



Cairns Area Plan of Management Amendment 2002 (No. 1)

The Great Barrier Reef Marine Park Authority has prepared this amendment of a plan of management under section 39ZG of the *Great Barrier Reef Marine Park Act 1975*.

Dated 30 April 2002

1 Name of amendment

This amendment is the *Cairns Area Plan of Management Amendment 2002 (No. 1)*.

2 Commencement

This amendment comes into force when the Authority gives notice of it under subsection 39ZE (4) of the *Great Barrier Reef Marine Park Act 1975*.

Note However, amendments of the enforcement provisions of the *Cairns Area Plan of Management 1998* included in this amendment do not come into force until a day declared by regulations — see the *Great Barrier Reef Marine Park Act 1975*, subsection 39ZF (2).

3 Amendment of *Cairns Area Plan of Management 1998*

Schedule 1 amends the *Cairns Area Plan of Management 1998*.

Schedule 1 Amendments

(section 3)

[1] Paragraph 1.3 (2) (b)

substitute

- (b) to ensure management for the recovery and continued protection and conservation of species and ecological communities that are, or may become:
- (i) extinct; or
 - (ii) extinct in the wild; or
 - (iii) critically endangered; or
 - (iv) endangered; or
 - (v) vulnerable; or
 - (vi) conservation dependent;

[2] Paragraph 1.6 (12) (d)

omit

tourist program use

insert

tourism use

[3] Subclause 1.6 (14), and the note

substitute

Anchoring for large vessels and ships

- (14) The Authority:
- (a) recognises that the risk of damage to coral by anchoring equipment is higher for large vessels and ships than for vessels with an overall length less than 35 metres; and
 - (b) proposes that a person must not anchor a large vessel or a ship in a Location except as permitted under subclauses (15) to (20).

Note **Large vessel** is defined as a vessel of more than 35 and no more than 70 metres in overall length, and **ship** is defined as a vessel of more than 70 metres in overall length — see Schedule 9.

Anchoring for large vessels

- (15) For paragraph (14) (b), a person may only anchor a large vessel in a Location:
- (a) at a Reef Anchorage; or
 - (b) that is a Location mentioned in subclause (16) if, on the day of anchoring:
 - (i) the person is operating the vessel other than as part of a tourist program; or
 - (ii) the person is operating the vessel as part of a tourist program and has a booking for the Location.
- (16) For paragraph (15) (b), the Locations are the following:
- (a) Lizard Island Locality 2;
 - (b) Lizard Island Locality 3;
 - (c) Ribbon Reef No. 2 (15-075) Location;
 - (d) Ribbon Reef No. 5 (15-038) Location.
- (17) However if a large vessel is anchored in Lizard Island Locality 2 or 3, a person must not anchor another large vessel in the other of those Localities.

Anchoring for ships

- (18) For paragraph (14) (b), a person may only anchor a ship in one of the following Locations, and only on a day when the person has a booking for that day:
- (a) Lizard Island Locality 2;
 - (b) Lizard Island Locality 3;
 - (c) Ribbon Reef No. 2 (15-075) Location;
 - (d) Ribbon Reef No. 5 (15-038) Location.

Note 1 Although Ribbon Reef No. 2 (15-075) Location is a permitted anchorage, until it has been surveyed by AMSA it is not considered to be entirely safe.

Note 2 AMSA considers that Ribbon Reef No. 5 (15-038) Location should only be accessed from the coast via the channel south of Williamson Reef at approximately latitude 15°23' south. Passages north or south are largely unsurveyed. AMSA will review its opinion once surveys and charts are completed.

- (19) However:
- (a) no more than 1 ship at a time may anchor at a Location mentioned in subclause (18); and
 - (b) if a ship is anchored in Lizard Island Locality 2 or 3, a person must not anchor another ship in the other of those Localities.

Mooring for large vessels

- (20) The Authority, having undertaken consultation with stakeholders that indicated a need to provide adequate access for large vessels as part of a permitted tourist program:
 - (a) has allocated 5 new moorings in Locations mentioned in Schedule 6A for such vessels to access; and
 - (b) proposes that a person must not moor such a vessel at those moorings except as permitted under subclause (21).
- (21) For paragraph (20) (b), a person may only moor a large vessel at a mooring in a Location mentioned in Schedule 6A if:
 - (a) the person is operating the vessel as part of a permitted tourist program; and
 - (b) the vessel is carrying no more than 100 people; and
 - (c) no other vessel is moored at that mooring at the same time.

[4] Subclause 1.8 (7)

omit

the purpose of whale watching

insert

conducting whale watching activities and swimming-with-whales activities

[5] Subclause 1.8 (8), and the note

substitute

Relevant permissions for whale watching activities

- (8) The Authority will grant a relevant permission for a tourist program that includes whale watching activities in the Planning Area only if granting the permission does not result in the number of such permissions in force at that time being greater than the number of permissions in force for whale watching activities in the Planning Area on 22 June 1998.

Note Part 1 of this Plan commenced on 22 June 1998 and has been amended by *Cairns Area Plan of Management Amendment 1999 (No. 1)* and *Cairns Area Plan of Management Amendment 2002 (No. 1)*.

Relevant permissions for swimming-with-whales activities

- (9) The Authority will grant a relevant permission for a tourist program that includes swimming-with-whales activities in the Planning Area only:
 - (a) to a person who satisfies subclause (10); and

-
- (b) for the purpose of that person conducting, as part of a tourist program, swimming-with-whales activities with dwarf minke whales in the Ribbon Reefs Sector or Offshore Port Douglas Sector.
- (10) For paragraph (9) (a), a person satisfies this subclause if:
- (a) the person is authorised by a relevant permission to conduct a tourist program in the Planning Area; and
 - (b) the person was authorised by a relevant permission to conduct a tourist program in the Planning Area on 22 June 1998; and
 - (c) the person had conducted a tourist program in which there had been at least 5 interactions each year in the water between people and dwarf minke whales for each of 3 calendar years between 1 January 1990 and 31 December 1999 (inclusive) in the Ribbon Reefs Sector or the Offshore Port Douglas Sector; and
 - (d) the person was authorised by a relevant permission to conduct a tourist program when those interactions occurred.

Note Part 1 of this Plan commenced on 22 June 1998 and has been amended by *Cairns Area Plan of Management Amendment 1999 (No. 1)* and *Cairns Area Plan of Management Amendment 2002 (No. 1)*.

- (11) The Authority will grant a relevant permission of the kind mentioned in subclause (9) for swimming-with-whales activities only if:
- (a) the application for the permission is lodged with the Authority within 1 month after the day on which the enforcement provisions relating to swimming-with-whales activities commences; and
 - (b) granting the permission would result in not more than 10 of those permissions being in force; and
 - (c) the permission granted will replace an existing relevant permission to conduct a tourist program in the Planning Area.
- (12) The Authority intends that a relevant permission for a tourist program that includes swimming-with-whales activities will authorise the use of only 1 vessel to conduct the activities.
- (13) However, if more than 10 applications for relevant permissions mentioned in subclause (11) are lodged during the month mentioned in that subclause by persons who satisfy subclause (10), the Authority will grant the permissions to the 10 applicants ranked highest by the Authority according to the extent to which the applicants have had:
- (a) experience with successful in-water management of interactions with dwarf minke whales, based on sound environmental practices used to manage that activity; and
 - (b) regular involvement in conservation or research activities relating to dwarf minke whales in the Planning Area between 1 January 1990 and 31 December 1999.

Note 1 In deciding to grant a permission of the kind mentioned in subclause (9), the Authority is seeking to recognise operators who have been consistently involved in the developing of swimming-with-dwarf minke whales activities in the vicinity of the Ribbon Reefs Sector or Offshore Port Douglas Sector in an ecologically sustainable manner. The

Authority intends that any potential adverse impacts of swimming-with-whales activities will not be increased. The Authority will continue to monitor and develop measures for whale conservation within the Planning Area as part of Marine Park-wide threatened species conservation programs.

Note 2 Dwarf minke whale is the common name for the species *Balaenoptera acutorostrata*.

[6] Paragraph 1.10 (11) (e)

omit

tourist program use

insert

tourism use

[7] Subclause 1.11 (5), at the foot

insert

Note This site is specifically referred to in the Register of the National Estate kept under the *Australian Heritage Commission Act 1975*.

[8] Paragraph 1.13 (1) (c)

omit

basis.

insert

basis; and

[9] Subclause 1.14 (3)

substitute

- (3) However, the categories of use mentioned in Table 4 and Schedule 4 will not apply to a person who, for protection against a wind generally from the north, is operating a vessel in waters in Blue Lagoon at Lizard Island Locality 4.

[10] Subclause 1.14 (5)

omit everything after
operations.

[11] After subclause 1.14 (5)

insert

- (5A) A tourist program may be exempted from the group size limits if the program:
- (a) operates to:
 - (i) a pontoon; or
 - (ii) a mooring in a pontoon site; or
 - (b) relates to a tourism operation to which an exception under clause 1.24 applies.

[12] Paragraph 1.15 (4) (b)

omit

are intended

insert

is intended

[13] Subclause 1.16 (2A)

omit

a permission

insert

a relevant permission

[14] Subclause 1.16 (3)

substitute

- (3) Also, the Authority intends that the limits mentioned in subclause (2) for the number of moorings for a Location will not include or apply to the following kinds of moorings in the Planning Area:
- (a) a mooring within a mooring site or pontoon site;
 - (b) a mooring installed for the purpose of research;
 - (c) an ancillary mooring;
 - (d) a mooring temporarily relocated under subclause 1.16 (9).

Note 1 Even though a limit will not apply to a mooring mentioned in subclause (3), the installation of the mooring will continue to be subject to the application, assessment and decision-making processes under the Regulations for a relevant permission to install a mooring. The processes under the Regulations include an assessment of the suitability of the proposed installation site.

Note 2 Under subclause (10), no permitted tourist facility (which includes a mooring mentioned in paragraph (3) (d)) will be allowed to temporarily relocate to a different place in the Planning Area until a Marine Tourism Contingency Plan has been prepared.

[15] Subclause 1.16 (5)

omit

Permissions will not be granted for permanently moored facilities other than permitted

insert

Relevant permissions will not be granted for the installation in a Location of a permanently moored facility other than

[16] Paragraph 1.16 (5) (c)

omit

permission.

insert

permission; or

[17] After paragraph 1.16 (5) (c)

insert

(d) an ancillary mooring.

[18] Subclause 1.16 (7)

substitute

(7) Only 1 primary mooring per mooring site will be allowed.

[19] Subclause 1.16 (8)

omit

permission

insert

a relevant permission

[20] Subclause 1.16 (8)

omit

an acute natural event.

insert

a severe environmental incident.

[21] After subclause 1.16 (8)

insert

- (9) If a place (*original place*) in the Planning Area is severely damaged by a severe environmental incident, the Authority may:
- (a) if a permitted tourist facility was, before the incident, installed at the original place — allow the facility to be temporarily relocated to a different place in the Planning Area; or
 - (b) if a permitted tourist facility was, before the incident, installed at the original place and the facility was destroyed by the incident — allow the operator of the facility to temporarily install a new facility in a different place in the Planning Area; or
 - (c) if a permitted tourist program normally operates at the original place — allow the program to operate temporarily at a different place in the Planning Area.

Marine Tourism Contingency Plan

- (10) No permitted tourist facility or permitted tourist program will be allowed to temporarily relocate to a different place in the Planning Area until a Marine Tourism Contingency Plan has been prepared and adopted by the Authority.
- (11) A Marine Tourism Contingency Plan is required to specify:
- (a) the circumstances in which the Authority will allow a permitted tourist facility or permitted tourist program to temporarily relocate to a different place in the Planning Area; and
 - (b) the places to which a permitted tourist facility or permitted tourist program can relocate.
- (12) For subclauses (8) and (9), a severe environmental incident may be, for example, an oil spill or a cyclone.
- (13) For subclause (9), a permitted tourist facility is a tourist facility the operation of which is authorised by a relevant permission.

Note The installation of a tourist facility mentioned in paragraphs (9) (a) and (b), or the operation of a tourist program mentioned in paragraph (9) (c), is subject to the application, assessment and decision-making processes under the Regulations for a relevant permission to install a tourist facility or to operate a tourist program. The processes under the Regulations include an assessment of the suitability of the proposed installation site for a tourist facility.

[22] Clause 1.17, heading

substitute

1.17 Reef Anchorages

[23] Subclause 1.17 (3)

omit

permission

insert

relevant permission

[24] Clause 1.17, note 3

omit

permission

insert

relevant permission

[25] Clause 1.17, note 4

omit

Detailed Site Plans

insert

Detailed site plans

[26] Subclause 1.18 (1)

omit

hovercraft, or conduct motorised watersport, in a Location other than Lizard Island Locality 2, to:

insert

hovercraft or conduct a motorised water sport in a Location because the Authority aims to:

[27] Subclause 1.19 (2)

omit

or non-motorised craft operations.

insert

non-motorised craft operations or support service operations.

[28] After subclause 1.19 (3)

insert

(3A) Despite subclauses (2) and (3), the Authority intends to grant up to 15 new permissions for regional tour operations.

-
- (3B) A new permission mentioned in subclause (3A) may permit a regional tour operation:
- (a) to have all-year access to the Planning Area without a booking; and
 - (b) to have up to 2 visits, totalling no more than 48 hours, to any 1 Location in any 7 consecutive days.
- (3C) However, a permission mentioned in subclause (3A) will not be granted until:
- (a) the Authority has prepared a system for allocating permissions for regional tour operations; and
 - (b) an application for the permission has been assessed in accordance with the Regulations.
- (3D) It is the intention of the Authority that 5 of the permissions mentioned in subclause (3A) will provide opportunities for aboriginal involvement in tourism in the Planning Area and, for that purpose, will be made available to persons who are traditional inhabitants and have traditional affiliations.

[29] Subclause 1.19 (5)

omit

[30] Subclause 1.19 (12A)

substitute

Long range roving operations

- (12A) The Authority will grant a relevant permission for a long range roving operation only if the Authority received the application for the permission no later than 3 months after 27 October 1999.

Note Part 2 (Enforcement Provisions) was inserted into this Plan by *Cairns Area Plan of Management Amendment 1999 (No. 1)*. That Part commenced on 27 October 1999.

- (12B) The Authority will not convert a relevant permission for a long range roving operation to a relevant permission for another kind of tourism operation.

Support service operations

- (12C) The Authority intends that a support service operation will have all-year access to the Planning Area without a booking.
- (12D) The Authority intends that a vessel or aircraft used to conduct a permitted support service operation should not:
- (a) be operated in continuous association with a vessel or aircraft being serviced as part of the support service operation; or
 - (b) remain associated with a vessel or aircraft being serviced for longer than is necessary to provide the service; or

- (c) be used to offer services (including, for example, sale of food and drink) that are not essential to the continued safe and effective operation of a vessel or aircraft being serviced; or
- (d) be used to transport a person for the purpose of tourism.

(12E) The Authority will not convert a relevant permission for a support service operation to a relevant permission for another kind of tourism operation.

Types of operations

[31] Subclause 1.19 (13)

omit

Table 7 lists the types of tourist program operations

insert

Table 7 summarises the types of tourism operations

[32] Clause 1.19, table 7, entries for *Standard Tour Operation, Long Range Roving Operation and Regional Tour Operation*

substitute

**Standard
Tour
Operation**

(vessel or
aircraft no more
than 70 metres)

Permission for 50 days access per year to the Planning Area with a booking Nil

Permission may be endorsed to allow all-year access to the Planning Area without a booking if operating: Nil

- to a pontoon or mooring
- non-motorised craft, with a guide
- scenic flights above 500 feet

Permission may be endorsed to allow more than 50 days access per year without a booking for activities in September, October, November or December that are primarily associated with gamefishing Nil

Permission may be endorsed to allow the operation to be conducted above the group size limit to a specific Location, if currently permitted under existing permission The permitted operation must have been conducted to that Location above the group size limit for at least 50 days in 1996, or there must be special circumstances

<p>Long Range Roving Operation (vessel no more than 35 metres)</p>	<p>Permission may be endorsed to allow more than 50 days access per year to Sensitive Locations without a booking, if currently permitted under existing permission</p>	<p>The permitted operation must have accessed that Location on at least 50 days in 1996, or there must be special circumstances</p>
	<p>For a non-motorised craft with a guide, permission may be endorsed to allow all-year access to the Planning Area without a booking, but no more than 50 days access per year to any Sensitive Location</p>	<p>Nil</p>
	<p>Permission for 100 days access per year to the Planning Area without a booking, but no more than 50 days access per year to any 1 Location, or permission for all-year access to the Planning Area without a booking if operating to a pontoon or mooring that is not in a Group A Sensitive Location or in East Hope Island Reef (15-065) Location, subject to:</p> <ul style="list-style-type: none"> • up to 2 visits, totalling no more than 48 hours, per Location in any 7 consecutive days • the operation must not have, or be advertised or promoted as having, regular destinations, routes or timetables • a vessel may be used for the operation only if the whole vessel has been chartered for the operation by a single client for 1 charter party, without bookings from individual passengers or agents • a vessel may be used for the operation only if it is surveyed for overnight use with provision for 8 or more sleeping berths • a vessel used for the operation must not carry more than 30 passengers (not including crew). However, the vessel may carry more than 30 passengers (not including crew) on no more than 10 days per year, subject to group size limits and the operator notifying the Authority, in writing, about such an operation before conducting the operation • a vessel used for the operation must have a master and crew 	<p>Nil</p>

Note 1 The Authority will consider granting a relevant permission for a long range roving operation only if the Authority received the application for the permission no later than 3 months after 27 October 1999 — see subclause 1.19 (12A).

Note 2 It is intended that no further relevant permissions for long range roving operations in the Planning Area will be granted.

**Regional
Tour
Operation**

(vessel or
aircraft no more
than 70 metres)

Permission for all-year access to the Planning Area, but no more than 50 days access per year to any 1 Location, or permission for all-year access to the Planning Area without a booking if operating to a mooring or pontoon that is not in a Group A Sensitive Location or in East Hope Island Reef (15-065) Location

Either:

- (a) both of the following requirements:
- the operation has been assessed as meeting the eligibility requirements;
 - a new permission or authorisation has been granted; or
- (b) all of the following requirements:
- the operation had not applied for assessment against the eligibility criteria before the commencement of *Cairns Area Plan of Management Amendment 2002 (No. 1)*;
 - the relevant permission for the operation must have been in force on 22 June 1998;
 - the relevant permission must have permitted the operation to access the Planning Area on more than 50 days per year;
 - the relevant permission must not have limited the operation to being conducted while attached to a pontoon or permitted mooring;

- the operation must have accessed the Planning Area on at least 50 days between 1 January 1996 and 30 June 1997 (inclusive), or there are special circumstances

Note The eligibility requirements are set out in subclause 1.23 (3).

Permission may be endorsed to allow a vessel to anchor on more than 50 days per year at a Location, other than a Sensitive Location, but only up to the frequency currently permitted under a permission that was in force on 22 June 1998

Under the permission, the operation must have been permitted to anchor a vessel in that Location on more than 50 days in 1996

Note Operations which have been granted a permission for installation of a mooring at a Location under the mooring allocation will not be endorsed for more than 50 days anchoring access per year to that Location.

Permission may be endorsed to allow the operation to be conducted above the group size limit to a Location, other than a Sensitive Location, but only up to the group size currently permitted under an existing permission

Nil

Permission may be endorsed to allow entry to a Group A Sensitive Location on more than 50 days per year without a booking, but only up to the frequency currently permitted under an existing permission

Either:

- (a) the operation must have accessed that Location on at least 50 days in 1996; or
- (b) all of the following requirements:
 - the operation had not applied for assessment against the eligibility criteria before the commencement of *Cairns Area Plan of Management Amendment 2002 (No. 1)*;
 - after the operation is assessed against the eligibility requirements, a new permission or authorisation is granted;
 - the operation must have accessed that Location on at least 50 days during 1996, or there are special circumstances

Note The eligibility requirements are set out in subclause 1.23 (3).

Permission may be endorsed to allow entry to a Group B Sensitive Location on more than 50 days per year without a booking, up to the frequency currently permitted under an existing permission

Nil

Permission may be endorsed to allow the operation to be conducted above the group size limit to a Group A Sensitive Location, up to the number currently permitted under an existing permission

Either:

- (a) the operation must have accessed that Location at or above the group size limits on at least 50 days in 1996; or
- (b) all of the following requirements:
 - the operation had not applied for assessment against the eligibility criteria before the commencement of *Cairns Area Plan of Management Amendment 2002 (No. 1)*;
 - after the operation is assessed against the eligibility requirements, a new permission or authorisation is granted;
 - the operation must have accessed that Location at or above the group size limits on at least 50 days during 1996, or there are special circumstances

Note The eligibility requirements are set out in subclause 1.23 (3).

Nil

Permission may be endorsed to allow the operation to be conducted above the group size limit to a Group B Sensitive Location, up to the number currently permitted under an existing permission

[33] Clause 1.19, table 7, entry for *Hire Operation*, second column

omit

All year access to the Planning Area

insert

Permission for all-year access to the Planning Area without a booking, but no more than 50 days access per year to any Sensitive Location

[34] Clause 1.19, table 7, after entry for *Hire Operation**insert***Support service Operation**

(operation in which a vessel or aircraft is used to service another vessel to enable that vessel to continue operating safely and effectively)

Permission for all-year access to the Planning Area without a booking, subject to the following:

Nil

- a vessel or aircraft used for the operation must not be operated in continuous association with a vessel or aircraft being serviced as part of the support service operation
- a vessel or aircraft used for the operation must not remain associated with a vessel or aircraft being serviced for longer than is necessary to provide the service
- a vessel or aircraft used for the operation must not be used to offer services (including, for example, sale of food and drink) that are not essential to the continued safe and effective operation of a vessel or aircraft being serviced
- a vessel or aircraft used for the operation must not be used to transport a person for the purpose of tourism

[35] Clause 1.19, table 7, entry for *Cruise Ship Operation*, and the note*substitute***Cruise Ship Operation**

(vessel more than 70 metres)

Permission for 50 days access per year to the Planning Area with a booking

Nil

Permission may be endorsed to allow more than 50 days access per year to the Planning Area, if currently permitted under an existing permission

The operation must have accessed the Planning Area on at least 50 days in 1996, or there must be special circumstances

Note 1 For conditions of ship anchoring, see clause 2.5.

Note 2 A ship's tender may only be operated in certain Locations subject to certain restrictions — see clause 2.12B.

[36] Clause 1.19, table 7, at the foot

insert

Note Table 7 summarises the types of tourism operations that are consistent with this Plan. For details about the operations, see clause 1.19. For provisions about transition and implementation, see Division 6.

[37] Part 1, Division 6, heading

substitute

Division 6 Implementation**[38] Clause 1.20**

substitute

1.20 Implementation of this Plan

- (1) This Plan provides for:
 - (a) the development of further proposals associated with:
 - (i) Reef Anchorages; and
 - (ii) the management of permitted moorings and pontoons; and
 - (iii) the allocation of new moorings to the limits specified in Schedule 6; and
 - (b) relevant permissions that may be granted for tourism operations after this Plan commences; and
 - (c) exceptions to the requirements of this Plan that may be authorised for existing tourism operations that meet the required eligibility criteria set by this Plan.
- (2) Requirements and procedures for application, assessment and decisions concerning relevant permissions are set out in the Act, Regulations and Zoning Plan.

[39] Subclause 1.21 (2), except the table

substitute

- (2) No new moorings or pontoons will be permitted at these Locations (if allowed under this Plan) until site plans have been prepared.

[40] Subclause 1.21 (5)

omit

a permission

insert

a relevant permission

[41] Subclause 1.21 (6)

omit

granted permission

insert

granted written permission

[42] Clause 1.21, note 3

omit

Permissions

insert

Relevant permissions

[43] Subclause 1.22 (1)

omit

permissions

insert

relevant permissions

[44] Subclause 1.22 (2)

omit

permissions for tourist operations.

insert

relevant permissions for tourism operations.

[45] After subclause 1.22 (4)

insert

(4A) Despite subclause (4), the Authority intends to grant up to 15 new permissions for regional tour operations.

(4B) A permission mentioned in subclause (4A) may permit a regional tour operation:

(a) to have all-year access to the Planning Area without a booking; and

-
- (b) to have up to 2 visits, totalling no more than 48 hours, to any 1 Location in any 7 consecutive days.
 - (4C) However, a permission mentioned in subclause (4A) will not be granted until:
 - (a) the Authority has prepared a system for allocating permissions for regional tour operations; and
 - (b) an application for the permission has been assessed in accordance with the Regulations.
 - (4D) It is the intention of the Authority that 5 of the permissions mentioned in subclause (4A) will provide opportunities for aboriginal involvement in tourism in the Planning Area and, for that purpose, will be made available to persons who are traditional inhabitants and have traditional affiliations.

[46] Subclauses 1.23 (2) and (3), and the note

substitute

- (2) To protect the nature conservation, cultural and heritage, and scientific values, and use opportunities, of the Planning Area, a regional tour operation is permitted:
 - (a) to operate in the Planning Area for up to 365 days per year; and
 - (b) to access a Location on no more than 50 days per year; and
 - (c) to access the Planning Area on 365 days per year without a booking if operating to a mooring or pontoon that is not in a Group A Sensitive Location or in East Hope Island Reef (15-065) Location —
if the operation meets the requirements of subclause (3) or (4).
- (3) A regional tour operation meets the requirements of this subclause if:
 - (a) the operation has been assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to access the Planning Area on more than 50 days per year;
 - (iii) the operation was not limited to operating while attached to a pontoon or permitted mooring;
 - (iv) the operation has accessed the Planning Area on at least 50 days between 1 January 1996 and 30 June 1997 (inclusive); and
 - (b) a new permission or authorisation was granted following that assessment.
- (4) A regional tour operation meets the requirements of this subclause if:
 - (a) an application, in relation to the operation, for assessment against the requirements in paragraph (3)(a), was not made before the commencement of *Cairns Area Plan of Management Amendment 2002 (No. 1)*; and

- (b) the operation has been assessed by the Authority as meeting those requirements.
 - (5) However, for subclause (4), if special circumstances warrant an exception to the requirement in subparagraph (3) (a) (iv), the Authority will consider allowing the exception.
 - (6) Despite paragraph (2) (b), a relevant permission for a regional tour operation may be endorsed to allow a vessel to anchor on more than 50 days per year (but no more than the number of days permitted under the relevant permission before the commencement of this Plan) in a Location in the Planning Area if the applicant for the endorsement demonstrates that:
 - (a) the relevant permission for the operation was in force on 22 June 1998; and
 - (b) a vessel used to conduct the operation was permitted to anchor in the Location in the Planning Area on more than 50 days a year in 1996.
- Note 1* Part 1 of this Plan commenced on 22 June 1998 and has been amended by *Cairns Area Plan of Management Amendment 1999 (No. 1)* and *Cairns Area Plan of Management Amendment 2002 (No. 1)*.
- Note 2* Non-motorised craft operations, long range roving operations, craftless operations, support service operations, hire operations and scenic flights operating above 500 feet to the Planning Area are not subject to eligibility to access the Planning Area — see Table 7 and subclauses 1.19 (2) and 2.9 (4).
- Note 3* Operations which have been granted a permission for installation of a mooring at a Location under the mooring allocation will not be endorsed for more than 50 days anchoring access per year to that Location.
- (7) Despite subclauses (2), (3), (4) and (6), the Authority intends to grant up to 15 new permissions for regional tour operations.
 - (8) A permission mentioned in subclause (7) may permit a regional tour operation:
 - (a) to have all-year access to the Planning Area without a booking; and
 - (b) to have up to 2 visits, totalling no more than 48 hours, to any 1 Location in any 7 consecutive days.
 - (9) However, a permission mentioned in subclause (7) will not be granted until:
 - (a) the Authority has prepared a system for allocating permissions for regional tour operations; and
 - (b) an application for the permission has been assessed in accordance with the Regulations.
 - (10) It is the intention of the Authority that 5 of the permissions mentioned in subclause (7) will provide opportunities for aboriginal involvement in tourism in the Planning Area and, for that purpose, will be made available to persons who are traditional inhabitants and have traditional affiliations.

[47] Paragraphs 1.24 (3) (b) and (c)

substitute

- (b) the permission for the operation was in force on 22 June 1998 and, before that day, the operation was permitted to access the Planning Area on more than 50 days per year and did access the Planning Area on at least 50 days in the period from 1 January 1996 to 30 June 1997 inclusive; or
- (c) the operation was permitted to be conducted to that Location carrying more than the group size limit for that Location for at least 50 days in 1996.

[48] Subclauses 1.24 (5) and (6)

substitute

Exceptions to group size limits at Sensitive Locations

- (5) This subclause provides for exceptions to the limits of the number of people per vessel or aircraft at a Sensitive Location for a tourism operation, if:
 - (a) a new permission or authorisation was granted in relation to the operation because the operation was assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to access the Sensitive Location more than 50 days per year;
 - (iii) the operation accessed the Sensitive Location on at least 50 days in 1996 carrying more people than the limit now set for that Location; or
 - (b) an application, in relation to the operation, for assessment against the eligibility requirements in paragraph (a), was not made before the commencement of the *Cairns Area Plan of Management Amendment 2002 (No. 1)* and the operation has been assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to access the Sensitive Location more than 50 days per year;
 - (iii) the operation accessed the Sensitive Location on at least 50 days in 1996 carrying more people than the limit now set for that Location, or special circumstances warrant the grant of an exception to this requirement; or
 - (c) the relevant permission for the operation was in force on 22 June 1998 and, in 1996, the operation was permitted to access a Group B Sensitive Location carrying more people than the limit now set for Group B Sensitive Locations.

Exceptions to booking requirements — Group A Sensitive Locations

- (6) This subclause provides for exceptions to the booking requirement for tourism operations to access a Group A Sensitive Location, if the operator demonstrates that:
- (a) a new permission was granted in relation to the operation because the operation was assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to access a Group A Sensitive Location for at least 50 days in 1996;
 - (iii) the operation accessed a Group A Sensitive Location on at least 50 days in 1996; or
 - (b) an application, in relation to the operation, for assessment against the eligibility requirements in paragraph (a), was not made before the commencement of the *Cairns Area Plan of Management Amendment 2002 (No. 1)* and the operation has been assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to access a Group A Sensitive Location for at least 50 days in 1996;
 - (iii) the operation accessed a Group A Sensitive Location on at least 50 days in 1996, or special circumstances warrant the granting of an exception to this requirement.

Exceptions to booking requirements — Group B Sensitive Locations

- (6A) This subclause provides for exceptions to the booking requirement for tourism operations to access a Group B Sensitive Location, if the operator demonstrates that:
- (a) a new permission was granted in relation to the operation because the operation was assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to access the Planning Area for at least 50 days per year during the period from 1 January 1996 to 30 June 1997 (inclusive);
 - (iii) the operation accessed the Planning Area on at least 50 days during the period from 1 January 1996 to 30 June 1997 (inclusive); or
 - (b) an application, in relation to the operation, for assessment against the eligibility requirements in paragraph (a), was not made before the commencement of the *Cairns Area Plan of Management Amendment*

2002 (No. 1) and the operation has been assessed by the Authority as meeting the following eligibility requirements:

- (i) the relevant permission for the operation was in force on 22 June 1998;
- (ii) the operation was permitted to access the Planning Area for at least 50 days per year during the period from 1 January 1996 to 30 June 1997 (inclusive);
- (iii) the operation accessed the Planning Area on at least 50 days during the period from 1 January 1996 to 30 June 1997 (inclusive), or special circumstances warrant the granting of an exception to this requirement.

[49] Subclause 1.24 (11)

omit each mention of

Tourist programs

insert

Tourism operations

[50] Subclause 1.24 (12)

substitute

Exceptions to limits of 50 days to the Planning Area — Cruise Ship Operations

- (12) This subclause provides for exceptions to the limit of 50 days entry to the Planning Area by a cruise ship operation if the operator demonstrates that:
- (a) a new permission was granted in relation to the operation because the operation was assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to operate in the Planning Area on more than 50 days per year;
 - (iii) the operation accessed the Planning Area on at least 50 days in 1996; or
 - (b) an application, in relation to the operation, for assessment against the eligibility requirements in paragraph (a), was not made before the commencement of the *Cairns Area Plan of Management Amendment 2002 (No. 1)* and the operation has been assessed by the Authority as meeting the following eligibility requirements:
 - (i) the relevant permission for the operation was in force on 22 June 1998;
 - (ii) the operation was permitted to operate in the Planning Area on more than 50 days per year;

- (iii) the operation accessed the Planning Area on at least 50 days in 1996, or special circumstances warrant the grant of an exception to this requirement.

[51] Subclause 1.24 (14)

omit

[52] Subclause 1.25 (1)

omit

tourist program operation,

insert

tourism operation,

[53] Paragraph 1.25 (1) (c)

substitute

- (c) proof of special circumstances, which may include personal illness or circumstances that prevented operations that would otherwise have enabled the permission holder to have met the eligibility criteria.

[54] Subclause 1.26 (1)

omit

permissions

insert

relevant permissions

[55] Subclause 1.26 (2)

substitute

- (2) The Authority will not grant a relevant permission or authorisation to a person to use a vessel or aircraft to conduct a tourist program, or approve the transfer of such a permission to a person, if doing so would result in the person holding more than 1 relevant permission or authorisation that authorises the use of the vessel or aircraft for the tourist program in the Planning Area.

[56] Subclause 1.26 (4)

omit

[57] Paragraph 2.3 (1) (c)

omit

Plan.

insert

Plan; or

[58] After paragraph 2.3 (1) (c)

insert

- (d) in accordance with a relevant permission, granted under the Regulations, authorising the carrying on of an activity not mentioned in, or considered by the Authority in the preparation of, this Plan.

[59] Subclause 2.3 (2)

omit

gives permission

insert

gives written permission

[60] Clause 2.5

substitute

2.4 Where large vessels may anchor

- (1) A person must not anchor a large vessel in a Location except:
- (a) in a Reef Anchorage; or
 - (b) in a Location mentioned in subclause (2) on a day if, on that day:
 - (i) the person is operating the vessel other than as part of a tourist program; or
 - (ii) the person is operating the vessel as part of a tourist program and has a booking for the Location.

Note **Large vessel** is defined as a vessel of more than 35 and no more than 70 metres in overall length — see Schedule 9.

- (2) For paragraph (1) (b), the Locations are the following:
- (a) Lizard Island Locality 2;
 - (b) Lizard Island Locality 3;
 - (c) Ribbon Reef No. 2 (15-075) Location;
 - (d) Ribbon Reef No. 5 (15-038) Location.
- (3) However, a person may anchor a large vessel in waters in Blue Lagoon in Lizard Island Locality 4 for protection against a wind blowing generally from the north.

- (4) If a large vessel is anchored in Lizard Island Locality 2 or 3, a person must not anchor a large vessel in the other of those Localities.

2.4A Mooring large vessels

A person must not moor a large vessel at a mooring in a Location mentioned in Schedule 6A unless:

- (a) the person is operating the vessel as part of a tourist program; and
- (b) the vessel is carrying no more than 100 people; and
- (c) no other vessel is moored at that mooring at the same time.

2.5 Where ships may anchor

- (1) A person must not anchor a ship in a Location except in one of the following Locations, and only on a day when the person has a booking for the Location on that day:
- (a) Lizard Island Locality 2;
 - (b) Lizard Island Locality 3;
 - (c) Ribbon Reef No. 2 (15-075) Location;
 - (d) Ribbon Reef No. 5 (15-038) Location.

Note 1 **Ship** is defined as a vessel of more than 70 metres in overall length — see Schedule 9.

Note 2 Although Ribbon Reef No. 2 (15-075) Location is a permitted anchorage, until it has been completely surveyed by AMSA it is not considered to be entirely safe.

Note 3 AMSA considers that Ribbon Reef No. 5 (15-038) Location should only be accessed from the coast via the channel south of Williamson Reef at approximately latitude 15°23' south. Passages north or south are largely unsurveyed. AMSA will review its opinion once surveys and charts are completed.

- (2) If a ship is anchored in a Location mentioned in subclause (1), a person must not anchor another ship in that Location.
- (3) Also, if a ship is anchored in Lizard Island Locality 2 or 3, a person must not anchor another ship in the other of those Localities.

[61] Clause 2.9, heading

substitute

2.9 Restrictions on access by tourist programs to the Planning Area, other than Sensitive Locations

[62] Subclauses 2.9 (1) to (5), and the note

substitute

- (1) This clause applies to the Planning Area, other than Sensitive Locations.

-
- (1A) A person must not conduct a tourism operation in the Planning Area on more than 50 days per year if the operation involves the use of a vessel or aircraft.
- (2) A person must not conduct a tourism operation on a day in the Planning Area unless the person has a booking for the operation on the day for the Planning Area.
- (3) However, subclauses (1A) and (2) do not apply to a person conducting a tourism operation that involves operating to a permitted mooring or permitted pontoon if the mooring or pontoon is not in a Group A Sensitive Location or in East Hope Island Reef (15-065) Location.
- (4) In subclause (3), *operating to a permitted mooring or permitted pontoon* means operating a vessel, as part of a tourism operation, that remains attached to the mooring or pontoon during the operation except when transiting the Marine Park to or from the mooring or pontoon by the most direct reasonable route.
- (5) Also, subclauses (1A) and (2) do not apply to a person:
- (a) conducting a craftless operation; or
 - (b) operating a non-motorised craft with a guide; or
 - (c) operating an aircraft to conduct a scenic flight, if the aircraft does not descend below 500 feet above ground or water while in the Planning Area; or
 - (d) conducting a hire operation; or
 - (e) operating a vessel or aircraft in September, October, November or December primarily for the purpose of gamefishing; or
 - (f) conducting a long range roving operation; or
 - (g) conducting a support service operation.
- (5A) Also, subclauses (1A) and (2) do not apply to a person operating a vessel or aircraft in accordance with an authorisation granted on or after 27 October 1999.
- Note* Part 2 (Enforcement provisions) was inserted into this Plan by *Cairns Area Plan of Management Amendment 1999 (No. 1)*. That Part commenced on 27 October 1999.
- (5B) If a relevant permission granted on or after 27 October 1999 mentions that a person may do a thing despite subclause (1A) or (2), that subclause does not prevent the person doing that thing in accordance with the relevant permission.

[63] Subclause 2.9 (6)

omit

Also, subclauses (1) and (2) do not prohibit a person from

insert

Also, subclauses (1A) and (2) do not apply to a person

[64] Subclauses 2.10 (1) to (6), and the notes

substitute

- (1) A person must not conduct a tourism operation in a Sensitive Location on more than 50 days per year if the operation involves the use of a vessel or aircraft.

Note The Sensitive Locations are set out in Schedule 5.

- (2) A person must not conduct a tourism operation in a Sensitive Location unless the person has a booking for the operation in that Location for the day on which the operation is conducted.
- (3) However, subclauses (1) and (2) do not apply to a person operating a vessel or aircraft to conduct a support service operation.
- (4) Also, subclauses (1) and (2) do not apply to a person operating a vessel or aircraft in Cod Hole Locality or Lizard Island Locality 1.
- (5) Also, subclauses (1) and (2) do not apply to a person operating a vessel or aircraft according to an authorisation granted on or after 27 October 1999.

Note Part 2 (Enforcement provisions) was inserted into this Plan by *Cairns Area Plan of Management Amendment 1999 (No. 1)*. That Part commenced on 27 October 1999.

- (6) Also, subclause (2) does not apply to a person:
- (a) conducting a craftless operation; or
 - (b) operating a non-motorised craft with a guide; or
 - (c) operating a vessel to conduct a hire operation.
- (6A) Also, if a relevant permission granted on or after 27 October 1999 mentions that a person may do a thing despite subclause (1) or (2), that subclause does not prevent the person doing that thing according to the relevant permission.

[65] Subclause 2.10 (7)

omit

Also, subclauses (1), (2) and (3) do not prohibit a person from

insert

Also, subclauses (1) and (2) do not apply to a person

[66] Subclause 2.10 (8), and the note

substitute

- (8) Also, subclause (2) does not apply to a person operating a vessel to the Michaelmas Cay Locality if the person is a member of the Cairns Professional Game Fishing Association, and is operating to the Association's mooring in that Locality.

[67] Subclause 2.10 (9)

omit

[68] Subclause 2.10 (10)

omit

subclauses (7) and (9),

insert

subclause (7),

[69] After subclause 2.10 (10)

insert

- (11) A person must not accept a booking for a vessel to enter a Sensitive Location on a day if accepting the booking would result in the number of bookings for that Location for that day being greater than the number mentioned in column 4 of the entry for that Location in Schedule 5.

[70] After subclause 2.11 (3), including the note

insert

- (3A) However, subclause (3) does not apply to a person taking a large vessel into a moderate use Location to moor the vessel at a mooring that is in the Location and is mentioned in Schedule 6A if:
- (a) the person is operating the vessel as part of a tourist program; and
 - (b) the vessel is carrying no more than 100 people; and
 - (c) no other vessel is moored at that mooring at that time.

[71] After subclause 2.12

insert

2.12A Support service operations

A person conducting a support service operation must ensure that the vessel or aircraft used to conduct the operation:

- (a) is not operated in continuous association with a vessel or aircraft being serviced as part of the support service operation; and
- (b) does not remain associated with a vessel or aircraft being serviced for longer than is necessary to provide the service; and
- (c) is used only to offer services (not including, for example, sale of food and drink) that are essential to the continued safe and effective operation of a vessel or aircraft being serviced; and
- (d) is not used to transport a person for the purpose of tourism.

2.12B Ships' tenders

- (1) A person may operate a ship's tender at Low Island Locality or Green Island Reef Locality 1, 2 or 3 only to transfer passengers by the most direct reasonable route between the ship and:
 - (a) a place outside the Planning Area; or
 - (b) a tourist facility or a vessel within, or partly within, the Planning Area.
- (2) The person must ensure that, on the route, the ship's tender does not stop except:
 - (a) to pick up passengers; or
 - (b) for passengers to disembark at their destination; or
 - (c) in the case of an emergency.

[72] Subclause 2.15 (2)

omit

(other than Lizard Island Locality 2)

[73] Subclause 2.17 (3)

omit

subsection 38J (4) of the Act,

insert

paragraph 38J (4) (b) of the Act and regulation 45A of the Regulations,

[74] Part 2, after Division 4

insert

Division 5 Limit on Authority's power to grant permissions

2.19 Permissions must be consistent with this Plan

The Authority must not grant a relevant permission that is inconsistent with a provision of this Plan.

2.20 Limit on granting or transferring permissions

The Authority must not grant a relevant permission or authorisation to a person to use a vessel or aircraft to conduct a tourist program, or approve the transfer of such a permission to a person, if doing so would result in the person holding more than 1 relevant permission or authorisation that authorises the use of the vessel or aircraft for the tourist program in the Planning Area.

2.21 Limit on converting permissions

The Authority must not convert a relevant permission from or to any of the following permissions:

- (a) a relevant permission for a long range roving operation;
- (b) a relevant permission for a non-motorised craft operation;
- (c) a relevant permission for a hire operation;
- (d) a relevant permission for a craftless operation;
- (e) a relevant permission for a support service operation.

Note Regulation 22 of the Regulations deals with the grant of relevant permissions.

2.22 Limit on the number of moorings in the Planning Area

- (1) The Authority must not grant a relevant permission for the installation of a mooring in a Reef Anchorage.
- (2) However, subclause (1) does not apply to the grant of a relevant permission for the installation of a mooring to replace an existing mooring.
- (3) The Authority must not grant a relevant permission for the installation of a mooring in a Location mentioned in Table 8 unless a site plan under that clause has been prepared for the Location.

Note Table 8 sets out the Locations for which site plans are required.

- (4) The Authority must not grant a relevant permission for the installation of a mooring if granting the permission would result in relevant permissions, other than a relevant permission mentioned in subclause (5) or (6), being in force that authorise installation in a Location mentioned in Schedule 6 of a total of more than the number of moorings mentioned in the Schedule for that Location.
- (5) However, subclause (4) does not apply to the grant of a relevant permission to a person for the installation of a mooring in a Location mentioned in Schedule 6 if:
 - (a) the person:
 - (i) holds an existing permission that authorised the person to anchor a vessel or aircraft in the Location on more than 50 days in 1996; and
 - (ii) gives the Authority information showing that the person anchored a vessel or aircraft in the Location on more than 50 days in 1996; and
 - (b) there are special circumstances for granting the relevant permission to the person.
- (6) Also, subclause (4) does not apply to the grant of a relevant permission for the installation of:
 - (a) a mooring within a mooring site or pontoon site; or
 - (b) a mooring for use in research; or
 - (c) an ancillary mooring; or

- (d) a mooring as part of its temporary relocation or replacement under subclause 1.16 (9).

Note 1 Even though a limit under subclause (4) does not apply to a mooring mentioned in subclause (6), the installation of the mooring is subject to the application, assessment and decision-making processes under the Regulations for a relevant permission to install a mooring. The processes under the Regulations include an assessment of the suitability of the proposed installation site.

Note 2 Under subclause 1.16 (10), no permitted tourist facility (which includes a mooring mentioned in paragraph (6) (d)) will be allowed to temporarily relocate to a different place in the Planning Area until a Marine Tourism Contingency Plan has been prepared and adopted by the Authority.

2.23 Limit on the number of pontoons in the Planning Area

- (1) The Authority must not grant a relevant permission for the installation of a pontoon if granting the permission would result in relevant permissions being in force that authorise installation in a Location mentioned in Schedule 7 of a total of more than the number of pontoons mentioned in the Schedule for that Location.
- (2) The Authority must not grant a relevant permission for the installation of a pontoon in a Location mentioned in Table 8 in clause 1.21 unless a site plan under that clause has been prepared for the Location.

Note Table 8 sets out the Locations for which site plans are required.

- (3) Subclauses (1) and (2) do not apply to the grant of a relevant permission for the installation of a pontoon as part of a temporary relocation or replacement under subclause 1.16 (9).

Note Under subclause 1.16 (10), no permitted tourist facility (which includes a pontoon mentioned in subclause (3)) will be allowed to temporarily relocate to a different place in the Planning Area until a Marine Tourism Contingency Plan has been prepared and adopted by the Authority.

2.24 Limit on granting relevant permissions for whale watching activities

The Authority must not grant a relevant permission for a tourist program that includes swimming-with-whales activities in the Planning Area if granting the permission would result in the number of such permissions in force at that time being greater than the number of permissions in force for whale watching activities in the Planning Area on 22 June 1998.

Note Part 1 of this Plan commenced on 22 June 1998 and has been amended by *Cairns Area Plan of Management Amendment 1999 (No. 1)* and *Cairns Area Plan of Management Amendment 2002 (No. 1)*.

2.25 Restrictions on granting relevant permissions for swimming-with-whales activities

- (1) The Authority must not grant a relevant permission for a tourist program that includes swimming-with-whales activities in the Planning Area unless it is granted:
 - (a) to a person who satisfies subclause (2); and
 - (b) for the purpose of that person conducting, as part of a tourist program, swimming-with-whales activities with dwarf minke whales in the Ribbon Reefs Sector or Offshore Port Douglas Sector.
 - (2) For paragraph (1) (a) , a person satisfies this subclause if:
 - (a) the person is authorised by a relevant permission to conduct a tourist program in the Planning Area; and
 - (b) the person was authorised by a relevant permission to conduct a tourist program in the Planning Area on 22 June 1998; and
 - (c) the person had conducted a tourist program in which there had been at least 5 interactions each year in the water between people and dwarf minke whales for each of 3 calendar years between 1 January 1990 and 31 December 1999 (inclusive) in the Ribbon Reefs Sector or the Offshore Port Douglas Sector; and
 - (d) the person was authorised by a relevant permission to conduct a tourist program when those interactions occurred.
- Note* Part 1 of this Plan commenced on 22 June 1998 and has been amended by *Cairns Area Plan of Management Amendment 1999 (No. 1)* and *Cairns Area Plan of Management Amendment 2002 (No. 1)*.
- (3) The Authority may grant a relevant permission of the kind mentioned in subclause (1) to conduct a swimming-with-whales activities only if:
 - (a) the application for the permission is lodged with the Authority within 1 month after the day on which this clause commences; and
 - (b) granting the permission would result in not more than 10 of those permissions being in force; and
 - (c) the permission granted replaces an existing relevant permission for a tourist program in the Planning Area.
 - (4) However, if more than 10 applications mentioned in subclause (3) are lodged during the month mentioned in that subclause by persons who satisfy subclause (2), the Authority must grant the permissions to the 10 applicants ranked highest by the Authority according to the extent to which the applicants have had:
 - (a) experience with successful in-water management of interactions with dwarf minke whales, based on sound environmental practices used to manage that activity; and
 - (b) regular involvement in conservation or research activities relating to dwarf minke whales in the Ribbon Reefs Sector or the Offshore Port Douglas Sector between 1 January 1990 and 31 December 1999.

Note **Dwarf minke whale** is the common name for the species *Balaenoptera acutorostrata*.

- (5) For subclause (3), the Authority may grant a relevant permission (the *new permission*) for swimming-with-whales activities in the Planning Area only if:
- (a) the permission is of the same kind in relation to the carrying on of the same activities in the same zone or area as a relevant permission (the *old permission*) that was in force immediately before the new permission is granted; and
 - (b) the permission granted (the *new permission*) replaces the existing relevant permission (the *old permission*) to conduct a tourist program in the Planning Area.

Note Subregulation 22 (4) and regulation 51 of the Regulations provide for when a relevant permission ceases to be in force.

2.26 Granting relevant permissions for long range roving operations

The Authority may grant a relevant permission (the *new permission*) for a long range roving operation only if:

- (a) the permission is of the same kind in relation to the carrying on of the same activity in the same zone or area as a relevant permission (the *old permission*) that is in force immediately before the new permission is granted; and
- (b) the permission granted (the *new permission*) replaces the existing relevant permission (the *old permission*) which will cease to be in force.

Note Subregulation 22 (4) and regulation 51 of the Regulations provide for when a relevant permission ceases to be in force.

2.27 Granting new permissions for regional tour operations

- (1) The Authority may grant up to 15 new permissions for regional tour operations.
- (2) A permission mentioned in subclause (1) may permit a regional tour operation:
 - (a) to have all-year access to the Planning Area without a booking; and
 - (b) to have up to 2 visits, totalling no more than 48 hours, to any 1 Location in any 7 consecutive days.
- (3) Five of the permissions mentioned in subclause (1) will only be granted to persons who are traditional inhabitants and have traditional affiliations.
- (4) However, a permission mentioned in subclause (1) must not be granted until:
 - (a) the Authority has prepared a system for allocating permissions for regional tour operations; and
 - (b) an application for the permission has been assessed in accordance with the Regulations.

[75] Schedule 1, paragraph 2 (r)*substitute*

- (r) then north-westerly along the geodesic that passes through the point of latitude 14°00.00' south, longitude 145°15.00' east to its intersection by the northern boundary of the Cairns Section being the geodesic between the point of latitude 14°18.27' south, longitude 145°39.00' east and the point of latitude 14°40.00' south, longitude 144°56.50' east;

[76] Schedule 1, paragraph 2 (u)*substitute*

- (u) then south-easterly along the geodesic that passes through the point of latitude 17°30.00' south, longitude 147°00.00' east to its intersection by the parallel of latitude 16°44.60' south;

[77] Schedule 2, paragraph 2 (f)*substitute*

- (f) then north-westerly along the geodesic that passes through the point of latitude 14°00.00' south, longitude 145°15.00' east to its intersection by the northern boundary of the Cairns Section being the geodesic between the point of latitude 14°18.27' south, longitude 145°39.00' east and the point of latitude 14°40.00' south, longitude 144°56.50' east;

[78] Schedule 2, paragraph 2 (i)*substitute*

- (i) then south-easterly along the geodesic that passes through the point of latitude 17°30.00' south, longitude 147°00.00' east to its intersection by the parallel of latitude 15°32.01' south; and

[79] Schedule 2, paragraph 3 (i)*substitute*

- (i) then north-easterly along the geodesic to the point of intersection of the geodesic between the point of latitude 15°00.00' south, longitude 146°00.00' east and the point of latitude 17°30.00' south, longitude 147°00.00' east by the parallel of latitude 15°32.01' south;

[80] Schedule 2, paragraph 3 (j)*substitute*

- (j) then south-easterly along the geodesic to the point of intersection of the geodesic between the point of latitude 15°00.00' south, longitude 146°00.00' east and the point of latitude 17°30.00' south, longitude 147°00.00' east by the parallel of latitude 15°49.65' south; and

[81] Schedule 2, paragraphs 4 (c), (d) and (e)

substitute

- (c) then generally north-westerly along the landward boundary of the Cairns Section to its easternmost intersection by the parallel of latitude 16°41.90' south;
- (d) then north-easterly along the geodesic to the point of intersection of the geodesic between the point of latitude 15°00.00' south, longitude 146°00.00' east and the point of latitude 17°30.00' south, longitude 147°00.00' east by the parallel of latitude 15°49.65' south;
- (e) then south-easterly along the geodesic to the point of intersection of the geodesic between the point of latitude 15°00.00' south, longitude 146°00.00' east and the point of latitude 17°30.00' south, longitude 147°00.00' east by the parallel of latitude 16°28.86' south; and

[82] Schedule 2, paragraphs 5 (e), (f) and (g)

substitute

- (e) then generally north-westerly along that 5 kilometre line to its easternmost intersection by the parallel of latitude 16°50.30' south;
- (f) then north-easterly along the geodesic to the point of intersection of the geodesic between the point of latitude 15°00.00' south, longitude 146°00.00' east and the point of latitude 17°30.00' south, longitude 147°00.00' east by the parallel of latitude 16°28.86' south;
- (g) then south-easterly along the geodesic that passes through the point of latitude 17°30.00' south, longitude 147°00.00' east to its intersection by the parallel of latitude 16°44.60' south; and

[83] Schedule 3, paragraph 2 (a)

omit

Osprey Island (14-118a),

insert

Osprey Island (14-116e),

[84] Schedule 3, paragraph 2 (d)

substitute

- (d) then generally south-easterly along the geodesic on a bearing of 155° for a distance of approximately 950 metres to the north-westernmost point of the headland of Lizard Island at Chinamans Ridge at low water; and

[85] Schedule 3, paragraph 3 (a)

substitute

- (a) commences at the north-westernmost point of the headland of Lizard Island at Chinamans Ridge at low water;

[86] Schedule 3, clause 11

substitute

11. Hastings Reef Locality 2

Hasting Reef Locality 2 of the Cairns Area is the part of the Offshore Cairns Sector at Hastings Reef (16-057) bounded by a line which:

- (a) commences at the westernmost intersection of the 500 metre line around Hastings Reef (16-057) by the parallel of latitude 16°31.00' south;
- (b) runs then generally north-easterly, easterly, south-easterly along that 500 metre line to its easternmost intersection by the parallel of latitude 16°31.00' south; and
- (c) then west along that parallel to the point of commencement.

[87] Schedule 3, paragraphs 15 (a) and (b)

substitute

- (a) commences at the westernmost intersection of the geodesic between the points of latitude 16°46.00' south, longitude 145°57.40' east and latitude 16°45.00' south, longitude 146°00.00' east by the 500 metre line of Green Island Reef;
- (b) runs then generally north-westerly, northerly, north-easterly, easterly and south-easterly along that 500 metre line to its easternmost intersection by the geodesic between the point of latitude 16°46.00' south, longitude 145°57.40' east and the point of latitude 16°45.00' south, longitude 146°00.00' east;

[88] Schedule 3, paragraphs 16 (a), (b) and (c)

substitute

- (a) commences at the westernmost intersection of the geodesic between the point of latitude 16°46.00' south, longitude 145°57.40' east and the point of latitude 16°45.00' south, longitude 146°00.00' east by the 500 metre line of Green Island Reef;
- (b) runs then north-easterly along that geodesic to its westernmost intersection with the coast of Green Island at low water;

- (c) then generally south-easterly, north-easterly and north-westerly along the coastline of Green Island at low water to its easternmost intersection by the geodesic between the point of latitude 16°46.00' south, longitude 145°57.40' east and the point of latitude 16°45.00' south, longitude 146°00.00' east;

[89] Schedule 3, clause 18

substitute

18. Moore Reef Locality 2

Moore Reef Locality 2 of the Cairns Area is the part of the South Offshore Cairns Sector at Moore Reef (16-071) bounded by a line which:

- (a) commences at the westernmost intersection of the parallel of latitude 16°54.00' south by the 500 metre line of Moore Reef (16-071);
- (b) runs then generally north-westerly and north-easterly along that 500 metre line to its northernmost intersection by the geodesic which passes through the southernmost intersection of the meridian of longitude 146°15.00' east by the reef edge of Moore Reef (16-071) and the westernmost intersection of the parallel of latitude 16°51.00' by that reef edge;
- (c) then south-westerly along that geodesic to its southernmost intersection by the 500 metre line around Moore Reef (16-071);
- (d) then generally south-westerly along that 500 metre line to its intersection by the parallel of latitude 16°54.00' south; and
- (e) then west along that parallel of latitude to the point of commencement.

[90] Schedule 5

substitute

Schedule 5 Sensitive Locations

(Table 7, subclauses 1.24 (5), (6) and (6A), 2.9 (3), 2.10 (1), (2) and (11))

Column 1 Item	Column 2 Location	Column 3 Airspace height (feet)	Column 4 Bookings limited
Part 1	Group A Sensitive Locations		
1	Cape Tribulation Bay Locality 1	1 500	1 vessel per day
2	West Hope Island Reef Location	1 500	1 vessel per day
3	Snapper Island Reef Location	1 500	1 vessel per day
4	Low Island Locality	1 500	2 vessels per day
5	Michaelmas Cay Locality	3 000	1 vessel per day

Column 1 Item	Column 2 Location	Column 3 Airspace height (feet)	Column 4 Bookings limited
6	Green Island Reef (16-049) Location	1 500	4 vessels per day
7	Sudbury Cay Locality	1 500	1 vessel per day
8	Franklands Islands Sector	1 500	1 vessel per day
Part 2 Group B Sensitive Locations			
9	Lizard Island Locality 1	1 500	no set limit
10	Cod Hole Locality	500	no set limit
11	East Hope Island Reef (15-065) Location	1 500	2 vessels per day

[91] Schedule 6, item 1, entry for *Lizard Island Locality 2*, second column

omit

to be determined through site planning

insert

7

[92] Schedule 6, item 3, after entry for *Cape Tribulation Bay Locality 1*

insert

Alexandra Bay Locality 2

[93] Schedule 6, item 3, entry for *Agincourt No. 3a Reef (15-099a)*

substitute

Agincourt No. 3a Reef (15-099a) 7 moorings above the number permitted on 22 June 1998

[94] Schedule 6, item 3, entry for *Agincourt No. 2d Reef (15-099d)*, second column

omit

5

insert

8

[95] Schedule 6, item 3, entry for *Low Isles Reef (16-028)*, second column

omit

3

insert

4

[96] Schedule 6, item 3, entry for *Low Island Locality*, second column

omit

6

insert

5

[97] Schedule 6, item 4, entry for *Norman Reef (16-030)*

substitute

Norman Reef (16-030)

5 moorings above the number permitted on 22 June 1998, including 3 moorings on the southern side of the Reef, as determined in the site plan for the Reef under clause 1.21

[98] Schedule 6, item 4, entry for *Hastings Reef Locality 1*

substitute

Hastings Reef Locality 1

2 moorings above the number permitted on 22 June 1998, plus any additional moorings allowed on the southern side of the Reef for use in northerly winds (as determined through site assessment)

[99] Schedule 6, item 4, entry for *Michaelmas Cay Locality*

substitute

Michaelmas Cay Locality

19

[100] Schedule 6, item 4, entry for *Green Island Reef Locality 1*

substitute

Green Island Reef Locality 1

No increase above the number permitted on 22 June 1998

[101] After Schedule 6*insert***Schedule 6A Moorings for large vessels**

(subclauses 1.6 (20) and (21) and 1.14 (3), clause 2.4A and subclause 2.11 (3A))

1. Lizard Island Locality 3
2. Unnamed Reef (14-152) Location or Unnamed Reef (14-153) Location
3. Ribbon Reef No. 9 (14-154) Location
4. Ribbon Reef No. 3 (15-150) Location
5. Rachel Carson Reef (15-092) Location

[102] Schedule 7, second column*omit each mention of*

to be determined through site planning

insert

1

[103] Schedule 8, item 1, before the entry for *Lizard Island Locality 4**insert*

Lizard Island Locality 3

The area bounded by a line beginning at latitude 14°39.938' south, longitude 145°27.014' east and running progressively:

- (a) north along the geodesic to latitude 14°39.851' south, longitude 145°27.008' east;
- (b) north-westerly along the geodesic to latitude 14°39.532' south, longitude 145°26.876' east;
- (c) north-easterly along the geodesic to latitude 14°39.442' south, longitude 145°26.894' east;
- (d) south-easterly along the geodesic to latitude 14°39.777' south, longitude 145°27.158' east; and
- (e) south-westerly along the geodesic to the point where the line began.

[104] Schedule 8, item 3, second entry for *Agincourt No. 4 Reef (15-096)*

substitute

Agincourt No. 4 Reef (15-096)

The area enclosed within the four points of latitude 15°58.02' south, longitude 145°48.24' east; latitude 15°57.75' south, longitude 145°48.34' east; latitude 15°57.84' south, longitude 145°48.62' east; and latitude 15°58.12' south, longitude 145°48.51' east.

[105] Schedule 8, item 3, after second entry for *Morning Reef (15-098)*

insert

Agincourt No. 3 Reef (15-099a)

The area enclosed within the four points of latitude 15°59.59' south, longitude 145°49.32' east; latitude 15°59.54' south, longitude 145°49.41' east; latitude 15°59.91' south, longitude 145°49.66' east; and latitude 15°59.96' south, longitude 145°49.57' east.

[106] Schedule 8, item 3, entry for *Agincourt No. 2 Reef (15-099b)*

substitute

Agincourt No. 1 Reef (15-099c)

The area enclosed within the four points of latitude 16°02.84' south, longitude 145°51.82' east; latitude 16°02.83' south, longitude 145°51.87' east; latitude 16°03.18' south, longitude 145°51.96' east; and latitude 16°03.19' south, longitude 145°51.91' east.

[107] Schedule 8, item 3, entry for *Agincourt No. 1c Reef (15-099c)*

substitute

Agincourt No. 1 Reef (15-099c)

The area enclosed within the four points of latitude 16°03.74' south, longitude 145°51.75' east; latitude 16°03.52' south, longitude 145°51.91' east; latitude 16°03.54' south, longitude 145°51.94' east; and latitude 16°03.76' south, longitude 145°51.79' east.

[108] Schedule 8, item 3, third entry for *Rudder Reef (16-023)*

substitute

Rudder Reef (16-023)

The area enclosed within 500 m of a point located at latitude 16°12.28' south, longitude 145°39.64' east.

[109] Schedule 8, item 3, entries for *Chinaman Reef (16-024)* and *Opal Reef (16-025)*

omit

[110] Schedule 8, item 3, before first entry for *Tongue Reef (16-026)*

insert

Chinaman Reef (16-024)	The area enclosed within 250 m of a line from latitude 16°13.19' south, longitude 145°46.77' east to latitude 16°13.22' south, longitude 145°46.91' east.
Chinaman Reef (16-024)	The area enclosed within 500 m of a point located at latitude 16°12.5' south, longitude 145°47.5' east.
Opal Reef (16-025)	The area enclosed within the four points of latitude 16°11.05' south, longitude 145°53.22' east; latitude 16°11.02' south, longitude 145°53.27' east; latitude 16°11.41' south, longitude 145°53.53' east; and latitude 16°11.44' south, longitude 145°53.49' east.
Opal Reef (16-025)	The area enclosed within the four points of latitude 16°13.05' south, longitude 145°53.48' east; latitude 16°12.70' south, longitude 145°53.61' east; latitude 16°12.73' south, longitude 145°53.71' east; and latitude 16°13.09' south, longitude 145°53.59' east.
Opal Reef (16-025)	The area enclosed within the four points of latitude 16°14.24' south, longitude 145°52.15' east; latitude 16°14.11' south, longitude 145°52.30' east; latitude 16°14.18' south, longitude 145°52.37' east; and latitude 16°14.31' south, longitude 145°52.23' east.

[111] Schedule 8, item 3, second, third, fourth and fifth entries for *Tongue Reef (16-026)*

substitute

Tongue Reef (16-026)	The area enclosed within the four points of latitude 16°16.13' south, longitude 145°46.37' east; latitude 16°16.13' south, longitude 145°46.98' east; latitude 16°16.34' south, longitude 145°46.98' east; and latitude 16°16.34' south, longitude 145°46.37' east.
----------------------	---

Tongue Reef (16-026) The area enclosed within the four points of latitude 16°16.62' south, longitude 145°41.10' east; latitude 16°16.84' south, longitude 145°40.93' east; latitude 16°15.85' south, longitude 145°39.53' east; and latitude 16°15.62' south, longitude 145°39.70' east.

[112] Schedule 8, item 4, entry for *Hastings Reef Locality 1*
substitute

Hastings Reef Locality 1 (16-057) The area enclosed within the four points of latitude 16°31.35' south, longitude 146°00.02' east; latitude 16°31.23' south, longitude 146°00.13' east; latitude 16°31.26' south, longitude 146°00.18' east; and latitude 16°31.40' south, longitude 146°00.06' east.

[113] Schedule 8, item 4, entry for *Hastings Reef Locality 2*
substitute

Hastings Reef Locality 2 (16-057) The area enclosed within the four points of latitude 16°31.13' south, longitude 146°00.25' east; latitude 16°30.91' south, longitude 146°00.40' east; latitude 16°30.94' south, longitude 146°00.46' east; and latitude 16°31.16' south, longitude 146°00.31' east.

[114] Schedule 8, item 4, before entry for *Breaking Patches Reef (16-042)*
insert

Michaelmas Cay Locality The area enclosed within the four points of latitude 16°36.27' south, longitude 145°58.64' east; latitude 16°36.24' south, longitude 145°58.70' east; latitude 16°36.28' south, longitude 145°58.72' east; and latitude 16°36.31' south, longitude 145°58.66' east.

[115] Schedule 8, item 4, after third entry for *Arlington Reef (16-064)*
insert

Upolu Cay Locality (16-046) The area enclosed within the four points of latitude 16°40.30' south, longitude 145°55.55' east; latitude 16°40.22' south, longitude 145°55.65' east; latitude 16°40.28' south, longitude 145°55.70' east; and latitude 16°40.36' south, longitude 145°55.59' east.

[116] Schedule 8, item 5, before first entry for *Thetford Reef (16-068)**insert*

Milln Reef (16-065)

The area enclosed within the four points of latitude 16°46.95' south, longitude 146°16.33' east; latitude 16°46.88' south, longitude 146°16.40' east; latitude 16°46.91' south, longitude 146°16.42' east; and latitude 16°46.97' south, longitude 146°16.36' east.

[117] Schedule 8, item 5, entries for *Moore Reef Locality 1**substitute*

Moore Reef Locality 2

The area enclosed within the four points of latitude 16°51.58' south, longitude 146°13.09' east; latitude 16°51.55' south, longitude 146°13.15' east; latitude 16°51.71' south, longitude 146°13.35' east; and latitude 16°51.78' south, longitude 146°13.24' east.

Moore Reef Locality 2

The area enclosed within the four points of latitude 16°52.37' south, longitude 146°12.04' east; latitude 16°52.16' south, longitude 146°12.22' east; latitude 16°52.21' south, longitude 146°12.28' east; and latitude 16°52.42' south, longitude 146°12.09' east.

Moore Reef Locality 2

The area enclosed within the four points of latitude 16°52.66' south, longitude 146°11.83' east; latitude 16°52.56' south, longitude 146°11.89' east; latitude 16°52.59' south, longitude 146°11.95' east; and latitude 16°52.69' south, longitude 146°11.89' east.

[118] Schedule 8, item 5, entry for *Briggs Reef (16-074)**omit***[119] Schedule 9, item 1, after definition of *anchoring****insert****ancillary mooring*** means a mooring that:

- (a) is associated with, and supports, the operation of a resort or tourist facility, the operation of which is authorised by a relevant permission; and
- (b) is not intended to be used by a primary vessel associated with the operation; and
- (c) is primarily associated with the use of small vessels such as dive tenders, glass bottom boats and hire craft.

[120] Schedule 9, item 1, definition of *Area*

omit

[121] Schedule 9, item 1, before definition of *Authority*

insert

authorisation means an authorisation granted under Division 2 of Part 4 of the Regulations.

Note In some cases, an authorisation has also been called an endorsement.

[122] Schedule 9, item 1, definition of *booking*

omit

[123] Schedule 9, item 1, after definition of *collecting*

insert

conversion, from a relevant permission (the ***first permission***) authorising conduct of a tourist program to a relevant permission (the ***second permission***) authorising conduct of another tourist program, means the process of the Authority granting the second permission:

- (a) to take effect immediately after the first permission is surrendered or revoked; and
- (b) to remain in force for the remainder of the period for which the first permission would have remained in force if it had not been surrendered or revoked.

craftless operation means an operation:

- (a) described under that name in Table 7; and
- (b) comprising activities:
 - (i) permitted under a relevant permission; and
 - (ii) in which neither an aircraft nor a vessel is used.

cruise ship operation means an operation:

- (a) described under that name in Table 7; and
- (b) comprising activities:
 - (i) permitted under a relevant permission; and
 - (ii) all carried out using 1 particular ship.

[124] Schedule 9, item 1, after definition of *discharge*

insert

enforcement provision means a provision in Part 2.

[125] Schedule 9, item 1, after definition of *Green Island Reef Locality 3*

insert

Group A Sensitive Location means a Sensitive Location mentioned in an item in Part 1 of Schedule 5.

Group B Sensitive Location means a Sensitive Location mentioned in an item in Part 2 of Schedule 5.

group size limit, in relation to a vessel or aircraft at a Location, means the maximum number of people that, under Table 4, may be carried on the vessel or aircraft into the Location.

[126] Schedule 9, item 1, after definition of *Hastings Reef Locality 2*

insert

hire craft means a motorised vessel, (for example, a dinghy, a half cabin, or a personal watercraft) that is less than 6 metres in overall length, and is available for time-sharing, hire or charter without a master or crew.

hire equipment means a non-motorised craft (for example, a kayak, a paddleboard, or a windsurfer) that is available for time-sharing, hire or charter without a master or crew.

hire operation means an operation:

- (a) described under that name in Table 7; and
- (b) comprising activities permitted under a relevant permission.

[127] Schedule 9, item 1, after definition of *Location*

insert

long range roving operation means an operation:

- (a) described under that name in Table 7; and
- (b) comprising activities:
 - (i) permitted under a relevant permission; and
 - (ii) all carried out using 1 particular vessel.

[128] Schedule 9, item 1, definitions of *mooring site* and *motorised water sport*

substitute

mooring site means the area within the line every point of which is 50 metres from the nearest point of:

- (a) the mooring buoy of a single-point mooring system; or
- (b) the primary mooring buoy of a fore-and-aft mooring system.

mooring system means:

- (a) a single-point mooring system; or

- (b) a fore-and-aft mooring system.

motorised water sport means any of the following:

- (a) irregular driving on a motorised vessel — that is, driving a motorised vessel other than in a straight line — and includes:
- (i) driving in a circle or other pattern; and
 - (ii) weaving or diverting; and
 - (iii) surfing down, or jumping over or across, any swell, wave or wash; but does not include making any necessary turn or diversion;
- (b) any activity in which a high speed vessel or motorised vessel tows a person on top of the water or in the air, for example, water skiing or para-sailing;
- (c) any activity in which a personal watercraft is used, except:
- (i) for the purpose of transport by the most direct reasonable route (not including irregular driving) between 2 places in the Planning Area; or
 - (ii) if that a personal watercraft can only be operated when fully submerged under the water and for the primary purpose of viewing coral.

[129] Schedule 9, item 1, after definition of *new permission*

insert

non-motorised craft operation means an operation:

- (a) carried out using non-motorised craft; and
- (b) comprising activities permitted under a relevant permission.

[130] Schedule 9, item 1, after definition of *permanently moored facility*

insert

permitted mooring means a mooring for which a relevant permission has been granted.

permitted pontoon means a pontoon for which a relevant permission has been granted.

permitted tourist program means a tourist program for which a relevant permission has been granted.

personal watercraft has the same meaning as in the *Transport Operations (Marine Safety) Regulation 1995* of Queensland, as in force from time to time.

Note 1 At the commencement of the *Cairns Area Plan of Management Amendment 2002 (No. 1)*, the *Transport Operations (Marine Safety) Regulation 1995* of Queensland defined ***personal watercraft*** as a power driven ship that:

- (a) has a fully enclosed hull that does not take on water if capsized; and
- (b) is designed to be operated by a person standing, crouching, or kneeling on it or sitting astride it.

Note 2 Section 10 of the *Transport Operations (Marine Safety) Act 1994* of Queensland defines *ship* as follows:

- (1) A *ship* is any kind of boat or other vessel used or, for a boat or other vessel being built, intended to be used, in navigation by water or for any other purpose on water.
- (2) Without limiting subsection (1), a *ship* includes a boat or other vessel:
 - (a) whatever its size; and
 - (b) however it is propelled or moved.
- (3) A *ship* includes, for example:
 - (a) a barge, lighter or other floating vessel; and
 - (b) a hovercraft or other surface effect craft.
- (4) A *ship* does not include a vessel declared by regulation not to be a ship.
- (5) A regulation may provide that a ship includes an aircraft when it is on water or is taking off, or landing on, water.
- (6) Except as provided by a regulation under subsection (5), a ship does not include an aircraft.

Planning Area means the Cairns Planning Area described in Schedule 1.

[131] Schedule 9, item 1, definition of *pontoon site*

substitute

pontoon site means the area within the line every point of which is 200 metres from the nearest point of a pontoon.

[132] Schedule 9, item 1, after definition of *reef edge*

insert

regional tour operation means an operation:

- (a) described under that name in Table 7; and
- (b) comprising activities:
 - (i) permitted under a relevant permission; and
 - (ii) all carried out using 1 particular vessel or aircraft.

[133] Schedule 9, item 1, definition of *Regulations*

substitute

Regulations means the *Great Barrier Reef Marine Park Regulations 1983*.

[134] Schedule 9, item 1, definition of *Sensitive Location*

substitute

Sensitive Location means a Location mentioned in column 2 of an entry in Part 1 or 2 of Schedule 5 and includes the airspace above the ground or water of the Location to the height mentioned in column 3 of the entry for that Location.

[135] Schedule 9, item 1, after definition of *South Offshore Cairns Sector*

insert

standard tour operation means an operation:

- (a) described under that name in Table 7; and
- (b) comprising activities:
 - (i) permitted under a relevant permission; and
 - (ii) all carried out using 1 particular vessel or aircraft.

[136] Schedule 9, item 1, after definition of *Sudbury Cay Locality*

insert

support service operation means an operation:

- (a) described under that name in Table 7; and
- (b) comprising activities:
 - (i) permitted under a relevant permission; and
 - (ii) all carried out using 1 particular vessel or aircraft.

Examples

A support service operation may offer such services as:

- delivering spare parts or equipment
- landing torn sails for repair
- medivac support
- assisting in pollution control.

swimming-with-whales activity means an activity conducted for the purpose of enabling people to swim, snorkel or scuba dive with whales or dolphins, or to observe whales or dolphins while in the water with them, including:

- (a) using an aircraft to find whales or dolphins for that purpose; and
- (b) placing people in the water for that purpose.

[137] Schedule 9, item 1, after definition of *taking*

insert

tourism operation means any of the following:

- (a) a craftless operation;
- (b) a cruise ship operation;
- (c) a hire operation;
- (d) a long range roving operation;
- (e) a non-motorised craft operation;
- (f) a regional tour operation;
- (g) a standard tour operation;
- (h) a support service operation.

[138] Schedule 9, item 1, after definition of *tourist*

insert

tourist facility has the meaning given by subsection 3A (4) of the Act.

[139] Schedule 9, item 1, after definition of *tourist program*

insert

traditional affiliation means that the person concerned has a connection with the Planning Area based on spiritual and other associations with, rights in relation to, and responsibilities for, that area under Aboriginal tradition.

traditional inhabitant means a person of Aboriginal or Torres Strait Islander descent, who is recognised in the community as an Aboriginal or Torres Strait Islander and who identifies as an Aboriginal or Torres Strait Islander.

[140] Schedule 9, item 1, after definition of *vessel*

insert

whale watching activity means an activity (other than a swimming-with-whales activity) conducted for the purpose of enabling people to observe whales or dolphins, including using a vessel or aircraft to find whales or dolphins for that purpose.

[141] Schedule 9, item 2, before definition of *5 kilometre line*

insert

1 kilometre line means the line every point of which is at a distance of 1 kilometre seaward from the nearest point of the coastline of the mainland, or island, as the case may be, at low water.

[142] Schedule 9, item 2, definition of *5 kilometre line*, except the note

substitute

5 kilometre line means the line every point of which is at a distance of 5 kilometres seaward from the nearest point of the coastline of the mainland, or island, as the case may be, at low water.

[143] Schedule 9, item 2, definition of *coastal 150 metre line*

omit

[144] Schedule 9, item 2, before definition of *coastal 500 metre line*

insert

coastal 250 metre line of a coastline means the line every point of which is:

- (a) at low water, at a distance of 250 metres seaward from the nearest point of the coastline; or

- (b) if there is a fringing reef wholly or partly along the coastline — at low water, at a distance of 250 metres seaward from the nearest point of the reef edge of the fringing reef.

[145] Further amendments

The following provisions are amended by omitting ‘coastal’:

- Schedule 1, paragraph 2 (b)
- Schedule 1, paragraph 2 (c)
- Schedule 1, paragraph 2 (d)
- Schedule 1, paragraph 2 (e)
- Schedule 2, paragraph 5 (c)
- Schedule 2, paragraph 5 (d)
- Schedule 2, paragraph 6 (b)
- Schedule 2, paragraph 6 (c).