Far North Queensland Ports Corporation Limited
Cooktown	Far North Queensland Ports Corporation Limited
Gladstone	Gladstone Ports Corporation Limited
Hay Point	North Queensland Bulk Ports Corporation Limited
Karumba	Far North Queensland Ports Corporation Limited
Lucinda	Port of Townsville Limited
Mackay	North Queensland Bulk Ports Corporation Limited
Maryborough	North Queensland Bulk Ports Corporation Limited
Mourilyan	Far North Queensland Ports Corporation Limited
Port Kennedy	Far North Queensland Ports Corporation Limited
Quintell Beach	Far North Queensland Ports Corporation Limited
Rockhampton	Gladstone Ports Corporation Limited
Skardon River	Far North Queensland Ports Corporation Limited
Townsville	Port of Townsville Limited
Weipa	North Queensland Bulk Ports Corporation Limited

Schedule 2 Port limits—areas for section 5(1) or 6

sections 5(1) and 6

Part 1 Port of Brisbane

1 Port of Brisbane

For section 5(1), the area is the area within the following—

- from the high water mark at the northern extremity of Point Cartwright at approximate latitude $26^{\circ} 40.765'$ south, longitude $153^{\circ} 08.341'$ east
- then generally north-easterly to latitude $26^{\circ} 38.327'$ south, longitude $153^{\circ} 15.830'$ east
- then south to latitude $26^{\circ} 49.000'$ south, longitude $153^{\circ} 15.830'$ east
- then generally south-westerly to latitude $26^{\circ} 50.383'$ south, longitude $153^{\circ} 11.261'$ east
- then generally south-easterly to latitude $27^{\circ} 07.221'$ south, longitude $153^{\circ} 21.670'$ east
- then generally southerly to latitude $27^{\circ} 14.557'$ south, longitude $153^{\circ} 21.160'$ east
- then generally south-easterly to latitude $27^{\circ} 15.547'$ south, longitude $153^{\circ} 22.642'$ east
- then generally south-south-westerly to latitude $27^{\circ} 20.486'$ south, longitude $153^{\circ} 20.816'$ east
- then generally west-south-westerly to the mangroves on the eastern side of Fisherman Islands at latitude $27^{\circ} 22.826'$ south, longitude $153^{\circ} 10.977'$ east
- then generally south-westerly passing through mangrove islands to the east of Fisherman Islands to latitude $27^{\circ} 23.980'$ south, longitude $153^{\circ} 10.171'$ east

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- then generally easterly to latitude 27° 23.914' south, longitude 153° 10.568' east
- then generally south-easterly to latitude 27° 25.012' south, longitude 153° 11.442' east
- then generally southerly to latitude 27° 25.172' south, longitude 153° 11.488' east
- then generally west-south-westerly to the high-water mark at approximate latitude 27° 25.543' south, longitude 153° 10.069' east on the mainland near Lytton
- then generally northerly and then westerly along the high-water mark of the southern bank of the Brisbane River to the north-western extremity of Bulimba Point at approximate latitude 27° 26.615' south, longitude 153° 03.064' east
- then generally north-westerly across the Brisbane River to the high-water mark of the Brisbane River at the eastern extremity of Newstead Park at approximate latitude 27° 26.539' south, longitude 153° 02.855' east
- then generally easterly along the high-water mark of the northern bank of the Brisbane River to approximate latitude 27° 23.675' south, longitude 153° 08.848' east on the south bank of Boggy Creek
- then generally north-westerly across Boggy Creek to the high-water mark on the north bank of Boggy Creek at approximate latitude 27° 23.497' south, longitude 153° 08.571' east
- then generally north-easterly along the high-water mark to approximate latitude 27° 22.681' south, longitude 153° 09.611' east at the eastern extremity of Luggage Point
- then generally north-easterly to latitude 27° 22.484' south, longitude 153° 09.765' east
- then generally northerly to latitude 27° 11.659' south, longitude 153° 10.808' east
- then generally east-north-easterly to latitude 27° 09.690' south, longitude 153° 18.706' east

- then generally north-north-westerly to latitude $26^{\circ} 51.833'$ south, longitude $153^{\circ} 08.631'$ east
- then generally northerly to latitude $26^{\circ} 49.485'$ south, longitude $153^{\circ} 08.227'$ east
- then generally north-easterly to latitude $26^{\circ} 48.232'$ south, longitude $153^{\circ} 09.849'$ east off Caloundra Head
- then generally northerly to latitude $26^{\circ} 44.957'$ south, longitude $153^{\circ} 09.844'$ east
- then generally westerly to the high-water mark on the mainland at approximate latitude $26^{\circ} 44.816'$ south, longitude $153^{\circ} 08.173'$ east
- then generally northerly along the high-water mark on the mainland to the northern extremity of Point Cartwright at approximate latitude $26^{\circ} 40.765'$ south, longitude $153^{\circ} 08.341'$ east.

Part 2 **Other particular ports**

Division 1 **Ports for section 6(2)**

2 **Port of Abbot Point**

For section 6(1) and (2), the area described for the Port of Abbott Point is the area within the following—

- from the high-water mark at longitude $147^{\circ} 59.06'$ east on the mainland
- to latitude $19^{\circ} 47.91'$ south, longitude $147^{\circ} 59.06'$ east
- to latitude $19^{\circ} 47.91'$ south, longitude $148^{\circ} 08.06'$ east
- to the high-water mark at the northern extremity of Gloucester Head on Gloucester Island
- along the high-water mark of Gloucester Island, in a westerly then southerly direction, to the southern extremity of Gloucester Island

- to the high-water mark at the northern extremity of Cape Gloucester on the mainland
- along the high-water mark, initially in a southerly direction, to the intersection with the northern edge of the wharf at Bowen
- to the port entrance beacon at Bowen Boat Harbour
- to the high-water mark at the southern extremity of Dalrymple Point
- along the high-water mark, initially in a northerly direction, to longitude 147° 59.06' east on the mainland.

3 Port of Bundaberg

For section 6(1) and (2), the area described for the Port of Bundaberg is the area within the following—

- from the high-water mark at latitude 24° 45.6' south, approximate longitude 152° 24.8' east on the eastern side of South Head
- to latitude 24° 45.6' south, longitude 152° 30' east
- to latitude 24° 40' south, longitude 152° 30' east
- to latitude 24° 40' south, longitude 152° 22' east
- to the high-water mark on the mainland at approximate latitude 24° 44.42' south, longitude 152° 22' east, crossing in a direct line over all islands and any other land
- along the high-water mark on the mainland, initially in an easterly direction, to the downstream side of the barrage crossing the Burnett River
- along the high-water mark of the downstream side of the barrage to the high water mark on the opposite bank of the Burnett River
- along the high-water mark of the bank of the Burnett River to latitude 24° 45.6' south, approximate longitude 152° 24.8' east on the eastern side of South Head.

4 Port of Cairns

For section 6(1) and (2), the area described for the Port of Cairns is the area within the following—

- from the high-water mark at the northern extremity of Taylor Point
- to the low-water mark at the northern extremity of the coral reef surrounding Green Island (approximate latitude 16° 45.62' south, longitude 145° 58.00' east)
- along the low-water mark of the coral reef, initially in an easterly direction, to the eastern extremity of the coral reef surrounding Green Island (approximate latitude 16° 45.89' south, longitude 145° 59.91' east)
- to the high-water mark on the northern shore of Fitzroy Island (latitude 16° 55.33' south, longitude 145° 59.91' east)
- along the high-water mark of Fitzroy Island, initially in a south-westerly direction, to latitude 16° 56.32' south, longitude 145° 59.91' east on the southern shore of Fitzroy Island
- to latitude 17° 00.45' south, longitude 145° 59.91' east
- to the high-water mark at the eastern extremity of the northern bank of Buddabadoo Creek on the mainland
- along the high-water mark, initially in a northerly direction, to the northern extremity of Taylor Point.

5 Port of Cape Flattery

For section 6(1) and (2), the area described for the Port of Cape Flattery is the area within the following—

- from the high-water mark at the north-eastern extremity of Point Lookout
- to latitude 14° 49.910' south, longitude 145° 15.319' east
- to latitude 14° 55.110' south, longitude 145° 22.158' east
- to latitude 14° 59.910' south, longitude 145° 22.962' east

- due west to the high-water mark on the mainland at approximate latitude $14^{\circ} 59.910'$ south
- along the high-water mark, initially in a northerly direction, to the north-eastern extremity of Point Lookout.

6 Port of Cooktown

For section 6(1) and (2), the area described for the Port of Cooktown is the area within the following—

- from the high-water mark at the eastern extremity of Monkhouse Point
- to a point on the mainland bearing 354.4° true from the eastern extremity of Monkhouse Point
- along the high-water mark, initially in a southerly direction, to the eastern extremity of Monkhouse Point.

7 Port of Gladstone

For section 6(1) and (2), the area described for the Port of Gladstone is the area within the following—

- from the high-water mark at the most eastern extremity of Connor Bluff on Curtis Island
- to latitude $23^{\circ} 53.80'$ south, longitude $151^{\circ} 32.60'$ east
- to latitude $23^{\circ} 57.12'$ south, longitude $151^{\circ} 32.60'$ east
- to the high-water mark at the most northern extremity of Tiber Point on Hummock Hill Island
- then due west across Colosseum Inlet to the high-water mark of Wild Cattle Island
- along the high-water mark of Wild Cattle Island, in a north-westerly direction, to the northern extremity of Wild Cattle Island
- then due west to the high-water mark on the mainland

- along the high-water mark, initially in a northerly direction, to the north bank of Munduran Creek at its junction with The Narrows
- to the high-water mark on the north bank of Monte Christo Creek on Curtis Island at its junction with The Narrows
- along the high-water mark, initially in a south-easterly direction, to the most eastern extremity of Connor Bluff on Curtis Island.

8 Port of Hay Point

For section 6(1) and (2), the area described for the Port of Hay Point is the area within the following—

- from the high-water mark at the southern extremity of the north head of Bakers Creek entrance
- then generally north-easterly along the geodesic to latitude $21^{\circ} 10.76'$ south, longitude $149^{\circ} 17.73'$ east
- then generally north-easterly along the geodesic to latitude $21^{\circ} 09.91'$ south, longitude $149^{\circ} 20.06'$ east
- then east along the parallel to latitude $21^{\circ} 09.91'$ south, longitude $149^{\circ} 30.06'$ east
- then south along the meridian to latitude $21^{\circ} 17.91'$ south, longitude $149^{\circ} 30.06'$ east
- then west along the parallel to the intersection of the high-water mark on the mainland with latitude $21^{\circ} 17.91'$ south
- then generally northerly along the high-water mark to the southern extremity of the north head of Bakers Creek entrance.

9 Port of Lucinda

For section 6(1) and (2), the area described for the Port of Lucinda is the area within the following—

- from the high-water mark at latitude 18° 28.71' south on the eastern side of Hinchinbrook Island
- to latitude 18° 28.71' south, longitude 146° 25.97' east
- to latitude 18° 34.71' south, longitude 146° 25.97' east
- to the high-water mark on the mainland at latitude 18° 34.71' south
- along the high-water mark, initially in a northerly direction, to the northern extremity of the east bank of the mouth of Post Office Creek
- to the high-water mark on the eastern side of Hinchinbrook Island at longitude 146° 19.52' east
- along the high-water mark of Hinchinbrook Island, initially in an easterly direction, to latitude 18° 28.71' south on the eastern side of Hinchinbrook Island.

10 Port of Mackay

For section 6(1) and (2), the area described for the Port of Mackay is the area within the following—

- from the high-water mark at the northern extremity of Slade Point
- then generally easterly along the geodesic to latitude 21° 03.81' south, longitude 149° 22.06' east
- then south along the meridian to latitude 21° 09.91' south, longitude 149° 22.06' east
- then west along the parallel to latitude 21° 09.91' south, longitude 149° 20.06' east
- then generally south-westerly along the geodesic to latitude 21° 10.76' south, longitude 149° 17.73' east
- then generally north-westerly along the geodesic to the intersection of the high-water mark on the mainland with the parallel of latitude 21° 07.14' south
- then generally northerly along the high-water mark to the northern extremity of Slade Point.

11 Port of Maryborough

For section 6(1) and (2), the area described for the Port of Maryborough is the area within the following—

- from the high-water mark at latitude 25° 06.91' south on the mainland
- to the high-water mark at latitude 25° 06.91' south on Fraser Island
- along the high-water mark of Fraser Island, initially in southerly direction, to the eastern extremity of Hook Point on Fraser Island
- to the high-water mark at the eastern extremity of Inskip Point on the mainland
- along the high-water mark, initially in a north-westerly direction, to latitude 25° 06.91' south on the mainland.

12 Port of Mourilyan

For section 6(1) and (2), the area described for the Port of Mourilyan is the area within the following—

- from the intersection of the high-water mark and latitude 17° 39.009' south in the vicinity of the eastern side of Double Point
- to latitude 17° 39.009' south, longitude 146° 11.565' east
- to latitude 17° 34.909' south, longitude 146° 10.264' east
- to the high-water mark on the mainland at latitude 17° 34.909' south
- along the high-water mark, in a southerly direction, to latitude 17° 39.009' south in the vicinity of the eastern side of Double Point.

13 Port of Port Kennedy (Thursday Island)

For section 6(1) and (2), the area described for the Port of Port Kennedy is the area within the following—

Schedule 2

- from the high-water mark at the western extremity of Smith Point on Horn Island
- to the high-water mark at the northern extremity of Heath Point on Prince of Wales Island
- to the high-water mark at the eastern extremity of Webb Point on Friday Island
- along the high-water mark of Friday Island, initially in a westerly direction, to the western extremity of Pott Point on Friday Island
- to the high-water mark at the western extremity of Tucker Point on Goode Island
- along the high-water mark of Goode Island, initially in a south-easterly direction, to the eastern extremity of Tessy Head on Goode Island
- to the high-water mark at the western extremity of Hammond Island (known as Diamond Point)
- along the high-water mark of Hammond Island, initially in a south-easterly direction, to the eastern extremity of Menmuir Point on Hammond Island
- to the high-water mark at the northern extremity of King Point on Horn Island
- along the high-water mark of Horn Island, initially in a westerly direction, to the western extremity of Smith Point on Horn Island.

14 Port of Quintell Beach

For section 6(1) and (2), the area described for the Port of Quintell Beach is the area within the following—

- from the high-water mark at the eastern extremity of the south bank of Quintell Creek
- to latitude 12° 46.81' south, longitude 143° 22.73' east
- to latitude 12° 50.26' south, longitude 143° 22.73' east

- to the high-water mark at the eastern extremity of the north bank of the Claudie River
- along the high-water mark, initially in a northerly direction, to the eastern extremity of the south bank of Quintell Creek.

15 Port of Rockhampton

For section 6(1) and (2), the area described for the Port of Rockhampton is the area within the following—

- from the high-water mark at the eastern extremity of Cattle Point
- to the high-water mark at the southern extremity of Arch Rock
- to the high-water mark at the northern extremity of Cape Keppel on Curtis Island
- along the high-water mark, in a westerly then southerly direction, to the north bank of Monte Christo Creek at its junction with The Narrows
- to the high-water mark on the north bank of Munduran Creek at its junction with The Narrows
- along the high-water mark, in a northerly direction, to the northern extremity of Division Point
- to latitude 23° 33' south, longitude 150° 58' east
- to the high-water mark at latitude 23° 33' south on Balaclava Island
- along the high-water mark of Balaclava Island, in a northerly then westerly direction, to the western extremity of Kazatch Point
- to the high-water mark at the northern extremity of Chersonese Point
- along the high-water mark on the east bank of Raglan Creek to latitude 23° 36.9' south

Schedule 2

- to the high-water mark at latitude 23° 36.9' south on the west bank of Raglan Creek
- along the high-water mark, in a northerly then westerly direction, to longitude 150° 50' east on the south bank of Casuarina Creek
- to the high-water mark at longitude 150° 50' east on the north bank of Casuarina Creek
- along the high-water mark, in an easterly direction, to the eastern extremity of Shell Point on Casuarina Island
- to the high-water mark at the eastern extremity of Cattle Point.

16 Port of Townsville

For section 6(1) and (2), the area described for the Port of Townsville is the area within the following—

- from the high-water mark at the northern extremity of Cape Cleveland
- to latitude 19° 05.41' south, longitude 146° 52.06' east
- to latitude 19° 05.41' south, longitude 146° 45.06' east
- to the high-water mark on the mainland at longitude 146° 45.06' east
- along the high-water mark, initially in an easterly direction, to the northern extremity of Cape Cleveland.

Division 2 Ports for section 6(3)

17 Port of Burketown

For section 6(1) and (3), the area described for the Port of Burketown is the area within the following—

- from the high-water mark at latitude 17° 33.81' south, longitude 139° 44.97' east in the vicinity of Stokes Point
- to latitude 17° 26.83' south, longitude 139° 48.31' east

- to latitude 17° 27.38' south, longitude 139° 49.33' east
- to the high-water mark at latitude 17° 34.55' south, longitude 139° 45.89' east in the vicinity of Kangaroo Point
- along the high-water mark of the east bank of the Albert River to the head of navigation
- to the high-water mark on the west bank of the Albert River at the head of navigation
- along the high-water mark on the west bank of the Albert River to latitude 17° 33.81' south, longitude 139° 44.97' east in the vicinity of Stokes Point.

18 Port of Karumba

For section 6(1) and (3), the area described for the Port of Kurumba is the area within the following—

- from the high-water mark at the northern extremity of the west bank of the mouth of the Norman River
- along the high-water mark, initially in a south-westerly direction, to latitude 17° 30.0' south
- to latitude 17° 24.0' south, longitude 140° 41.0' east
- to latitude 17° 20.2' south, longitude 140° 47.9' east
- to the high-water mark on the mainland at latitude 17° 25.5' south
- along the high-water mark, initially in a south-westerly direction, to longitude 140° 52.0' east on the north bank of the Norman River
- to the high-water mark on the south bank of the Norman River at longitude 140° 52.0' east
- along the high-water mark, initially in a north-westerly direction, to the northern extremity of the west bank of the mouth of the Norman River.

19 Port of Skardon River

For section 6(1) and (3), the area described for the Port of Skardon River is the area within the following—

- from the high-water mark at approximate latitude $11^{\circ} 44.50'$ south, longitude $142^{\circ} 00.12'$ east on the mainland
- along the high-water mark, initially in a southerly and easterly direction to approximate latitude $11^{\circ} 44.39'$ south, longitude $142^{\circ} 05.00'$ east on the north bank of the northern arm of the Skardon River
- to the high-water mark at approximate latitude $11^{\circ} 44.74'$ south, longitude $142^{\circ} 05.00'$ east on the south bank of the northern arm of the Skardon River
- along the high-water mark, initially in a westerly and southerly direction, to approximate latitude $11^{\circ} 46.00'$ south, longitude $142^{\circ} 04.90'$ east on the east bank of the southern arm of the Skardon River
- to the high-water mark at approximate latitude $11^{\circ} 46.00'$ south, longitude $142^{\circ} 04.70'$ east on the west bank of the southern arm of the Skardon River
- along the high-water mark, initially in a westerly and northerly direction, to approximate latitude $11^{\circ} 47.00'$ south, longitude $141^{\circ} 58.54'$ east on the mainland
- to latitude $11^{\circ} 47.00'$ south, longitude $141^{\circ} 57.00'$ east
- to latitude $11^{\circ} 44.50'$ south, longitude $141^{\circ} 57.00'$ east
- to the high-water mark at approximate latitude $11^{\circ} 44.50'$ south, longitude $142^{\circ} 00.12'$ east on the mainland.

20 Port of Weipa

For section 6(1) and (3), the area described for the Port of Weipa is the area within the following—

- from the high-water mark at the northern extremity of Boyd Point
- to the high-water mark at the western extremity of Jantz Point (west of Duyfken Point)

- along the high-water mark, initially in a south-easterly direction, to latitude $12^{\circ} 29.0'$ south on the west bank of Pine River Bay
- to the high-water mark at latitude $12^{\circ} 29.0'$ south on the east bank of Pine River Bay
- along the high-water mark, initially in a southerly direction, to longitude $141^{\circ} 57.0'$ east on the north bank of the Mission River
- to the high-water mark at longitude $141^{\circ} 57.0'$ east on the south bank of the Mission River
- along the high-water mark, initially in a westerly direction, to longitude $141^{\circ} 57.0'$ east on the north bank of the Embley River
- to the high-water mark at longitude $141^{\circ} 57.0'$ east on the south bank of the Embley River
- along the high-water mark, initially in a westerly direction, to latitude $12^{\circ} 51.0'$ south on the east bank of the Hey River
- to the high-water mark at latitude $12^{\circ} 51.0'$ south on the west bank of the Hey River
- along the high-water mark, initially in a northerly direction, to the northern extremity of Boyd Point.

Schedule 3 Dictionary

section 3

Far North Queensland Ports Corporation Limited means Far North Queensland Ports Corporation Limited ACN 131 836 014.

geodesic means a line between 2 points that follows the curvature of the earth.

Gladstone Ports Corporation Limited means Gladstone Ports Corporation Limited ACN 131 965 896.

high-water mark means ordinary high-water mark at spring tides.

latitude means latitude using the coordinate framework known as Geocentric Datum of Australia (GDA94).

longitude means longitude using the coordinate framework known as Geocentric Datum of Australia (GDA94).

low-water mark means ordinary low-water mark at spring tides.

North Queensland Bulk Ports Corporation Limited means North Queensland Bulk Ports Corporation Limited ACN 136 880 218.

Port of Townsville Limited means Port of Townsville Limited ACN 130 077 673.

tidal waters means the sea, or any part of a watercourse, ordinarily within the ebb and flow of the tide.