



Queensland

*Wet Tropics World Heritage Protection and Management Act  
1993*

# **Wet Tropics Management Plan 1998**

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Queensland

# Wet Tropics Management Plan 1998

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# Wet Tropics Management Plan 1998

## Part 1 Preliminary

### 1 Short title

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

### 2 Commencement

This plan commences on 1 September 1998.

### 3 Definitions and dictionary

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

### 3A Meaning of *rainforest area*

- (1) A *rainforest area* is an area of land shown on the regional ecosystem map and designated by a regional ecosystem number mentioned in schedule 2B.
- (2) However, to the extent that the area of land is shown on a property map of assessable vegetation and is designated by a regional ecosystem number that is not mentioned in schedule 2B, the area is not a *rainforest area*.
- (3) In this section—

*property map of assessable vegetation* see the *Vegetation Management Act 1999*, section 20AK.

*regional ecosystem map* means the map, kept by the Queensland Herbarium, that shows the locations of the regional ecosystems described in the regional ecosystem description database.

*Note—*

The regional ecosystem map is available on the Queensland Government website.

#### **4 Publication and inspection of zoning map and other documents**

- (1) This section applies in relation to—
  - (a) the zoning map; or
  - (b) another document, if the authority is required under a provision of this plan to ensure the document is available for inspection under this section.
- (2) The authority must ensure—
  - (a) the zoning map or other document—
    - (i) is published on the authority’s website; and
    - (ii) may be inspected free of charge, during office hours at the authority’s head office and any other places the authority considers appropriate; and
  - (b) a copy of the zoning map, or a part of the zoning map, or the other document may be purchased from the authority for a reasonable fee.

#### **5 Forms**

The executive director may approve forms for use under this plan.

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## Part 2 Management zones

### Division 1 Establishment of zones

#### 6 Management zones

- (1) For managing the wet tropics area, the area is divided into the following management zones—
  - zone A
  - zone B
  - zone C.
- (2) Each zone is established according to the management purposes of the zone stated in division 2.

#### 7 Zoning map

- (1) Each zone is shown on the zoning map prepared and held by the authority in digital electronic form.
- (2) Subject to subsection (3)—
  - (a) the exact location of the boundary of a zone shown on the zoning map is held in digital electronic form by the authority; and
  - (b) the information held in digital electronic form can be reduced or enlarged to show the details of the boundary of the zone.
- (3) The zoning map may include other information to help to identify the exact location of the boundary of a zone.

*Example of other information—*

The zoning map may identify the exact location of the boundary of a zone by reference to a stated distance from a geographical feature, road or structure shown on the map.

## **Division 2                      Management purposes of zones**

### **10            Management purposes of zone A**

- (1) The main management purpose of zone A is to protect and conserve the world heritage values and integrity of land in the zone.
- (2) Other management purposes of zone A are—
  - (a) if land in the zone is disturbed—to restore and enhance the world heritage values and integrity of the land if, and to the extent, it is reasonably practicable; and
  - (b) to enable visitors to access parts of the land in the zone to appreciate and enjoy the area.

### **11            Management purposes of zone B**

- (1) The main management purpose of zone B is to protect and conserve the world heritage values and integrity of land in the zone.
- (2) Other management purposes of zone B are—
  - (a) if land in the zone is disturbed—to restore and enhance the world heritage values and integrity of the land if, and to the extent, it is reasonably practicable; and
  - (b) to enable visitors to access parts of the land in the zone to appreciate and enjoy the area; and
  - (c) to be a buffer between zone A and community services infrastructure.

### **12            Management purposes of zone C**

- (1) The main management purposes of zone C are—
  - (a) to protect and enhance the world heritage values and integrity of the land in the zone, subject to paragraphs (b) and (c); and
  - (b) subject to paragraph (c), to accommodate—

- (i) community services infrastructure and visitor infrastructure; and
  - (ii) particular existing uses of parts of the zone shown on the zoning map; and
  - (c) to minimise any adverse impact of any activities allowed to be carried out in the zone on the world heritage values and integrity of the land in the zone.
- (2) Another management purpose of zone C is to ensure, so far as is reasonably practicable, that any visitor infrastructure on land in the zone is built and maintained in a way that—
- (a) is ecologically sustainable; and
  - (b) is sensitively integrated into the surrounding landscape; and
  - (c) enhances visitors' understanding and appreciation of the natural and cultural heritage of the area.

## **Division 3                      Procedures for rezoning land and amending zoning map**

### **Subdivision 1                General rezoning and amendment procedures**

#### **13            Application of subdivision**

- (1) This subdivision applies if the authority proposes to rezone land in the area or amend the zoning map for another purpose.
- (2) However, this subdivision does not apply to rezoning of land in the area to which section 17 and schedule 1 apply.

#### **14            Procedure for amending zoning map generally**

- (1) This section applies for amending the zoning map other than under section 15 or schedule 1, section 3.

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- (2) The zoning map may be amended only by complying with the procedure (the *applied amendment procedure*) under sections 44, 45, 46 and 47(1) and (2) of the Act, as if a reference in the sections to a management plan were a reference to a zoning map.
- (3) Notice of the Governor in Council's approval of a final zoning map must be published in the gazette.
- (4) A final zoning map commences on the day the gazette notice is published or any later day stated in the notice.
- (5) The authority may prepare guidelines about matters the authority may consider for amending the zoning map under this section.
- (6) If the authority prepares guidelines under subsection (5)—
  - (a) the authority may have regard to the guidelines for—
    - (i) considering any submissions made in response to a draft zoning map; and
    - (ii) preparing a final zoning map; and
  - (b) the authority must ensure the guidelines are available for inspection under section 4.
- (7) In this section—

*draft zoning map* means a draft zoning map required to be prepared under the applied amendment procedure.

*final zoning map* means a final zoning map required to be prepared under the applied amendment procedure.

## 15 Procedure for amending zoning map for particular purposes

- (1) The authority may amend the zoning map (the *old zoning map*) under this section for any of the following purposes—
  - (a) to show land in the area that is the subject of a registered cooperative management agreement;
  - (b) to make a change to the boundary of a zone that is a minor change under section 16;

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- (c) to show the location of existing community services infrastructure not shown on the zoning map, and to insert or change the boundary of a zone by reference to the location of the community services infrastructure;
  - (d) to change the boundary of a zone the authority is satisfied is incorrectly shown on the zoning map by reference to the actual location of a geographical feature, road or structure;
  - (e) to correct a minor error or make another change that is not a change of substance.
- (2) The authority may amend the old zoning map by—
- (a) preparing another zoning map (the *new zoning map*) that replaces the old zoning map; and
  - (b) publishing the new zoning map on the authority's website.
- (3) The new zoning map commences on the day the zoning map is published under subsection (2)(b) or the later day stated on the zoning map.
- (4) A failure to ensure the new zoning map is available for inspection under section 4 does not invalidate or otherwise affect the new zoning map.
- (5) In this section—
- existing community services infrastructure* means community services infrastructure that—
- (a) existed immediately before 1 September 1998 and has continued in existence since that day; or
  - (b) has been lawfully built under this plan.

## 16 Criteria for minor change to zone boundary

- (1) For section 15(1)(b), a proposed change to the boundary of a zone is a minor change if the authority considers the change is minor having regard to—

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- (a) the size of the area of land that will be affected by the change (the *affected land*); and
  - (b) the activities (the *new activities*) that are proposed to be carried out on the affected land after the change is made; and
  - (c) the likely impact of carrying out the new activities, including—
    - (i) the extent to which the affected land is likely to be disturbed; and
    - (ii) the impact on the world heritage values and integrity of land in the area.
- (2) The authority may prepare guidelines about matters that may be relevant for deciding whether a proposed change to the boundary of a zone is a minor change under subsection (1).
- (3) If the authority prepares guidelines under subsection (2)—
- (a) the authority may have regard to the guidelines in deciding whether a proposed change to the boundary of a zone is a minor change; and
  - (b) the authority must ensure the guidelines are available for inspection under section 4.

## **Subdivision 2      Special rezoning procedures**

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

- (1) The zoning map may also be amended under schedule 1.
- (2) Schedule 1 provides for the rezoning of land in the area from zone B to zone C, on the application of a local government or State government entity, to accommodate essential community services infrastructure.



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## Division 4                      Other matters

### 18      Register of amendments of zoning map

- (1) The authority must keep a register of amendments of the zoning map under this section.
- (2) If the zoning map (the *old zoning map*) is amended under section 14 or 15 or schedule 1, section 3, the authority must—
  - (a) record in the register—
    - (i) for a significant amendment—brief details of the basis on which the old zoning map was amended; and
    - (ii) for an amendment only under section 15(1)(e)—full details of the amendment; and
    - (iii) the day the replacement map for the old zoning map commences; and
  - (b) for a significant amendment—keep the old zoning map, or the part of that map that has been amended, in the register.
- (3) The authority must ensure the register, including each old zoning map or part kept under subsection (2)(b), is available for inspection under section 4.
- (4) In this section—

*replacement map*, for the old zoning map, means—

  - (a) if the old zoning map was amended under section 14—the final zoning map mentioned in section 14(3); or
  - (b) if the old zoning map was amended under section 15—the new zoning map mentioned in section 15(2)(a); or
  - (c) if the old zoning map was amended under schedule 1, section 3—the amended zoning map mentioned in section 3(7) of the schedule.

*significant amendment* means an amendment other than an amendment only under section 15(1)(e).

## **Part 3                      Control of activities**

### **Division 1                      Explanation**

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

- (1) Activities in the wet tropics area are controlled under the Act and this plan.
- (2) The main way the Act controls activities is under section 56 of the Act, which contains offences about destroying forest products.
- (3) This plan controls activities by—
  - (a) prohibiting certain activities; and
  - (b) allowing certain activities, which would otherwise be prohibited, to be carried out (either under a permit or without a permit); and
  - (c) exempting certain activities that destroy forest products, the consequence of which is that a person does not commit an offence against section 56 of the Act by carrying out the activities.

*Note—*

See division 6 (Exemptions).

- (4) This plan also provides for a person to enter into a cooperative management agreement with the authority changing the way this plan applies to the person.

#### **23                      Relationship with native title rights**

- (1) This plan applies to native title holders for land in the area but controls activities in a way that does not cause the native title

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holders to be in a more disadvantageous position at law than they would be if they instead held ordinary title to the land.

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

(3) In this section—

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

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

To remove any doubt, it is declared that—

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

## **Division 2 Prohibited activities**

### **25 Destroying forest products**

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

### **26 Other prohibited activities**

- (1) A person must not, without a reasonable excuse, carry out any of the following activities in the wet tropics area, except so far as the activity is lawfully carried out under division 3 or 4 or a registered cooperative management agreement—

[s 26]

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- (a) planting, cultivating, propagating or disposing of an undesirable plant;
- (b) keeping or grazing an undesirable animal, bringing in an undesirable animal, or allowing an undesirable animal to stray or escape onto, or remain at, any place in the area;
- (c) translocating a crustacean or fish;
- (d) mining, fossicking, eductor dredging or destructive mineral exploration;
- (e) excavating, grading, quarrying or otherwise interfering with earth;
- (f) interfering with a watercourse by extracting or diverting water, damming the watercourse or carrying out another activity interfering with its natural flow;
- (g) building or maintaining community services infrastructure, visitor infrastructure or another structure;
- (h) building or maintaining a road, other than a road that is community services infrastructure;
- (i) disposing of waste;
- (j) operating a waste facility;
- (k) operating a motor vehicle;
- (l) operating a motorised boat;
- (m) flying a motorised aircraft less than 1,000ft above the area, or landing a motorised aircraft, for commercial purposes;
- (n) reconfiguring a lot, if the reconfiguration would be assessable development for which a local government would be the assessment manager.

Maximum penalty—

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

- (c) for subsection (1)(k), (l), (m) or (n)—50 penalty units.
- (2) To remove any doubt, it is declared that subsection (1), other than (1)(m), applies to an activity whether or not it is carried out as a business.

## **Division 3                      Allowed activities**

### **27            Particular activities allowed in all zones**

- (1) A person may carry out any of the following activities in the wet tropics area—
  - (a) an activity for—
    - (i) protecting the life of, or preventing injury to, a person, if the activity is carried out in an emergency; or
    - (ii) the urgent protection of property; or
    - (iii) the urgent control of a fire or other natural disaster;
  - (b) maintaining a firebreak that existed immediately before 1 September 1998 or was lawfully established under this plan;
  - (c) operating a motorised boat in a dam, in tidal waters or on Lake Barrine, if the operation is otherwise lawful;
  - (d) burning vegetation, other than in a rainforest area, if the burning is otherwise lawful;
  - (e) transporting an undesirable animal through the area, in a vehicle or within some other constraint, in a way that ensures the animal cannot stray or escape onto land in the area;
  - (f) grazing cattle, other than in a rainforest area, if the grazing is otherwise lawful;
  - (g) mining under a licence, permit or other authority under the *Mineral Resources Act 1989*;

[s 27A]

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- (h) for a government—the operation of community services infrastructure being lawfully operated by the government immediately before 1 September 1998;
- (i) disposing of general waste in a container provided by the land-holder for that purpose, subject to section 29 as it applies to the land-holder disposing of waste;

*Example for paragraph (i)—*

a member of the public disposing of food waste in a rubbish bin on land in a protected area if the bin is provided by the land-holder for that purpose

- (j) flying a motorised aircraft, for commercial purposes, less than 1,000ft above the area if—
  - (i) ascending while taking-off from a place outside the area; or
  - (ii) flying at a level that is reasonably necessary for safety purposes; or
  - (iii) descending to land at a place outside the area.

*Note—*

See also section 23.

- (2) In this section—

***cattle*** means European cattle or zebu cattle.

***preventing injury***, to a person, includes, if the person has been injured, reducing the injury or preventing further injury.

## **27A Keeping a dog or cat**

- (1) A person may keep a dog or cat on land in the wet tropics area if—
  - (a) the land is private land or land in relation to which native title exists; and
  - (b) the person is the land-holder or native title holder or has the permission of the land-holder or native title holder to keep the dog or cat; and

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- (c) for land in a rainforest area—the person keeps the dog or cat within the curtilage of a residence on the land; and
  - (d) the person keeps the dog or cat in a way that—
    - (i) complies with the relevant local laws; and
    - (ii) otherwise minimises the risk of the dog or cat threatening native animals (the *relevant risk*).
- (2) A person keeps a dog or cat in a way that minimises the relevant risk if the person keeps the dog or cat—
- (a) indoors or within a securely enclosed area; or
  - (b) for a dog—restrained by a leash; or
  - (c) in another way that minimises the relevant risk.
- (3) For subsection (2)(c), the authority may prepare guidelines about the ways a cat or dog may be kept that minimise the relevant risk.
- (4) If the authority prepares guidelines under subsection (3), the authority must ensure the guidelines are available for inspection under section 4.
- (5) In this section—

*native animals* means animals that are native wildlife under the *Nature Conservation Act 1992*.

*threatening*, native animals, includes attacking, chasing, hunting, injuring, preying on and stalking the animals.

## **27B Keeping honey bees**

- (1) A person may keep honey bees on land in the wet tropics area if—
- (a) the land is private land or land in relation to which native title exists but is not in a rainforest area; and
  - (b) the person is the land-holder or native title holder or has the permission of the land-holder or native title holder to keep the honey bees; and
  - (c) the person keeps the honey bees in a way that—

[s 27C]

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- (i) complies with the *Biosecurity Act 2014*; and
  - (ii) otherwise minimises the risk of the bees swarming (the *relevant risk*).
- (2) A person keeps honey bees in a way that minimises the relevant risk if—
  - (a) the person ensures—
    - (i) the bee colony is divided into 2 or more units as the swarming season approaches; and
    - (ii) additional honey supers for brood rearing and honey storage are provided as reasonably required; and
    - (iii) old or failing queen bees are replaced as reasonably necessary; or
  - (b) the person keeps the bees in another way that minimises the relevant risk.
- (3) For subsection (2)(b), the authority may prepare guidelines about the ways honey bees may be kept that minimise the relevant risk.
- (4) If the authority prepares guidelines under subsection (3), the authority must ensure the guidelines are available for inspection under section 4.

## **27C Operating a motor vehicle on particular roads**

- (1) A person may operate a motor vehicle in the wet tropics area—
  - (a) on a road shown on the zoning map; or
  - (b) on a road in a protected area; or
  - (c) on a road in a State forest or timber reserve.
- (2) Without limiting section 24(a)—
  - (a) the operation of a motor vehicle on a road mentioned in subsection (1)(b) is subject to any restriction under the *Nature Conservation Act 1992*, including, for example,



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a restriction under a nature conservation regulatory notice; and

(b) the operation of a motor vehicle on a road mentioned in subsection (1)(c) is subject to any restriction under the *Forestry Act 1959*, including, for example, a restriction under a forestry regulatory notice.

(3) In this section—

***forestry chief executive*** means the chief executive of the department in which the *Forestry Act 1959* is administered.

***forestry regulatory notice*** means a notice, displayed by the forestry chief executive under the *Forestry Act 1959*, section 34AA, regulating the use of a vehicle in a State forest or timber reserve.

***nature conservation regulatory notice*** means a sign or marking, erected or placed by the nature conservation chief executive under the *Nature Conservation Act 1992*, regulating the use of a vehicle in a protected area.

***State forest*** see the *Forestry Act 1959*, schedule 3.

***timber reserve*** see the *Forestry Act 1959*, schedule 3.

## 28 Activities with minor and inconsequential impact

(1) A person may carry out an activity in the wet tropics area that—

(a) causes no more than minor and inconsequential destruction of a forest product; and

(b) has no more than a minor and inconsequential adverse impact on the world heritage values and integrity of the area; and

(c) causes no more than minor and inconsequential interference with earth or a watercourse.

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

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- (a) maintaining a residence;
  - (b) maintaining the following things around a residence—a structure, garden, lawful access road or small clearing;
  - (c) driving a vehicle off a road to the extent necessary to get around an immovable obstacle on the road;
  - (d) bushwalking in the area;
  - (e) taking water from a watercourse for personal consumption while in the area.
- (3) However, subsection (1) does not allow a person to—
- (a) fly a motorised aircraft less than 1,000ft above the area, or land a motorised aircraft, for commercial purposes; or
  - (b) reconfigure a lot, if the reconfiguration would be assessable development for which a local government would be the assessment manager.
- (4) For subsection (1), the authority may prepare guidelines about activities that may be carried out in a way that complies with subsection (1).
- (5) If the authority prepares guidelines under subsection (4), the authority must ensure the guidelines are available for inspection under section 4.

## **29 Particular allowed activities by persons with an interest in land**

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

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(4) A person may, under the permission of a land-holder, native title holder or government mentioned in subsection (1), (2) or (3), carry out an allowed activity for the land to which the subsection relates so far as the land-holder, native title holder or government may carry out the activity under the subsection.

(5) In this section—

**allowed activity**, for land in the area, means—

- (a) an activity on the land for the protection, conservation or rehabilitation of the world heritage values and integrity of the area; or
- (b) operating a motor vehicle on a lawful access road for the land; or
- (c) disposing of commercial waste or domestic waste consisting of organic matter, or green waste, on the land, if the waste is disposed of in a way that causes the least adverse impact on the world heritage values and integrity of the land; or

*Examples of ways of disposal for paragraph (c)—*

burying, composting

- (d) storing general waste, other than general waste to which paragraph (c) applies, on the land, if—
  - (i) the waste is stored in a way that does not impact the world heritage values and integrity of the land; and
  - (ii) the waste is stored temporarily and removed from the area for disposal at reasonable intervals.

**commercial waste** see the *Environmental Protection Regulation 2019*, schedule 19, part 2.

**domestic waste** see the *Environmental Protection Regulation 2019*, schedule 19, part 2.

**green waste** see the *Environmental Protection Regulation 2019*, schedule 19, part 2.

### **30 Certain activities by nature conservation chief executive**

- (1) The nature conservation chief executive may carry out an activity in a protected area in the wet tropics area if the nature conservation chief executive considers the activity would be—
  - (a) consistent with part 4, divisions 2 to 4, as if a reference in the divisions to the authority deciding a permit application were a reference to the nature conservation chief executive deciding whether to carry out the activity under this section; and
  - (b) consistent with the management principles prescribed for the protected area under the *Nature Conservation Act 1992*, or necessary to protect cultural values in the protected area.
- (2) In carrying out an activity under subsection (1), the nature conservation chief executive must comply with section 10(4) to (6) of the Act, as if a reference to the authority performing its functions were a reference to the nature conservation chief executive carrying out the activity.

### **31 Certain activities by authority**

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

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

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

- (1) This division specifies activities (each a *permitted activity*) for which a permit may be issued.

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- (2) If a permit is issued to a person under this plan for a permitted activity, the person may carry out the activity under the permit.
  - (3) To remove any doubt, it is declared that—
    - (a) it is only necessary to apply for a permit for a permitted activity if carrying out the activity without a permit would be unlawful under this plan; and
    - (b) if a person has a native title right or interest to carry out an activity, this division applies subject to the *Native Title Act 1993* (Cwlth), section 211.

*Note—*

*Native Title Act 1993* (Cwlth), section 211 limits the operation of certain laws that would otherwise prohibit or restrict native title holders from exercising certain native title rights (such as hunting or fishing) other than under a licence, permit or other instrument.

### **33 Activities permitted in all zones**

- (1) A permit may be issued to a person to carry out any of the following activities on land in the wet tropics area—
  - (a) an activity the person was lawfully carrying out immediately before the 2020 amendment day;
  - (b) an activity the person has a native title right or interest to carry out;
  - (c) maintaining community services infrastructure, visitor infrastructure or another structure;
  - (d) maintaining a road, other than a road that is community services infrastructure;
  - (e) clearing vegetation around a structure or road to the extent necessary for its appropriate use, if the structure or road—
    - (i) existed immediately before 1 September 1998; or
    - (ii) has been lawfully built under this plan;
  - (f) building limited visitor infrastructure;

- (g) establishing a firebreak;
- (h) an activity for protecting the life of, or preventing injury to, a person, other than an activity carried out in an emergency;

*Example for paragraph (h)—*

clearing vegetation to make a space that can be used in the future as a landing place for a rescue helicopter in an emergency

- (i) an activity for the protection, other than the urgent protection, of property;

*Example for paragraph (i)—*

removing a decaying tree that may in the future pose a risk of damaging a nearby residence if it is not removed

- (j) collecting seeds and other propagules;
- (k) destroying a forest product to conserve or rehabilitate the area;

*Example for paragraph (k)—*

A particular habitat requires management by fire to conserve native plants of a particular species in the habitat. A permit would be required to lop, dry and burn the plants to allow them to propagate in the habitat.

- (l) destroying a forest product to improve the presentation of the area for visitors;

*Example for paragraph (l)—*

lopping the regrowth of native plants that are obscuring the view from a lookout used by visitors to the area

- (m) disposing of an undesirable plant;
- (n) translocating a crustacean or fish, other than a fish of a species mentioned in schedule 2A, part 1;
- (o) bringing a dog into the area for conserving or managing the area;

*Example for paragraph (o)—*

bringing a working dog into the area to muster cattle so that the cattle can be removed from the area

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- (p) using a motorised aircraft, for commercial purposes, to—
    - (i) take-off from, or land in, the area; or
    - (ii) fly at less than 1,000ft above the area, other than as reasonably necessary for safety purposes;
  - (q) reconfiguring a lot, if the reconfiguration is assessable development for which a local government is the assessment manager;
  - (r) operating a motor vehicle on a lawful access road for the land—
    - (i) to conserve, protect or rehabilitate land in the area; or
    - (ii) to carry out scientific research; or
    - (iii) to the extent reasonably necessary to carry out another permitted activity mentioned in this section.
- (2) In this section—  
*preventing injury*, to a person, see section 27(2).

### **34 Certain activities in zone C**

A permit may be issued to a person to carry out any of the following activities in zone C—

- (a) building community services infrastructure, developed visitor infrastructure or another structure;
- (b) building a road, other than a road that is community services infrastructure;
- (c) dismantling community services infrastructure or developed visitor infrastructure;
- (d) beekeeping, other than in a rainforest area;
- (e) excavating, grading, quarrying or otherwise interfering with earth;

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- (f) interfering with a watercourse by extracting or diverting water, damming the watercourse or carrying out another activity that interferes with its natural flow.

### **35 Domestic activities by person with an interest in land**

- (1) A permit may be issued to a land-holder holding freehold title to land in the area to carry out a domestic activity on the land so far as the land-holder is entitled to carry out the activity under the land-holder's freehold title.
- (2) A permit may be issued to a native title holder for land in the area to carry out a domestic activity on the land so far as the native title holder is entitled to carry out the activity under the native title holder's native title.
- (3) A permit may be issued to a government holding an interest in land in the area to carry out a domestic activity on the land so far as the government is entitled to carry out the activity on the land.
- (4) A permit may be issued to another person to carry out a domestic activity on land in the area under the permission of a land-holder or native title holder for, or a government holding an interest in, the land, if a permit to carry out the activity could be issued under this section to the land-holder, native title holder or government.
- (5) In this section—
  - domestic activity*, for land, means—
    - (a) a prescribed domestic activity for the land; or
    - (b) building an ancillary outbuilding on the land.
  - prescribed domestic activity*, for land, means any of the following activities carried out, or to be carried out, on the land—
    - (a) building a residence;
    - (b) clearing or building a pedestrian or vehicular access to a residence on the land;



- (c) installing infrastructure for any of the following for domestic use—
  - (i) an electricity supply;
  - (ii) a water supply;
  - (iii) telecommunications;
- (d) extracting water for domestic use;
- (e) establishing a garden or orchard, other than for commercial purposes.

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

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

### **37 Activities in protected area**

- (1) A permit may be issued to a person to carry out an activity in a protected area if the person holds a licence, permit or other authority to carry out the activity given under another Act administered by the nature conservation Minister.

- (2) In this section—

*nature conservation Minister* means the Minister administering the *Nature Conservation Act 1992* in relation to protected areas.

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

- (1) This section applies only to zone B.
- (2) A permit may be issued to a person to carry out an activity if the authority considers carrying out the activity would have less adverse impact on the world heritage values and integrity of the area than not carrying out the activity.

- (3) Subsection (2) applies whether or not the activity is consistent with the management purposes of zone B.

*Examples—*

- 1 A person applies for a permit to build a powerline in zone B and to remove 2 other powerlines. The authority may issue the permit (under part 4) if it considers building the new powerline would have less adverse impact on the world heritage values and integrity of the area than not building the new powerline and allowing the 2 existing powerlines to remain.
- 2 A person applies for a permit to build a powerline in zone B. An alternative way of achieving the purpose of the proposed activity involves building 2 powerlines, which would have a more adverse impact on the world heritage values and integrity of the area. Subsection (2) does not provide that a permit may be issued to build the powerline merely because it would have less adverse impact than a particular alternative. In this case, not building the powerline does not necessarily involve implementing the alternative with the more adverse impact.

### **39 Activities to prepare assessment or obtain information or documents for the authority**

- (1) This section applies if—
- (a) the authority asks a local government or State government entity (each the *relevant entity*) to prepare an environmental impact assessment or give the authority other information or documents under schedule 1, section 1A; or
  - (b) the authority asks a person (also the *relevant entity*) to prepare an environmental impact assessment or give the authority other information or documents under section 41(6) or 47(1).
- (2) A permit may be issued to the relevant entity to carry out an activity that the authority considers is reasonably necessary to prepare the environmental impact assessment or give the information or documents.
- (3) Subsection (2) applies whether or not the activity is consistent with the management purposes of the zone where the activity is proposed to be carried out.

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## Division 5                      Controls under agreements

### Subdivision 1                Negotiating agreements

#### 40            Authority must negotiate

- (1) This section applies if—
  - (a) a person or a group of persons has or claims rights concerning land in the area; and
  - (b) the person or group seeks negotiations in good faith with the authority about the exercise of the rights.
- (2) The authority must negotiate in good faith with the person or group as soon as practicable after the negotiations are sought, with a view to entering into a mutually beneficial agreement that is lawful and consistent with achieving the primary goal.

*Example—*

A person is, or claims to be, the holder of a freehold title or native title in relation to land in the area. The exercise of particular rights under the title could result in damage to an area of rainforest. The person seeks negotiations in good faith with the authority about the exercise of the rights. The authority must negotiate in good faith with the person under this section. The negotiations may lead to the authority and the person entering into a cooperative management agreement under section 41.

- (3) In this section—

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

### Subdivision 2                Cooperative management agreements

#### 41            Entering into a cooperative management agreement

- (1) This section applies if the authority has negotiated under section 40(2) with a person or a group of persons mentioned in section 40(1)(a).

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- (2) The authority and the person, or group of persons, may enter into a cooperative management agreement for this section under which—
  - (a) the person or group agrees to contribute in some way to achieving the primary goal, including, for example, in either or both of the following ways—
    - (i) by rehabilitating, or improving the presentation of, particular land in the area;
    - (ii) by not carrying out an activity on particular land in the area the person or group could otherwise lawfully carry out under this plan; and
  - (b) the authority agrees—
    - (i) to give a stated consideration to the person or group; or
    - (ii) that the person or group may carry out an activity the person or group could not otherwise lawfully carry out under this plan.
- (3) Without limiting subsection (2), if the exercise of the person's or group's rights concerning land in the area could adversely affect the world heritage values and integrity of the land, the agreement may provide for changing the way this plan applies to the person or group.
- (4) The agreement may also provide for other matters necessary or convenient to give effect to the matters mentioned in subsection (2) or (3), including, for example, the consequences of the person contravening the agreement.
- (5) The authority may enter into the agreement only if it considers the agreement would contribute to achieving the primary goal.
- (6) Before entering the agreement, the authority may ask the person for an environmental impact assessment or other information relevant to deciding whether to enter the agreement.
- (7) As well as the authority and the person mentioned in subsection (1), other persons may be parties to the agreement

including, for example, the land-holder and any native title holder for the land the subject of the agreement.

- (8) The agreement must state that it is an agreement to which section 43 applies.
- (9) To remove any doubt, it is declared that the authority may enter the agreement whether or not there is an approved determination of native title under which the person has a right or interest to carry out an activity in the area.

## **42 Matters for consideration for proposed cooperative management agreement**

- (1) This section applies to the authority for—
  - (a) deciding whether or not to enter into a cooperative management agreement under section 41 (a *proposed agreement*); or
  - (b) deciding the provisions the authority may agree to include in a proposed agreement.
- (2) Without limiting section 41, the authority must have regard to the following matters—
  - (a) the potential impact of any activities that may be carried out under the proposed agreement on the world heritage values and integrity of the area;
  - (b) the ecological sustainability of—
    - (i) any activities that may be carried out under the proposed agreement; and
    - (ii) any proposed uses of the land the subject of the proposed agreement (the *proposed agreement land*);

*Note—*

See also paragraphs 90 and 119 of the operational guidelines.

- (c) the rights or interests of any land-holder or native title holder in the proposed agreement land;

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- (d) the Aboriginal tradition of any Aboriginal people particularly concerned with the proposed agreement land;
  - (e) an activity that has been, or is being, lawfully carried out on the proposed agreement land, other than an activity to which paragraph (c) or (d) is relevant.
- (3) A failure to comply with subsection (2) does not invalidate or otherwise affect a cooperative management agreement, or a provision of a cooperative management agreement, entered into under section 41.
  - (4) The authority may prepare guidelines about considering a matter mentioned in subsection (2) and any other matter it may consider relevant for entering into a cooperative management agreement under section 41.
  - (5) If the authority prepares guidelines under subsection (4), the authority must ensure the guidelines are available for inspection under section 4.

### **43 Effect of cooperative management agreement on plan**

- (1) This section applies if the authority and a person, or a group of persons, enter into a cooperative management agreement under section 41.
- (2) This plan applies to the person or group of persons subject to the cooperative management agreement.
- (3) If the cooperative management agreement is entered into by the land-holder or native title holder for the agreement land, this plan also applies subject to the agreement in relation to the land.
- (4) This section applies subject to sections 43A to 43D.

### **43A Inconsistency between cooperative management agreements**

- (1) This section applies if—

- (a) a cooperative management agreement has been entered into under section 41 for particular agreement land (the *earlier agreement*); and
  - (b) a cooperative management agreement is later entered into under section 41 (the *later agreement*) for the agreement land, or part of the agreement land, to which the earlier agreement relates; and
  - (c) there is an inconsistency between the earlier agreement and the later agreement.
- (2) The earlier agreement prevails to the extent of the inconsistency.

**43B Carrying out particular permitted activity under cooperative management agreement**

- (1) This section applies if a cooperative management agreement entered into under section 41 provides for carrying out a permitted activity, other than an activity to which section 37 applies, under a permit on the agreement land.
- (2) Part 4 applies in relation to applying for, and issuing, a permit to carry out the permitted activity, other than to the extent (if any) expressly provided for under the cooperative management agreement.
- (3) However, this section does not limit or otherwise affect the operation of—
  - (a) section 48, 49, 53, 54 or 64; or
  - (b) part 5.

**43C Relationship between cooperative management agreement and zoning map**

- (1) This section applies if there is an inconsistency between a cooperative management agreement entered into under section 41 and the zoning of the agreement land as shown on the zoning map because—

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- (a) an activity that may be carried out on the land consistently with the management purposes of the zone is prohibited under the agreement; or
  - (b) an activity that may not be carried out on the land consistently with the management purposes of the zone is allowed under the agreement.
- (2) The cooperative management agreement prevails to the extent of the inconsistency.

#### **43D Registration of cooperative management agreement**

- (1) The authority must keep a register of cooperative management agreements entered into under section 41.
- (2) If the authority and a person, or a group of persons, enter into a cooperative management agreement under section 41, the authority must—
- (a) register the agreement by keeping a copy of the agreement in the register of cooperative management agreements; and
  - (b) ensure each cooperative management agreement registered under paragraph (a) is available for inspection under section 4.
- (3) Despite subsection (2)(b) and section 4, the authority must ensure any publicly available part of the register does not include the residential or email address, phone number or signature of a person who has entered into a cooperative management agreement with the authority.



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## Division 6 Exemptions

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

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

- (a) division 3 or 4; or
- (b) a registered cooperative management agreement.

*Note—*

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

## Part 4 Permits

### Division 1A Preliminary

#### 44A Application of part

This part applies if a permit may be issued to a person to carry out an activity—

- (a) under part 3, division 4; or
- (b) as provided for under a cooperative management agreement to which section 43B relates.

#### 44B Definition for pts 4 and 5

In this part and part 5—

*application* includes a request (however called) to carry out a permitted activity made under a cooperative management agreement to which section 43B relates.

## Division 1                      Procedural matters

### 45            Application for permit

- (1) The person may apply to the authority for a permit to carry out the activity in the area.
- (2) The application must be in the approved form and accompanied by the fee prescribed under a regulation.

### 46            Assessment fee

- (1) The applicant must also pay, within the time required by the authority, the reasonable fee required by the authority for assessing the application.
- (2) The time for payment must be reasonable, having regard to—
  - (a) the amount of the fee; and
  - (b) when the assessment costs will be incurred by the authority; and
  - (c) the due day for deciding the application.
- (3) If the applicant does not comply with subsection (1), the application lapses.

### 47            Authority may ask for more information

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

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

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

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- information about the effects that a proposed decision on the application may have for the community or a part of the community.
- (2) The initial notice must state a reasonable period of at least 90 days for giving the information or documents.
  - (3) The authority may ask the applicant for an environmental impact assessment under this section only if it considers—
    - (a) the proposed activity might have an impact on the world heritage values and integrity of the area that is unacceptable under this plan; and
    - (b) having regard to the significance of the proposed activity, it would be reasonable to ask for the assessment.
  - (4) If the authority asks the applicant for an environmental impact assessment, the applicant may comply by giving a copy of an environmental impact assessment for the proposed activity prepared to comply with another law (an *existing EIA*).
  - (5) Subsection (6) applies if—
    - (a) the applicant gives the authority an environmental impact assessment, including an existing EIA; and
    - (b) the authority considers the assessment does not adequately address a matter relevant to deciding the application.
  - (6) The authority may, by written notice (the *supplementary notice*), ask the applicant to give the authority, within a stated period of at least 30 days, another environmental impact assessment, but only to address the matter stated in the supplementary notice.
  - (7) If the authority asks for and obtains an environmental impact assessment under subsection (6), the authority may not ask for another assessment under this section.
  - (8) The authority may, by written notice (the *extension notice*) to the applicant, extend the period stated for giving information or documents in the initial notice or supplementary notice.

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- (9) The authority must not unreasonably refuse a request from the applicant for an extension mentioned in subsection (8).
- (10) If the applicant does not give the authority information or documents within the period required by the initial or supplementary notice, or if extended, the extension notice, the application lapses.

#### **48 Authority must decide application**

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

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

#### **49 Due day for deciding applications**

- (1) The due day for the authority to decide the application is the sixtieth day after the application is made, not including—
  - (a) a day the authority asks for more information or documents under section 47; or
  - (b) the day the applicant complies with the request; or
  - (c) any days between the days mentioned in paragraphs (a) and (b).
- (2) However, if requested to do so by the authority, the Minister may extend the due day for deciding the application if the Minister is satisfied it would be reasonable, having regard to the nature of the application and any other matter relevant to the authority's capacity to properly decide it.
- (3) If the Minister extends the due day, the Minister must give written notice of the extension to the authority and the applicant.
- (4) The due day may also be extended by agreement between the authority and the applicant.
- (5) If the authority does not decide the application by the due day, including any extension—

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

## 50 Consultation

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

## 51 Conditions

- (1) The authority may issue a permit on conditions that, having regard to divisions 2 to 4, it considers appropriate.
- (2) For example, a permit may be issued on conditions the authority considers necessary to—
  - (a) avoid, minimise, mitigate or monitor any adverse impact the proposed activity might have on the world heritage values and integrity of the area; or
  - (b) rehabilitate the area while carrying out the activity or after the activity has ended; or
  - (c) contribute to achieving the primary goal, including, for example, by carrying out the proposed activity in association with another activity (an *associated activity*).

*Example of a condition for an associated activity—*

A proposed development on land will have a minor adverse impact on world heritage values. A permit is issued on the condition that, as part of the development, the applicant must construct a viewing platform to enhance the presentation of the land to visitors.

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

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- (4) A permit holder must not contravene a condition of the permit.

Maximum penalty—165 penalty units.

## **52 Security**

- (1) Without limiting section 51(1), a permit may be issued on the condition that the applicant pay a reasonable amount as security or a performance bond for compliance with other conditions of the permit.
- (2) In deciding what is a reasonable amount, the authority must consider—
  - (a) the nature and extent of the proposed activity's likely impact on the world heritage values and integrity of the area; and
  - (b) the estimated cost of remedying the impact; and
  - (c) any other matter the authority considers relevant.
- (3) The conditions must state when, and the way in which, the amount may be applied or otherwise dealt with by the authority.

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

- (1) As soon as practicable after deciding the application, the authority must—
  - (a) record the decision in the register of permit decisions; and
  - (b) give the applicant written notice of the decision.
- (2) If the decision is to refuse the permit, or to issue a permit on conditions, the notice given to the applicant must also state—
  - (a) the reasons for the decision; and
  - (b) that the applicant may, within 60 days after the notice is given, ask the authority to review the decision.

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## **54 Register of permit decisions**

- (1) The authority must keep a register containing the following details for each permit decision—
  - (a) the date of the decision; and
  - (b) whether a permit was issued; and
  - (c) if a permit was issued—
    - (i) the name of the permit holder; and
    - (ii) the activities for which the permit was issued; and
    - (iii) any conditions applying to the permit; and
  - (d) the reasons for the decision.
- (2) The register may be inspected free of charge, during office hours, at the authority's head office.

## **Division 2 Principles and criteria for deciding permit applications**

### **55 Purpose of division**

This division provides for the principles and criteria that apply generally for the authority deciding an application for a permit to carry out a proposed activity, including, if it is decided to issue a permit, the conditions of the permit.

### **56 World heritage values and integrity of the area**

- (1) The most important consideration for deciding the application is the potential impact of the proposed activity on the world heritage values and integrity of the area.
- (2) The authority must decide the application in a way that minimises the potential impact of the proposed activity, including, in particular, any potential impact relating to existing or proposed community services infrastructure, visitor infrastructure or roads, on the world heritage values and integrity of the area.

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- (3) Without limiting subsection (2), the authority must have regard to—
- (a) the management purposes of—
    - (i) the zone in which the proposed activity is to be carried out; and
    - (ii) any other zone in which there is land that may be affected by the proposed activity; and
  - (b) the extent to which the proposed activity is consistent with the statement of outstanding universal value for the area; and
  - (c) the potential impact of the proposed activity on—
    - (i) threatened wildlife and near threatened wildlife under the *Nature Conservation Act 1992* and its habitat; and
    - (ii) natural ecological processes; and
    - (iii) the scenic amenity of the area, including, in particular, the degree of visual dominance of the activity or of any change to the landscape caused by the activity; and
  - (d) the ecological sustainability of the proposed activity;
- Note—*
- See also paragraphs 90 and 119 of the operational guidelines.
- (e) the potential cumulative impact on the area’s world heritage values and integrity of the proposed activity and any other activity that is, or may be, lawfully carried out in the area, including, in particular—
    - (i) the proximity of the activities; and
    - (ii) the extent to which the activities may affect the same or similar world heritage values and conditions of integrity.

*Example of operation of paragraph (e)—*

For deciding an application for a permit for reconfiguring a lot on land, the authority may consider the potential impact of not only the reconfiguration but also other activities (including, for



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example, further subdivision or development) that a person may seek to carry out on the land or at a nearby location if the permit were to be issued.

- (4) Also, without limiting subsection (2), the authority must consider any action that could be taken to—
- (a) avoid, minimise, mitigate or monitor any adverse impact the proposed activity may have on the world heritage values and integrity of the area; or
  - (b) rehabilitate the area while carrying out the proposed activity or after it has ended; or
  - (c) contribute to achieving the primary goal.
- (5) In this section—
- proximity*, of activities, means the proximity in which the activities are carried out in time or place.

## 57 Precautionary principle

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

*Note—*

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

## 58 Prudent and feasible alternatives

- (1) The authority must consider whether there is any prudent and feasible alternative to a proposed activity.
- (2) In deciding whether there is an alternative to a proposed activity, the authority may have regard to the following—
- (a) any alternative site for the activity, either elsewhere in the area or outside the area;

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- (b) any alternative use for the proposed site of the activity;
  - (c) any alternative way of carrying out the proposed activity;
  - (d) the alternative of not carrying out, or postponing carrying out, the proposed activity.
- (3) In deciding whether an alternative is prudent, the authority must consider the potential impact of the alternative on the world heritage values and integrity of the area compared to that of the proposed activity.
- (4) In deciding whether an alternative is feasible, the authority—
- (a) may have regard to issues of safety, health, economics, convenience, public interest and community disruption and any other relevant issue; and
  - (b) must decide the alternative is not feasible if it involves unproven technology or is impractical to implement.

## **59 Aboriginal tradition**

- (1) The authority must have regard to the effects a proposed decision may have on the Aboriginal tradition of Aboriginal people particularly concerned with land in the area.
- (2) This section does not limit section 60 as it relates to Aboriginal people.

## **60 Community considerations**

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

- (a) for land in the area that may be affected by the proposed activity—
  - (i) the likely effect on the land-holder, any native title holder and any other Aboriginal persons particularly concerned with the land; and

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- (ii) the likely effect on the amenity of the land, having regard to the current uses of the land and the experiences currently enjoyed by visitors; and
  - (iii) if a permit has already been issued to a person to carry out an activity (the *existing activity*) on the land—the likely effect on the permit holder carrying out the existing activity;
- (b) the community need for the proposed activity;
  - (c) the likely effect on the community’s ability to continue to participate in the management, protection, presentation, enjoyment and ecologically sustainable use of the area;
  - (d) any other relevant social, economic and cultural effects.

## 61 Carrying capacity

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

(2) In subsection (1)—

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

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

## Division 3 Information for applying principles and criteria

### 62 Guidelines

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

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- (2) The guidelines may, for example, contain information about—
  - (a) conserving particular plants and animals in the area; or
  - (b) managing visitors to the area; or
  - (c) conserving the area’s scenic amenity; or
  - (d) having regard to Aboriginal tradition.
- (3) If the authority prepares guidelines under subsection (1), the authority must ensure the guidelines are available for inspection under section 4.
- (4) In applying the principles and criteria stated in division 2 to an application, the authority must have regard to the information in the guidelines.

## **Division 4                    Additional criteria for deciding permit**

### **62A    Purpose and application of division**

- (1) This division provides for criteria that apply for the authority deciding an application for a permit to carry out a proposed activity mentioned in this division, including, if it is decided to issue a permit, the conditions of the permit.
- (2) This division, other than section 63, applies in addition to division 2.

### **63       Prescribed domestic activities**

- (1) This section applies in relation to an application for a permit to carry out a prescribed domestic activity on land (the *permit land*) in the area.
- (2) The authority must issue the permit if satisfied—
  - (a) it is not prudent and feasible to carry out the prescribed domestic activity on land outside the area; and
  - (b) for an application to build a residence—

- (i) the residence is an authorised residence; and
  - (ii) a residence has not already been built on the permit land; and
  - (iii) only 1 residence will be built on the permit land under the permit; and
  - (iv) no other residence is proposed to be built on the permit land; and
- (c) for an application to clear or build a pedestrian or vehicular access to a residence—
  - (i) the residence is an authorised residence; and
  - (ii) the clearing or building will be carried out only on the permit land.
- (3) This section is not limited by division 2.
- (4) To remove any doubt, it is declared that this section—
  - (a) applies only in relation to a permit that may be issued under this plan; and
    - Note—*

See part 3, division 4 (Activities allowed under permit).
  - (b) does not limit the authority's power under section 51 to issue the permit on conditions.
    - Examples for paragraph (b)—*
      - 1 For an application to build a residence, the authority may issue the permit on conditions about the size, design and siting of the residence so as to cause the least impact on the world heritage values and integrity of the area.
      - 2 For an application to build a vehicular access to a residence, the authority may issue the permit on a condition about where the access must be situated so as to cause the least impact on the world heritage values and integrity of the area.
- (5) In this section—

***prescribed domestic activity*** means a prescribed domestic activity under section 35.

### **63A Building additional residence or ancillary outbuilding**

- (1) This section applies in relation to—
  - (a) an application for a permit to build a residence on land in the area, other than an application for which a permit must be issued under section 63; or
  - (b) an application for a permit to build an ancillary outbuilding on land in the area.
- (2) The authority may issue the permit if satisfied—
  - (a) it is not prudent and feasible to build the residence or ancillary outbuilding on land outside the area; and

*Example for paragraph (a)—*

If part of the land on which the applicant proposes to build the residence or outbuilding is outside the area, the authority would need to be satisfied it is not prudent and feasible for the applicant to build the residence or outbuilding on that part of the land.

- (b) for an application for a permit to build a residence—the residence is an authorised residence; and
- (c) for an application for a permit to build an ancillary outbuilding—the outbuilding is to be ancillary to a residential use carried out, or to be carried out, on premises where an authorised residence is, or is to be, situated.

### **64 Defence activities**

- (1) This section applies if the authority considers a proposed activity may affect, or be affected by, the Commonwealth carrying out defence activities on land in the area.
- (2) The authority must have regard to the need for the Commonwealth to carry out defence activities on land in the area.

### **65 Building community services infrastructure or other road**

- (1) This section applies in relation to an application for a permit to build in the area—

- (a) community services infrastructure; or
  - (b) a road, other than a road that is community services infrastructure.
- (2) The authority may issue the permit if satisfied—
- (a) building the community services infrastructure or road would not have a net adverse impact on the world heritage values and integrity of the area; or
  - (b) there is no prudent and feasible alternative to building the community services infrastructure or road.
- (3) Also, if the authority considers building the community services infrastructure or road is likely to require canopy clearing, the authority may issue the permit only if satisfied—
- (a) it is necessary to build the infrastructure or road to—
    - (i) protect public safety; or
    - (ii) allow vehicle access to a residence; or
    - (iii) allow electricity, telecommunications services or water to be supplied to a residence; or
    - (iv) carry out another activity the authority considers necessary to manage the area under this plan; or
  - (b) the infrastructure or road will reduce the impact on the area's world heritage values and integrity of other activities that are, or are likely to be, carried out; or
  - (c) there is no prudent or feasible alternative to the canopy clearing for building the infrastructure or road.
- (4) The authority must decide the application in a way that, to the greatest possible extent, ensures the community services infrastructure or road is built only on land that is already cleared or otherwise degraded.

**66 Activities being carried out immediately before 2020 amendment day**

- (1) This section applies if the application is for a permit to carry out an activity that the applicant was lawfully carrying out immediately before the 2020 amendment day.
- (2) The authority must have regard to how often, or with what intensity, the applicant has been carrying out the activity.

## **Part 5 Reviews of, and appeals from, permit decisions**

### **Division 1 Definitions**

**67 Definitions for pt 5**

In this part—

*applicant* includes a permit holder.

*court* means the Planning and Environment Court.

*original permit decision* means a decision, under section 48, of the authority or a permit entity on an application for a permit.

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

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

### **Division 2 Review of original permit decisions**

**68 Request for review of decision**

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



- (2) The request must be made within 60 days after written notice of the decision is given to the applicant under section 53.
- (3) The authority may, at any time, extend the period for making the request.
- (4) The request must be made in writing to the executive director, giving reasons for the request and any information the applicant considers relevant.

## **69 Review of decision**

- (1) The authority must review the original permit decision as soon as practicable after receiving the request under section 68.
- (2) Part 4, other than sections 45, 46 and 53, applies to the authority in making the review decision as if—
  - (a) the request for the review were an application; and
  - (b) the authority were making an original permit decision.
- (3) Subsection (4) applies if the original permit decision relates to a permitted activity provided for under a cooperative management agreement to which section 43B relates.
- (4) For subsection (2), part 4 applies as affected by the cooperative management agreement under section 43B(2).

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

- (1) As soon as practicable after making the review decision, the authority must—
  - (a) record the decision in the register of permit decisions; and
  - (b) give the applicant written notice of the decision.
- (2) If the decision is to refuse the permit, or to issue a permit on conditions, the notice given to the applicant must also state—
  - (a) the reasons for the decision; and

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

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

### **71            Appeals**

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

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

- (1) The appeal is started by—
  - (a) filing a written notice of appeal with the court; and
  - (b) serving a copy of the notice on the executive director.
- (2) The notice of appeal must be filed within 60 days after written notice of the decision is given to the applicant under section 70.
- (3) The court may, at any time, extend the period for filing the notice of appeal.
- (4) The notice of appeal must state the grounds of the appeal.

### **73            Hearing procedures**

- (1) The appeal is to be by way of rehearing, unaffected by the authority's decision.
- (2) In deciding the appeal, the court—
  - (a) is not bound by the rules of evidence; and
  - (b) must observe natural justice; and
  - (c) may hear the appeal in court or chambers.
- (3) The procedure for the appeal is in accordance with—
  - (a) the rules of court; or

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

#### **74 Powers of court on appeal**

- (1) In deciding the appeal, the court may—
- (a) confirm the review decision; or
  - (b) set aside the review decision and substitute another decision; or
  - (c) set aside the review decision and return the matter to the authority with directions the court considers appropriate.
- (2) In substituting another decision, the court has the same powers as the authority.
- (3) If the court substitutes another decision, the substituted decision is, for this plan (other than this part), taken to be the authority's decision.

#### **75 Further appeal**

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

## **Part 6 Issue of permits by entities other than authority**

#### **76 Definitions**

In this part—

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

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

- the *Forestry Act 1959*

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- the *Land Act 1994*
- the *Transport Infrastructure Act 1994*
- the *Water Act 2000*
- the *Wet Tropics World Heritage Protection and Management Act 1993*.

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

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

## 77 Permit entities

- (1) This section applies to an activity that may be carried out under a wet tropics permit.
- (2) If the activity is proposed to be carried out in a protected area, the nature conservation chief executive may issue a wet tropics permit for the activity.
- (3) If a relevant permit is also required to carry out the activity, the entity that may issue the relevant permit for the activity may also issue a wet tropics permit for the activity.

## 78 How permit entity must decide application

- (1) Part 4 applies to the issue of a wet tropics permit by a permit entity as if a reference to the authority were a reference to the permit entity.
- (2) However, the following provisions in part 4 do not apply—
  - section 52(3)
  - section 53
  - section 54
  - section 62(1) to (3).
- (3) If the proposed activity is to be carried out in a protected area, the permit entity may issue the permit only if it is satisfied the

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activity would be consistent with the management principles prescribed for the protected area under the *Nature Conservation Act 1992*.

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

## **79 Security**

- (1) This section applies if, under section 52, a permit entity issues a wet tropics permit on a condition that the applicant pay a reasonable amount as security or a performance bond.
- (2) The condition must—
- (a) require the amount to be paid to the authority; and
  - (b) state when, and the way in which, the amount may be applied or otherwise dealt with by the authority.

## **80 Authority must approve permit entity's decision**

- (1) A permit entity may not issue a wet tropics permit unless—
- (a) the authority has given to it written notice that the authority agrees with the decision to issue the permit; or
  - (b) the permit is for an activity of a type, and on conditions of a type, previously agreed between the authority and the entity.
- (2) For subsection (1)(a), the authority must—
- (a) give the notice; or
  - (b) require a change to the conditions on which the permit is proposed to be issued before it gives the notice; or
  - (c) refuse to give the notice.
- (3) Part 4, divisions 2 to 4, applies to the authority in deciding whether to give a notice or enter an agreement under subsection (1), as if the authority were deciding a permit application for the relevant proposed activities.

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

- (1) As soon as practicable after deciding an application for a wet tropics permit, the permit entity must give written notice of the decision to the applicant and the authority.
- (2) If the decision is to refuse the permit, or to issue a permit on conditions, the notice given to the applicant must state—
  - (a) the reasons for the decision; and
  - (b) that the applicant may, within 60 days after the notice is given, ask the authority to review the decision.
- (3) The notice given to the authority must include the following details—
  - (a) the date of the decision;
  - (b) whether a permit was issued;
  - (c) if a permit was issued—
    - (i) the name of the permit holder; and
    - (ii) the activities for which the permit was issued; and
    - (iii) any conditions applying to the permit;
  - (d) the reasons for the decision.
- (4) The authority must immediately record the details in the register of permit decisions.

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

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

# **Part 7 Miscellaneous**

## **83 Evidence about zoning map**

In a proceeding, a certificate purporting to be signed by the executive director, stating that a stated document is a copy of

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the zoning map, or a part of the zoning map, is evidence of the matter.

**84 Plan amendments exempted from particular preparation and approval procedures—Act, s 52**

For section 52(2)(c) of the Act, an amendment of a provision in part 8 or schedule 2, 2A or 2B may be made under section 52(2) of the Act.

## **Part 8 Transitional provisions for Wet Tropics (Review) Amendment Management Plan 2020**

**85 Definitions for part**

In this part—

*initial period*, for carrying out an activity, means—

- (a) the period starting on the 2020 amendment day and ending 4 months after that day; or
- (b) if within the 4 months a person applies for a permit to carry out the activity, the period ending on—
  - (i) for an application that lapses—the day the application lapses; or
  - (ii) otherwise—the day the application is decided.

*previous*, in relation to a provision of this plan, whether or not identified, means the provision as in force immediately before the 2020 amendment day.

**86 Keeping or grazing animals**

- (1) This section applies if, immediately before the 2020 amendment day, a person was—

- (a) keeping a previous undesirable animal on land in the area under previous section 27(g); or
  - (b) grazing an animal on land in the area under previous section 27(h).
- (2) The person may continue, under previous section 27(g) or (h), to keep or graze an animal, of the type being kept or grazed, on the land in the initial period.
- (3) Previous section 27(g) and (h) and previous schedule 2, part 2 continue to apply for keeping or grazing an animal under subsection (2) as if the *Wet Tropics (Review) Amendment Management Plan 2020* had not commenced.
- (4) In this section—
- keeping*, an animal on land, includes allowing the animal to enter and remain on the land.
- previous undesirable animal* means an animal that was an undesirable animal under previous schedule 2, part 2.

## **87 Activity for protecting lives or preventing injuries other than for an emergency**

- (1) This section applies if—
- (a) before the 2020 amendment day, a person had started to carry out an activity in the area for protecting the lives of, or preventing injuries to, persons, other than for an emergency; and
  - (b) the person had not finished carrying out the activity immediately before the 2020 amendment day.
- (2) The person may continue to carry out the activity in the initial period.

## **88 Translocating a crustacean or fish**

- (1) This section applies if—
- (a) before the 2020 amendment day, a person held an authority issued under the *Fisheries Act 1994*



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authorising the person to translocate a crustacean or fish in the area; and

- (b) the authority was in force immediately before the 2020 amendment day.
- (2) The person may translocate the crustacean or fish in the area under the authority while the authority is in force.
- (3) This section applies despite section 26(1)(c) but does not authorise a person to translocate a fish of a species mentioned in schedule 2A, part 1 in the area.

## **89 Using motorised aircraft for commercial purposes**

- (1) This section applies if, immediately before the 2020 amendment day, a person was carrying on a business involving using a motorised aircraft to take-off from, or land in, the area.
- (2) Despite section 26(1)(m), the person may use a motorised aircraft, for commercial purposes, to take-off from, or land, in the area in the initial period.

## **90 Reconfiguring a lot**

- (1) This section applies if, before the 2020 amendment day—
  - (a) a person made a development application to a local government for the reconfiguration of a lot in the area; and
  - (b) a development approval was given for the reconfiguration.
- (2) Section 26(1)(n) does not apply in relation to the reconfiguration of the lot under the development approval.
- (3) In this section—

*development application* see the *Planning Act 2016*, schedule 2.

*development approval* see the *Planning Act 2016*, section 49(1).

## **91 Registration of existing cooperative management agreements**

- (1) This section applies in relation to an existing cooperative management agreement.
- (2) On the 2020 amendment day, the authority must register the cooperative management agreement under section 43D(2)(a).
- (3) For subsection (2), section 43D(2) applies as if the existing cooperative management agreement had been entered into on the 2020 amendment day.

- (4) In this section—

*existing cooperative management agreement* means a cooperative management agreement that—

- (a) was entered into under section 41 as in force before the 2020 amendment day; and
- (b) was in force immediately before the 2020 amendment day.

## **92 Undecided permit application**

- (1) This section applies if—
  - (a) before the 2020 amendment day, an application for a permit was made; and
  - (b) immediately before the 2020 amendment day, the application had not lapsed and had not been decided.
- (2) The following provisions continue to apply for dealing with and deciding the application as if the *Wet Tropics (Review) Amendment Management Plan 2020* had not commenced—
  - (a) previous section 47;
  - (b) previous section 51(2);
  - (c) previous part 4, divisions 2 and 4.

### **93 Undecided rezoning application**

- (1) This section applies if—
  - (a) before the 2020 amendment day, an application was made under previous schedule 1, section 1(2); and
  - (b) immediately before the 2020 amendment day, the application had not been decided.
- (2) Previous schedule 1 continues to apply for dealing with and deciding the application as if the *Wet Tropics (Review) Amendment Management Plan 2020* had not commenced.
- (3) For subsection (2), the references in schedule 1, section 3(3)(c) to part 4, division 1 and part 4, divisions 2 to 4 are taken to be references to previous part 4, division 1 and previous part 4, divisions 2 to 4 respectively.

### **94 References to previous provisions in documents**

- (1) A reference in a permit or other document to a previous provision of this plan may, if the context permits, be taken to be a reference to the corresponding provision for the previous provision.
- (2) In this section—

***corresponding provision***, for a previous provision, means a provision of this plan that is substantially the same as or equivalent to the previous provision.

## **Schedule 1      Rezoning for essential community services infrastructure**

section 17

### **1      Application for rezoning to provide for essential community services infrastructure**

- (1) This section applies if—
  - (a) a local government or State government entity wishes to carry out an activity (the *proposed activity*), at a place in zone B (the *proposed site*), that the local government or State government entity considers necessary to provide for essential community services infrastructure; and
  - (b) under this plan, the proposed activity may not be carried out in zone B but may be carried out in zone C, either with or without a permit.
- (2) The local government or State government entity may apply to the authority to—
  - (a) amend the zoning map to exclude the proposed site from zone B and include the proposed site in zone C; and
  - (b) if the proposed activity may only be carried out in zone C under a permit—issue a permit to carry out the activity.

### **1A      Request for environmental impact assessment and other information and documents**

- (1) The authority may, by written notice (the *initial notice*), ask the applicant to give the authority either or both of the following within the relevant information period—
  - (a) an environmental impact assessment meeting stated terms of reference for the proposed activity;

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- (b) other information or documents relevant to deciding the application.
- (2) The applicant may comply with an initial notice asking for an environmental impact assessment by giving the authority, within the relevant information period, a copy of an environmental impact assessment for the proposed activity prepared to comply with another law (an *existing EIA*).
- (3) Subsection (4) applies if—
- (a) the applicant gives the authority an environmental impact assessment, including an existing EIA; and
- (b) the authority considers the assessment does not adequately address a matter relevant to deciding the application.
- (4) The authority may, by written notice (the *supplementary notice*), ask the applicant to give the authority, within the relevant information period, another environmental impact assessment, but to address only the matter stated in the supplementary notice.
- (5) If the authority asks for and obtains an environmental impact assessment under subsection (4), the authority may not ask for another assessment under this section.
- (6) The authority may, by written notice (the *extension notice*), extend the relevant information period stated in the initial notice or supplementary notice.
- (7) The authority must not unreasonably refuse a request from the applicant to extend the relevant information period.
- (8) If the applicant does not give the authority an environmental impact assessment or other information or documents within the relevant information period, the application lapses.
- (9) In this section—
- relevant information period*** means—
- (a) for an initial notice—the period, of at least 90 days after the notice is given, stated in the notice; or
- (b) for a supplementary notice—the period, of at least 30 days after the notice is given, stated in the notice.

- (c) for an extension notice—the extended period stated in the notice.

## **2 Giving public notice of the application**

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

## **3 Decision on application**

- (1) The authority must decide the application as soon as practicable after the last day for making submissions.
- (2) The authority may—
  - (a) grant the application, by deciding—
    - (i) to prepare an amended zoning map to give to the Ministerial Council under this section; and

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- (ii) subject to the Governor in Council's approval of the amended zoning map under this section, to issue a permit to carry out the proposed activity without conditions, on conditions stated in the application (*agreed conditions*) or on other conditions; or
    - (b) refuse the application.
  - (3) The authority may grant the application only if—
    - (a) under this plan, the proposed activity may not be carried out in zone B but may be carried out in zone C, either with or without a permit; and
    - (b) the authority is satisfied it is necessary for the applicant to carry out the activity to provide for the community services infrastructure; and
    - (c) for a proposed activity that may be carried out in zone C only under a permit—the authority is satisfied that, if the proposed site were in zone C and the applicant applied for a permit for the activity under part 4, division 1 of this plan, the authority would decide under part 4, divisions 2 to 4 of this plan to issue the permit.
  - (4) Without limiting subsection (3)(c), the authority may be satisfied that it would decide to issue the permit on agreed conditions or other conditions.
  - (5) When deciding the application, the authority must consider the information received from the applicant and all submissions properly made to the authority under section 2.
  - (6) If the authority makes a reviewable decision on the application, it must give written notice to the applicant stating the reasons for its decision.
  - (7) If it grants the application, the authority must prepare a zoning map (an *amended zoning map*), amended to exclude the proposed site from zone B and include the proposed site in zone C.
  - (8) However, if its decision to grant the application was a reviewable decision, the authority must not prepare the amended zoning map until the applicant agrees.

- (9) The authority must give to the Ministerial Council—
  - (a) a copy of the amended zoning map; and
  - (b) a report on the submissions properly made to the authority under section 2.
- (10) An amended zoning map does not have effect until approved by the Governor in Council.
- (11) An approval under subsection (10) may be made only on the recommendation of the Ministerial Council.
- (12) If the amended zoning map is approved under subsection (10), the authority must—
  - (a) publish a notice in the gazette of the approval of the amended zoning map; and
  - (b) issue the permit on the conditions stated in its decision.
- (13) The amended zoning map commences on the day the gazette notice is published or any later day stated in the notice.
- (14) The permit must not be issued to take effect earlier than the commencement of the amended zoning map.
- (15) In this section—

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

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

#### **4 Review of authority’s decision**

- (1) This section applies if the authority makes a reviewable decision on the application under section 3.
- (2) The applicant may, within the review request period, ask the authority to review its decision.



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- (3) The request must be made in writing to the executive director, giving reasons for the request and any information the applicant considers relevant.
  - (4) The authority must review its decision as soon as practicable after receiving the request.
  - (5) Section 3 applies to the authority in reviewing its decision.
  - (6) For subsection (1), the authority is taken to have made a reviewable decision to refuse the application if it does not decide the application within 60 days after the last day for making submissions (the *review decision period*).
  - (7) However, the review decision period may be extended—
    - (a) by the Minister under subsection (8); or
    - (b) by agreement between the authority and the applicant.
  - (8) The Minister may, by written notice to the authority and the applicant, extend the review decision period to a stated day if—
    - (a) the authority has asked the Minister to extend the period; and
    - (b) the Minister is satisfied the extension is reasonable having regard to—
      - (i) the nature of the application; and
      - (ii) any other matter relevant to the authority’s capacity to decide the application.
  - (9) In this section—

*review request period* means—

    - (a) 60 days after the applicant is given notice of the reviewable decision under section 3(6); or
    - (b) if a longer period is agreed between the authority and the applicant—the longer period.

## 5 Appeal from authority’s decision on review

- (1) This section applies if the authority makes a decision under section 4 (the *second decision*) that, if it were an original

decision on the application under section 3, would be a reviewable decision under section 3.

- (2) The applicant may appeal to the Planning and Environment Court.
- (3) An appeal is started by—
  - (a) filing a written notice of appeal with the court; and
  - (b) serving a copy of the notice on the executive director.
- (4) The notice of appeal must be filed within 60 days after the authority makes the second decision.
- (5) The court may, at any time, extend the period for filing the notice of appeal.
- (6) The notice of appeal must state the grounds of the appeal.
- (7) For subsection (1), the authority is taken to have made a second decision that may be appealed against under this section if it does not review its decision within 60 days after the applicant asks under section 4.

## **6 Decision of court**

- (1) An appeal is to be by way of rehearing, unaffected by the authority's decision.
- (2) In deciding the appeal, the court—
  - (a) is not bound by the rules of evidence; and
  - (b) must observe natural justice; and
  - (c) may hear the appeal in court or chambers.
- (3) The procedure for the appeal is in accordance with—
  - (a) the rules of court; or
  - (b) in the absence of relevant rules—directions of the court.
- (4) In deciding the appeal, the court may—
  - (a) confirm the review decision; or
  - (b) set aside the review decision and substitute another decision; or

- (c) set aside the review decision and return the matter to the authority with directions the court considers appropriate.
- (5) In substituting another decision, the court has the same powers as the authority.
- (6) If the court substitutes another decision, the substituted decision is, for this schedule (other than sections 4 and 5), taken to be the authority's decision.

## Schedule 2 Undesirable plants

schedule 3, definition *undesirable plant*

anil indigo (*Indigofera suffruticosa*)  
ant tree (*Triplaris weigeltiana*)  
anzac flower (*Montanoa hibiscifolia*)  
Arabian coffee (*Coffea arabica*)  
ardisia (*Ardisia elliptica*)  
balsam pear (*Momordica charantia*)  
bamboo (*Bambusa balcooa* or *Bambusa vulgaris*)  
blue snakeweed (*Stachytarpheta jamaicensis*)  
Brazilian nightshade (*Solanum seaforthianum*)  
brillantaisia (*Brillantaisia lamium*)  
buddleia (*Buddleja madagascariensis*)  
butterfly tree (*Bauhinia monandra*)  
calopo (pasture legume) (*Calopogonium mucunoides*)  
caltrop (*Tribulus terrestris*)  
Caribbean pine (*Pinus caribaea*)  
castor oil bush (*Ricinus communis*)  
cat's claw creeper (*Dolichandra unguis-cati*)  
ceara rubber tree (*Manihot glaziovii*)  
centro (pasture legume) (*Centrosema pubescens*)  
Chinese glory bower (*Clerodendrum chinense*)  
clitoria (*Clitoria laurifolia*)  
Clyde road grass (*Paspalum virgatum*)  
coral berry (*Ardisia crenata* or *Rivina humilis*)  
coral tree (*Erythrina x sykesii*)

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creeping river grass (*Echinochloa polystachya* cv. *Amity*)  
cucumber tree (*Parmentiera aculeata*)  
devil's trumpet (*Datura stramonium*)  
downy thornapple (*Datura inoxia*)  
East Indian mahogany (*Chukrasia tabularis*)  
elephant grass (*Pennisetum purpureum*)  
elodea (*Elodea canadensis*)  
fierce thornapple (*Datura ferox*)  
fishpole bamboo (*Phyllostachys bambusoides*)  
giant bramble (*Rubus alceifolius*)  
giant reed (*Arundo donax*)  
glow vine (*Saritaea magnifica*)  
glycine (*Neonotonia wightii*)  
golden dewdrops (*Duranta repens*)  
golden shower (*Cassia fistula*)  
grader grass (*Themeda quadrivalvis*)  
granadilla (*Passiflora quadrangularis*)  
grewia (*Grewia asiatica*)  
guinea grass (*Megathyrsus maximus*)  
hairy thornapple (*Datura wrightii*)  
Hindu thornapple (*Datura metel*)  
hiptage (*Hiptage benghalensis*)  
Indian plum (*Flacourtia jangomas*)  
itch grass (*Rottboellia cochinchinensis*)  
ivy gourd (*Coccinia grandis*)  
Japanese honeysuckle (*Lonicera japonica*)  
Japanese sunflower (*Tithonia diversifolia*)  
Java plum (*Syzygium cumini*)

knobweed (*Hyptis capitata*)  
leucaena (*Leucaena leucocephala* subsp. *leucocephala*)  
Liberian coffee (*Coffea liberica*)  
lion's tail (*Leonotis nepetifolia*)  
long john tree—see ant tree  
milkweed (*Euphorbia heterophylla*)  
mistflower (*Ageratina riparia*)  
molasses grass (*Melinis minutiflora*)  
morning glory (*Ipomoea* spp.)  
mother-in-law's tongue (*Sansevieria trifasciata*)  
native thornapple (*Datura leichhardtii*)  
navua sedge (*Cyperus aromaticus*)  
neem tree (*Azadirachta indica*)  
pagoda flower (*Clerodendrum paniculatum*)  
Panama rubber (*Castilla elastica*)  
para grass (*Urochloa mutica*)  
perennial horsegram (*Macrotyloma axillare*)  
persian shield (*Perilepta dyeriana* syn. *Strobilanthes*)  
pink snakeweed (*Stachytarpheta mutabilis*)  
praxelis (*Praxelis clematidea*)  
puero (pasture legume) (*Pueraria phaseoloides*)  
raintree (*Samanea saman*)  
red ivy (*Hemigraphis colorata*)  
sanchezia (*Sanchezia parvibracteata*)  
sky flower—see golden dewdrops  
snakeweed (*Stachytarpheta* x *adulterina* or *Stachytarpheta* x *trimenii*)  
spiny emex (*Emex australis*)

stinking passionflower (*Passiflora foetida*)  
sweet prayer plant (*Thaumastochloa danielii*)  
syngonium (*Syngonium podophyllum*)  
thorny poinciana (*Caesalpinia decapetala*)  
turbine vine/oliliqu'i (*Turbina corymbosa*)  
Venezuelan pokeweed (*Phytolacca rivinoides*)  
wandering jew (*Tradescantia* spp.)  
white beech (*Gmelina arborea*)  
wild petunia (*Ruellia caerulea*, *Ruellia simplex* or  
*Stephanophysum longifolium*)  
wild tobacco bush (*Solanum mauritianum*)  
yellow allamanda (*Allamanda cathartica*)  
yellow granadilla (*Passiflora laurifolia*)  
yellow guava (*Psidium guajava*)

## **Schedule 2A Particular undesirable animals**

section 33(1)(n) and schedule 3, definition *undesirable animal*

### **Part 1 Fish**

cichlid (all species)  
guppy (*Poecilia reticulata*)  
mosquito fish (*Gambusia holbrooki*)  
tilapia (*Tilapia mariae*)

### **Part 2 Other animals**

cane toad (*Bufo marinus*)  
cat (*Felis catus*)  
cattle (*Bos taurus*)  
chital deer (*Axis axis*)  
dog (*Canis familiaris*)  
exotic earthworm (*Pontoscolex corethrurus*)  
fallow deer (*Dama dama*)  
fox (*Vulpes vulpes*)  
goat (*Capra hircus*)  
honey bee (*Apis mellifera*)  
pig (*Sus scrofa*)  
rabbit (*Oryctolagus cuniculus*)  
red deer (*Cervus elaphus*)  
rusa deer (*Cervus timorensis*)  
water buffalo (*Bubalis bubalis*)



zebu cattle (*Bos indicus*)

## **Schedule 2B      Regional ecosystem numbers for rainforest areas**

section 3A(1)

3.11.3, 3.11.4

3.12.5, 3.12.21

7.1.4

7.2.1 to 7.2.6

7.3.3, 7.3.4, 7.3.10, 7.3.12, 7.3.17, 7.3.19, 7.3.23, 7.3.25,  
7.3.28

7.3.35 to 7.3.37

7.3.38, 7.3.42, 7.3.43, 7.3.49, 7.3.50

7.5.2

7.8.1 to 7.8.3

7.8.4

7.8.11 to 7.8.15

7.11.1 to 7.11.3

7.11.5, 7.11.7, 7.11.8, 7.11.10, 7.11.12 to 7.11.14

7.11.23 to 7.11.25

7.11.27 to 7.11.31

7.12.1, 7.12.2, 7.12.6, 7.12.7, 7.12.9

7.12.10 to 7.12.13

7.12.16, 7.12.17

7.12.19 to 7.12.24

7.12.26, 7.12.38 to 7.12.40

7.12.42 to 7.12.50

7.12.52, 7.12.66, 7.12.68

9.11.9

9.12.8, 9.12.34

## Schedule 3 Dictionary

### section 3

**2020 amendment day** means the day the *Wet Tropics (Review) Amendment Management Plan 2020* commences.

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

**agreement land**, in a provision about a cooperative management agreement entered into under section 41, means the land the subject of the agreement.

**ancillary outbuilding** means a class 10a building under the *Building Act 1975* that is, or is to be, ancillary to a residential use carried out, or to be carried out, on the premises where the building is, or is to be, situated.

*Examples of types of ancillary outbuildings—*

garage, shed

**application**, for parts 4 and 5, see section 44B.

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

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

**area** means the wet tropics area unless a contrary intention appears.

**assessable development** see the *Planning Act 2016*, section 44(3).

**assessment manager** see the *Planning Act 2016*, schedule 2.

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

**build** includes—

- (a) for community services infrastructure, visitor infrastructure, or another structure—install, replace all or part of, and extend, the infrastructure or structure; and
- (b) for a road—upgrade the road.

***carrying capacity*** see section 61.

***community services infrastructure*** means—

- (a) infrastructure for supplying electricity; or

*Example—*

power cable

- (b) infrastructure for supplying telecommunications services; or

*Examples—*

communications cable, communications tower

- (c) infrastructure for supplying water; or

*Examples—*

pipeline, water supply reservoir

- (d) infrastructure, other than a road, for supplying transport services; or

*Examples—*

air strip, boat ramp, helipad, jetty, rail line

- (e) a road that—

- (i) is open to or used by the public and is developed for, or has as 1 of its uses, the driving or riding of motor vehicles; or

- (ii) is dedicated to public use.

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

***developed visitor infrastructure***—

- (a) means infrastructure designed and constructed mainly for—

- (i) presenting the area to visitors or informing visitors about the area; or

*Examples—*

information shelter, lookout

- (ii) assisting the hygiene, safety or shelter of visitors in the area; or

*Examples—*

public toilet facility, waste disposal area

- (iii) allowing visitors to enjoy, and stay temporarily in, the area; or

*Examples—*

- camp ground
- tourist accommodation built and maintained consistently with the management purposes of zone C

- (iv) otherwise—the use of visitors in the area; but

*Examples—*

barbecue facility, picnic facility

- (b) does not include—

- (i) community services infrastructure; or  
(ii) limited visitor infrastructure; or  
(iii) a road.

***disturbed*** means disturbed by human activity.

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

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

***existing use***, of land, see section 54(7) of the Act, definition *existing use*.

***firebreak*** means a cleared area, other than a road, that is used only to control fire.

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

***general waste*** see the *Environmental Protection Regulation 2019*, schedule 19, part 2.

***government—***

- (a) means the Commonwealth, the State or a local government; and
- (b) includes an entity of the Commonwealth, the State or a local government.

***integrity***, of the area or land in the area, means integrity within the meaning of the operational guidelines and as described in the statement of outstanding universal value for the area.

***lawful access road***, for land—

- (a) means a road or track that—
  - (i) is situated on the land or provides access to the land; and
  - (ii) existed immediately before 1 September 1998 or was lawfully built under this plan; but
- (b) does not include—
  - (i) a road shown on the zoning map; or
  - (ii) a walking or cycling track.

***limited visitor infrastructure*** means infrastructure, other than a road, designed and constructed—

- (a) for any of the following purposes—
  - (i) providing access for visitors to the area;
    - Example—*
    - a walking or cycling track
  - (ii) presenting the area to visitors or informing visitors about the area;
    - Examples—*
    - information board, small-scale viewing platform
  - (iii) assisting the hygiene, safety or shelter of visitors in the area; and
    - Examples—*
    - small-scale toilet facility, visitors' shelter

- (b) to ensure the infrastructure and its use by visitors have a low impact on the world heritage values and integrity of land in the area.

*Examples of the operation of paragraph (b)—*

- 1 A walking or cycling track includes a boardwalk to minimise the impact of visitors walking or cycling on parts of the track that may otherwise be subject to erosion.
- 2 A walking or cycling track includes a footbridge crossing a gully containing native plants that might otherwise be damaged by visitors walking or cycling on the track.
- 3 A camping platform is established in a camping area to limit the places where visitors may camp and minimise the impact of disturbance to the camping area.

***management purposes***, of a zone, means the management purposes for the zone under part 2, division 2.

***motorised aircraft*** does not include an aircraft that—

- (a) is—
- (i) remotely piloted or otherwise controlled; or
  - (ii) able to be programmed to independently fly a particular route; and
- (b) can not carry a person.

***motor vehicle*** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

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

***nature conservation chief executive*** means the chief executive of the department in which the *Nature Conservation Act 1992* is administered in relation to protected areas.

***operational guidelines*** means the document called ‘Operational Guidelines for the Implementation of the World Heritage Convention’, developed by the world heritage committee and published on UNESCO’s website.

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

***permit entity*** see section 76.

***permit holder*** means a person who holds a permit.



***permitted activity*** see section 32(1).

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

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

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

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

***rainforest area*** see section 3A.

***reasonable fee***, for a document or the assessment of an application, means an amount that—

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

***regional ecosystem description database*** means the database of regional ecosystems kept by the Queensland Herbarium including the designated number for, and description of, each regional ecosystem.

*Note—*

The regional ecosystem description database is available on the Queensland Government website.

***regional ecosystem number*** means the number given to a regional ecosystem under the regional ecosystem description database.

***registered cooperative management agreement*** means a cooperative management agreement registered under section 43D(2)(a).

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

***relevant Minister*** see section 76.

***relevant permit*** see section 76.

***residence*** means a class 1a building under the *Building Act 1975*.

**road**—

- (a) includes—
  - (i) a vehicular track, bridge or causeway; and
  - (ii) a constructed carpark; but

*Example of a type of road for this plan—*

a lawful access road

- (b) does not include a walking or cycling track.

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

**State government entity** means a government entity under the *Public Service Act 2008*, section 24, but does not include a government owned corporation.

**statement of outstanding universal value**, for the area, means the Statement of Outstanding Universal Value for the area adopted by the world heritage committee in St. Petersburg in 2012.

*Note—*

The statement of outstanding universal value for the area is published on the authority's website.

**structure** includes—

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

but does not include a road.

**this plan** means this management plan.

**translocating**, a crustacean or fish, means—

- (a) bringing the crustacean or fish into the area and releasing it into a watercourse in the area; or
- (b) taking the crustacean or fish from a watercourse in the area and releasing it in another watercourse in the area.

***undesirable animal*** means an animal—

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

***undesirable plant*** means a plant mentioned in schedule 2.

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

- (a) for a road, other than a carpark, that existed immediately before 1 September 1998—
  - (i) extend the road; and
  - (ii) widen the road so that the widened part of the road is more than 15% wider than it was on 1 September 1998;
- (b) for a road, other than a carpark, that did not exist immediately before 1 September 1998—
  - (i) extend the road; and
  - (ii) widen the road so that the widened part of the road is more than 15% wider than it was when it was built;
- (c) for a carpark that existed immediately before 1 September 1998—enlarge it so that it is more than 15% larger than it was on 1 September 1998;
- (d) for a carpark that did not exist immediately before 1 September 1998—enlarge it so that it is more than 15% larger than it was when it was built;
- (e) for a road that is not sealed—seal the road.

***visitor infrastructure*** means—

- (a) developed visitor infrastructure; or
- (b) limited visitor infrastructure.

***walking or cycling track*** means a track that is built, established or maintained for walking or cycling.

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

**waste facility** see the *Environmental Protection Regulation 2019*, schedule 19, part 2.

**watercourse**—

- (a) means a creek, impoundment, lake, river or stream in which water flows intermittently or permanently; and
- (b) includes the bed and banks of the creek, impoundment, lake, river or stream.

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

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

**world heritage committee** means the World Heritage Committee established under the World Heritage Convention.

**world heritage values**, of the area or land in the area, means the natural heritage described in the statement of outstanding universal value for the area and contained in the area or land.

**zone** means a management zone mentioned in section 6 and identified on a zoning map under section 7.

**zoning map** means—

- (a) the map mentioned in section 7(1); and
- (b) if the map is amended under part 2, division 3—the map as amended.