



Cairns Area Plan of Management Amendment 2004 (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 1 September 2004

1 Name of amendment

This amendment is the *Cairns Area Plan of Management Amendment 2004 (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*.

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 1.6 (14) (b)

omit

(20).

insert

(19).

[2] After subclause 1.6 (17)

insert

(17A) For paragraph 14 (b), a person may anchor a large vessel, for protection against a wind blowing generally from the north, in a Location (but outside any Reef Anchorage in the Location) listed in Schedule 6C, only if:

- (a) the Authority has approved an anchoring strategy for that vessel at that Location; and
- (b) the anchoring is carried out in accordance with the approved anchoring strategy.

(17B) An anchoring strategy is to consist of a written document setting out how coral damage from anchoring will be minimised by addressing such issues as nomination of alternate sites, taking account of the amount of coral cover at the relevant sites and how 'best environmental practices' will be applied when anchoring.

[3] Subclause 1.6 (20), including the heading

omit

[4] Subclause 1.6 (21)

omit

[5] Subclauses 1.8 (9), (10), (11), (12) and (13) and the notes

substitute

Relevant permission for swimming-with-whales activities

- (9) The Authority has completed an allocation process for the granting of new permissions for tourist programs that include swimming-with-whales activities in the Planning Area and nine permissions were allocated. As part of the allocation process, applicants were required to meet criteria that included being able to demonstrate experience with in-water interactions between people and dwarf minke whales and that those interactions had been managed in an environmentally sustainable manner.
- (10) The Authority will not grant any more new permissions for a tourist program that includes swimming-with-whales activities in the Planning Area.

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

[6] Paragraph 1.10 (11) (d)

substitute

- (d) requiring that a person must not operate a hovercraft in a Location other than Lizard Island Locality 2; and
- (da) requiring that a person must not operate a vessel for motorised water sport in a Location; and

[7] Subclause 1.14 (3)

substitute

- (3) However, the limits on use levels mentioned in Table 4 and Schedule 4 will not apply to a person who:
- (a) takes a vessel into waters in Blue Lagoon at Lizard Island Locality 4, if the person does so for protection against a wind generally from the north; or
- (b) takes a large vessel into waters (outside a Reef Anchorage) at Lizard Island Locality 4, Ribbon Reef No 3 (15-050), Ribbon Reef No 9 (14-154), Thetford Reef (16-068), Moore Reef Locality 2 or unnamed reef (14-153), if:
- (i) the person does so for protection against a wind generally from the north; and
- (ii) the conditions in subclause (3A) are satisfied; and
- (iii) the Authority has approved an anchoring strategy for the vessel at that Location; and
- (iv) the person anchors in accordance with the approved anchoring strategy; or

- (c) takes a vessel into waters at a Location mentioned in Schedule 6A to moor the vessel at a mooring, if the conditions in subclause (3A) are satisfied; or
- (d) takes a vessel into waters at Hastings Reef Locality 2 to moor the vessel at a mooring if the condition in paragraph (3A) (a) is satisfied; or
- (e) takes a vessel into a Reef Anchorage in a Location mentioned in Schedule 6B if the conditions in subclause (3A) are satisfied.

(3A) For paragraphs (3) (b), (c), (d) and (e), the conditions are that:

- (a) the person is operating the vessel as part of a tourist program; and
- (b) the vessel is carrying no more than 100 people.

[8] Subclause 1.18 (1)

omit

a hovercraft or

insert

a hovercraft (except at Lizard Island Locality 2) or

[9] Subclause 1.19 (3A)

omit

15

insert

20

[10] Subclause 1.19 (3A), at the foot

insert

Note In providing the new permissions mentioned in subclause (3A), the Authority prefers that new operations, where appropriate, use moorings. In future reviews of moorings in the Cairns Planning Area, the Authority will consider requirements for moorings for new operators.

[11] After subclause 1.19 (3D)

insert

- (3E) It is the intention of the Authority that 5 of the permissions mentioned in subclause (3A) will be reserved for persons undertaking tourism operations that operate predominantly from the Cooktown/Bloomfield area.

- (3F) The Authority intends that the permissions mentioned in subclause (3E) will be used for operations from the Cooktown/Bloomfield area. They will be issued for 1 year initially and their level of use will be reviewed at the end of that time. Upon application for continuation of the permission, the applicant, in addition to being assessed against the normal assessment criteria, will be required to demonstrate that they have established the permitted tourism program into the Planning Area from the Cooktown/Bloomfield area on a regular basis. The Authority may place additional controls on any subsequent permission to ensure the permission is used in the manner intended.

[12] Paragraph 1.23 (2) (c)

omit

the Planning Area

insert

a Location

[13] Subclause 1.26 (1), at the foot

insert

Note For example, the 50-day access and booking requirement is intended to allow seasonal game fishing and visiting roving tourist operations to access the Planning Area on a seasonal and otherwise occasional basis. It is not intended to provide for the establishment of new daily operations in the Area.

[14] Subclause 2.4 (1)

omit

- (1) A person

insert

- (1) Subject to subclause (1A), a person

[15] After subclause 2.4 (1)

before the note, insert

- (1A) If a large vessel is seeking protection from a wind blowing generally from the north, a person may anchor the large vessel in a Location (but outside any Reef Anchorage in the Location) listed in Schedule 6C, but only if the Authority has approved an anchoring strategy for the vessel at that Location and the anchoring is carried out in accordance with the strategy.

[16] Subclause 2.4 (3)

omit

[17] Clause 2.4A

substitute

2.4A Anchoring strategy for large vessels

- (1) The Authority may approve, on application by a person operating a large vessel, an anchoring strategy for the vessel for a Location.
- (2) An application for an approved anchoring strategy must contain:
 - (a) a statement by the applicant setting out how coral damage from anchoring of the vessel will be minimised including how 'best environmental practices' will be applied when anchoring; and
 - (b) a nomination by the applicant of sites for anchoring under the proposed anchoring strategy; and
 - (c) a description (by diagram or otherwise) of the amount of coral cover at the nominated anchoring sites; and
 - (d) any other information reasonably required by the Authority.
- (3) When considering an application for an approved anchoring strategy, the Authority is to take into account the objects of plans of management set out in section 39Y of the Act.

[18] After clause 2.8

insert in Division 2

2.8A Permitted moorings and pontoons

- (1) The maximum numbers of moorings and pontoons that the Authority may allow at each Location are listed in Schedules 6 and 7 respectively.
- (2) The Authority must not allow any moorings or pontoons to be installed at a Location not mentioned in Schedule 6 or 7.

[19] After subclause 2.10 (2)

insert

- (2A) A person must not operate an aircraft to conduct a tourist program in a Sensitive Location.

[20] Subclauses 2.10 (3), (4) and (5)

omit

(1) and (2)

insert

(1), (2) and (2A)

[21] Subclause 2.10 (6A)*omit*

(1) or (2),

insert

(1), (2) or (2A),

[22] Subclause 2.10 (7)*omit*

(1) and (2)

insert

(1), (2) and (2A)

[23] Subclause 2.11 (2)*omit***[24] Subclause 2.11 (3A)***substitute*

- (3A) However, subclauses (1) and (3) do not apply to a person who:
- (a) takes a vessel into waters in Blue Lagoon at Lizard Island Locality 4, if the person does so for protection against a wind generally from the north; or
 - (b) takes a large vessel into waters (outside a Reef Anchorage) at Lizard Island Locality 4, Ribbon Reef No 3 (15-050), Ribbon Reef No 9 (14-154), Thetford Reef (16-068), Moore Reef Locality 2, unnamed reef (14-153), if:
 - (i) the person does so for protection against a wind generally from the north; and
 - (ii) the conditions in subclause (3B) are satisfied; and
 - (iii) the Authority has approved an anchoring strategy for the vessel at that Location; and
 - (iv) the anchoring is carried out in accordance with the anchoring strategy; or
 - (c) takes a vessel into waters at a Location mentioned in Schedule 6A to moor the vessel at a mooring, if the conditions in subclause (3B) are satisfied; or
 - (d) takes a vessel into waters at Hastings Reef Locality 2 to moor the vessel at a mooring if the condition in paragraph (3B) (a) is satisfied; or
 - (e) takes a vessel into a Reef Anchorage in a Location mentioned in Schedule 6B if the conditions in subclause (3B) are satisfied.
- (3B) For paragraphs (3A) (b), (c), (d) and (e) the conditions are that:
- (a) the person is operating the vessel as part of a tourist program; and

- (b) the vessel is carrying no more than 100 people.

[25] Subclause 2.14 (2), including the note

substitute

- (2) However, subclause (1) does not apply to a person who:
 - (a) collects coral in accordance with a relevant permission that the person holds; or
 - (b) damages coral while anchoring, if the person:
 - (i) takes reasonable care to avoid damaging the coral; and
 - (ii) uses an anchor of the kind called a reef pick; and
 - (iii) is anchoring in a Reef Anchorage; or
 - (c) in the case of a person responsible for anchoring a large vessel, damages coral by anchoring but:
 - (i) takes reasonable care to avoid damaging the coral; and
 - (ii) anchors in accordance with the approved anchoring strategy of that vessel for that Location.

Note The Reef Anchorages are set out in Schedule 8.

[26] Subclause 2.17 (3)

omit

45A

insert

100

[27] Paragraph 2.21 (e), including the note

substitute

- (e) a relevant permission for a support service operation;
- (f) a relevant permission for a regional tour operation that operates predominantly from the Cooktown/Bloomfield area.

Note Regulation 77 of the Regulations deals with the grant of relevant permissions.

[28] Clause 2.24

omit

swimming-with-whales

insert

whale watching

[29] Clause 2.25*substitute***2.25 Restrictions on granting relevant permissions for swimming-with-whales activities**

- (1) The Authority must not grant a relevant permission to conduct swimming-with-whales activities in the Planning Area if granting the permission would result in more than nine such permissions being in force.
- (2) 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 new permission replaces the old permission.

Note Subregulation 77 (4) and regulation 105 of the Regulations provide for when a relevant permission ceases to be in force.

[30] Subregulation 2.26 (1), including the note*substitute*

- (1) 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 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 new permission replaces the old permission.

Note Subregulation 77 (4) and regulation 105 of the Regulations provide for when a relevant permission ceases to be in force.

[31] Subclause 2.27 (1)*omit*

15

insert

20

[32] Subclause 2.27 (3)*omit*

will only

insert

may

[33] After subclause 2.27 (3)

insert

- (3A) Five of the permissions mentioned in subclause (1) may be reserved for tour operations that operate predominantly from the Cooktown/Bloomfield area.

[34] Schedule 3, before clause 1

insert

1A. Definitions

For this Schedule:

Zoning Plan means the Zoning Plan for the Cairns Section that came into force on 3 April 1992.

[35] Schedule 6, heading

substitute

Schedule 6 Permanently moored facilities — permitted moorings

(clause 2.9)

[36] Schedule 6A

substitute

Schedule 6A Moorings for vessels (high group size limits)

(subclauses 1.14 (3) and 2.11 (3A))

1. Andersen Reef (15-090)
2. Breaking Patches Reef (16-042)
3. Channel Reef (16-075)
4. Escape Reef (15-094)
5. Moore Reef Locality 2
6. Opal Reef (16-025)
7. Oyster Reef (16-043)
8. Ribbon Reef No. 9 (14-154)
9. Ribbon Reef No. 3 (15-050)
10. Saxon Reef (16-032)
11. Thetford Reef (16-068)

-
12. Unnamed reef (14-153)
 13. Unnamed reef (16-011)
 14. Unnamed reef (16-016)
 15. Unnamed reef (16-018a)
 16. Unnamed reef (16-018b)
 17. Upolu Cay Reef (16-046)

Schedule 6B Increased group size limit reef anchorages

(subclauses 1.14 (3) and 2.11 (3A))

1. Moore Reef Locality 2
2. Ribbon Reef No. 3 (15-050)
3. Ribbon Reef No. 9 (14-154)
4. Thetford Reef (16-068)

Schedule 6C Bad weather anchorages for large vessels

(subclauses 1.6 (17A) and 2.4 (1A))

1. Lizard Island Locality 4
2. Moore Reef Locality 2
3. Rachel Carson Reef (15-092)
4. Ribbon Reef No. 3 (15-050)
5. Ribbon Reef No. 9 (14-154)
6. Thetford Reef (16-068)
7. Unnamed reef (14-153)

[37] Schedule 7, heading

substitute

Schedule 7 Permanently moored facilities — pontoons

(clause 2.9)

[38] Schedule 9, clause 1, after definition of *conversion*

insert

Cooktown/Bloomfield area means the part of the Queensland coastline north of Cape Tribulation.

[39] Schedule 9, clause 1, after definition of *cruise ship operation*

insert

day means a period of 24 hours commencing at midnight.

[40] Schedule 9, clause 1, definition of *Zoning Plan*

substitute

Zoning Plan means:

- (a) at a time before 1 July 2004 — the Great Barrier Reef Marine Park — Cairns Section Zoning Plan; or
- (b) at any other time — the *Great Barrier Reef Marine Park Zoning Plan 2003*.