

EXPLANATORY STATEMENT

Great Barrier Reef Marine Park Zoning Plan 2003

Great Barrier Reef Marine Park Act 1975

STATUTORY BACKGROUND

The Great Barrier Reef Marine Park Authority ('the Authority') has prepared a zoning plan for the entire Great Barrier Reef Marine Park ('the Marine Park') to implement the Representative Areas Program ('RAP') and to provide zoning for the twenty eight (28) new coastal areas incorporated into the Marine Park during 2000 and 2001.

The primary goal of the RAP is the protection of biodiversity and involves protecting 'representative' examples of the entire range of habitats and biodiversity within highly-protected areas (e.g. zones that prohibit extractive uses such as the Marine National Park Zones or more restrictive zones).

Great Barrier Reef Marine Park

Section 30 of the *Great Barrier Reef Marine Park Act 1975* ('the Act') provides that "...there shall be a Marine Park, to be known as the Great Barrier Reef Marine Park, consisting of such areas in the Great Barrier Reef Region as are, for the time being declared under section 31 to be parts of that Marine Park."

Areas part of the Marine Park

Twenty eight (28) coastal areas were declared to be part of the Marine Park in 2000 and 2001. Subsection 32 (1) of the Act states that the Authority must, as soon as practicable after an area has been declared to be part of the Marine Park, prepare a zoning plan in respect of that area.

To achieve the objectives of the RAP whilst providing a single zoning plan for the entire Marine Park, the Far Northern, Cairns, Central, Mackay/Capricorn, Gumoo Woojabuddee and twenty eight (28) new coastal Sections (see table 1) will be amalgamated to form the Amalgamated Great Barrier Reef Section ('the AGBR Section'). The AGBR Section will be zoned by the *Great Barrier Reef Marine Park Zoning Plan 2003* ('the Zoning Plan'). To minimize the potential for confusion, the amalgamation of the Sections will occur following the passage of the Zoning Plan through Parliament but before the Zoning Plan comes into operation under section 33 of the Act.

Zoning Plans

Section 32 of the Act provides that the Authority shall prepare a zoning plan for areas so declared to be part of the Marine Park, describes how zoning plans are to be prepared, and sets out the objects in relation to which regard must be had during the preparation of a zoning plan:

- (a) the conservation of the Great Barrier Reef;

- (b) the regulation of the use of the Marine Park so as to protect the Great Barrier Reef while allowing the reasonable use of the Great Barrier Reef Region;
- (c) the regulation of activities that exploit the resources of the Great Barrier Reef Region so as to minimise the effect of those activities on the Great Barrier Reef;
- (d) the reservation of some areas of the Great Barrier Reef for its appreciation and enjoyment by the public; and
- (e) the preservation of some areas of the Great Barrier Reef in its natural state undisturbed by man except for the purposes of scientific research.

Section 33 of the Act details the process by which a zoning plan is to be approved by both Houses of Parliament, noting that such a plan must be laid before each House of Parliament for 15 sitting days. If neither House passes a resolution disallowing the Plan, the Minister must, as soon as practicable after the 15 sitting days have expired, state in a public notice in the *Gazette* the date on which the Plan is to come into operation.

Amendment or Revocation of Zoning Plans

Sub-section 37(1) of the Act states that the Authority may at any time amend a zoning plan: Sub-sections 37(3) provides that “Sections 32 and 33 [of the Act] apply in relation to an amendment of a zoning plan or in relation to a new zoning plan in like manner as they apply to a zoning plan required to be prepared in accordance with section 32.” Sub-section 32(7) of the Act provides that “A zoning plan in respect of an area may be revoked by a new zoning plan in respect of that area, but the revocation shall not take effect until a new plan comes into operation.”

In providing a single zoning plan for the Amalgamated Great Barrier Reef Section, this zoning plan, upon commencement, will revoke the previous zoning plans for the Far Northern, Cairns, Central, Mackay/Capricorn, and Gumoo Woolabuddee Sections.

Drafting

The *Great Barrier Reef Marine Park Zoning Plan 2003* was prepared by the Office of Legislative Drafting, in accordance with accepted formats and the drafting instructions provided by the Authority.

Consultation

Consultation during the preparation of the Zoning Plan was undertaken in accordance with section 32 of the Act. This has involved two periods of public comment, each of not less than one (1) month duration (being 7 May to 7 August 2002, and 2 June to 4 August 2003). The Authority has considered all representations that were made during these consultation periods.

The zoning plan was subject to full consultation with all relevant Commonwealth departments and agencies. The zoning plan was also the subject of formal consultation by Commonwealth senior ministers

The Zoning Plan has been prepared in consultation with the Queensland Environmental Protection Agency and other Queensland Government Departments.

THE ZONING PLAN

Environmental benefits

The *Great Barrier Reef Marine Park Zoning Plan 2003* meets Australian Government commitments to “...progress the representative areas process, ensuring that all habitat types in the Great Barrier Reef are adequately protected...” (Australian Government, 2001, *Our Future Action Plan: A Better Environment*, Oct 2001, p. 55). The RAP is also a key element in Australia’s *Oceans Policy*. The Zoning Plan meets Australia’s international obligations, including those obligations under the *Convention Concerning the Protection of the World Cultural and Natural Heritage 1972*, and the *Convention on the Conservation of Biological Diversity 1992*.

The Zoning Plan has been developed to maintain and enhance the natural and cultural values of the Marine Park. In particular the Zoning Plan presents an opportunity to:

- recognise and maintain the outstanding values of the Marine Park, in particular its biodiversity, World Heritage values and ecological integrity;
- recognise the cultural, tourism and recreational values of the Marine Park; and
- ensure that existing and future uses of the Marine Park are ecologically sustainable, and that any future expansion of use does not have an unacceptable impact on natural, cultural or World Heritage values.

Particular consideration has been given in the Zoning Plan to the protection of representative examples of the habitats and biological communities (bioregions) in the Marine Park, including non-reef (eg seagrass meadows) and reef habitats. Measures have also been developed to protect dugongs and marine turtle populations through increased protection of habitats, reduction of threatening activities, and restrictions on the use and entry of important areas.

Conservation measures have been balanced with provision for continued access to areas of the Marine Park for fishing, shipping, tourism and other uses.

The attached Regulatory Impact Statement details the impact of the Zoning Plan and the associated amendments to the *Great Barrier Reef Marine Park Regulations 1983* (‘the Regulations’) on the social, economic and cultural values of the Marine Park.

Zones and zoning provisions

Names of zones applied in the Zoning Plan reflect those used in the Far Northern Section Zoning Plan (2002) and the Gumoo Woojabuddee Section Zoning Plan (2002).

The Far Northern Section and Gumoo Woojabuddee Section Zoning Plans included an additional zone for the Commonwealth island areas in the Marine Park. Accordingly, references to camping, road-making and other exclusively land-based activities have been removed from the use and entry provisions for all the other zones, which now refer only to areas below low water mark.

The Scientific Research Zone occurred in some previous zoning plans. The zone has been proposed in this Zoning Plan in order to facilitate the activities of researchers in areas of importance for scientific research, whilst providing a high level of protection to these sites from other extractives uses. The zone has been placed adjacent to the research stations at Lizard Island, Green Island, Orpheus Island, Herron Island, One Tree Island, and the Australian Institute of Marine Sciences at Cape Cleveland.

Table 2 sets out in a condensed form the provisions of the various zones in the Zoning Plan. The objectives of each zone are listed along with examples of activities that are provided for in each zone 'as-of-right' or with the written permission of the Authority.

Remote Natural Area Overlay

The Zoning Plan retains the Remote Natural Area Overlay, which was applied in the Far Northern Section Zoning Plan. The objective of the Remote Natural Area is to ensure that some areas of the Marine Park remain in a state that is largely unaltered by human works, and to provide opportunities for quiet appreciation and enjoyment of those areas.

In addition to controls that may exist in the underlying zone, further controls are proposed in amendments to the Regulations to limit the carrying out of certain works, the use of motorised watersports (as defined), and the construction of structures other than moorings.

Designated Areas

Designated areas such as Special Management Areas, Shipping Areas, and Fisheries Experimental Areas are provided for in the Zoning Plan. Specific controls will be brought into effect on a case-by-case basis for designated areas in accordance with the Regulations. Some designated areas are already specified in the Zoning Plan. It is proposed that the Regulations will allow for the creation of additional designated areas.

Additional uses and exemptions

The Zoning Plan does not prohibit or control use or entry of zones for the following purposes:

- in respect of an emergency: to save human life: to locate or secure the safety of aircraft, vessels or structures; to respond to an emergency alert; to conduct repairs to a navigational aid; or to deal with a threat of pollution to the marine environment;
- to perform functions and exercise powers under the Act or Regulations;
- the carrying out of reconnaissance, surveillance, or law enforcement by the Commonwealth or Queensland;
- by traditional owners, for activities conducted for the purposes of Aboriginal or Torres Strait Islander custom or tradition, that do not involve the taking of plants or animals;
- after notification to the Authority and subject to any directions given by the Authority: to construct, conduct or service navigational aids; to undertake defence activities; to undertake government geodetic, bathymetric or similar surveys; to undertake urgent maintenance or works on essential public services (including power, water, sewerage and communication systems); to comply with an order under the Regulations or a deed of agreement; and to respond to an emergency involving a serious threat to the environment (other than an emergency described above).

PROPOSED REGULATION AMENDMENTS

The introduction of the Zoning Plan will require amendments to the *Great Barrier Reef Marine Park Regulations 1983* ('the Regulations') as the Zoning Plan will rely on the Regulations to support and assist with the implementation of the Plan, including:

- definitions for certain provisions in the zoning plan;
- the process for designation of Special Management Areas;
- transitional arrangements for permits existing under current zoning plans; and
- consequential amendments to the regulations associated with the revocation of existing zoning plans.

Commencement date of Amendment Regulations

The amendments to the Regulations should commence on the day upon which the Zoning Plan comes into operation. This will be accomplished by coordinating the notice by the Minister under subsection 33(5) of the Act with the commencement date of the Amendment Regulation.

Transitional provisions

Transitional provisions will provide that permissions granted under a former zoning plan, that are in force at the commencement of the new zoning plan, will continue to be in force providing such permissions are not inconsistent with the new zoning plan.

Table 1. Sections of the Marine Park to be replaced by the AGRB Section

| Name of Section | Date of gazettal | Gazette No. |
|---------------------------|-------------------------|--------------------|
| Far Northern Section | 31 August 1983 | S 195 |
| Cairns Section | 13 September 1989 | GN 35 |
| Central Section | 15 October 1984 | S 409 |
| Mackay/Capricorn Section | 24 September 1987 | S 247 |
| Gumoo Woojabuddee Section | 14 January 1998 | GN 2 |
| Shadwell Section | 2 August 2000 | GN 30 |
| Heathlands Section | 2 August 2000 | GN 30 |
| Margaret Bay Section | 2 August 2000 | GN 30 |
| Indian Bay Section | 2 August 2000 | GN 30 |
| Fair Cape Section | 2 August 2000 | GN 30 |
| Weymouth Section | 13 December 2000 | GN 49 |
| Night Island Section | 2 August 2000 | GN 30 |
| Claremont Section | 2 August 2000 | GN 30 |
| Bathurst Head Section | 13 December 2000 | GN 49 |
| Ninian Bay Section | 2 August 2000 | GN 30 |
| Cape Flattery Section | 4 July 2001 | GN 26 |
| Cooktown Section | 22 December 2000 | S 671 |
| Wet Tropics Coast Section | 4 July 2001 | GN 26 |
| Clump Point Section | 22 December 2000 | S 671 |
| Mission Beach Section | 2 August 2000 | GN 30 |
| Halifax Bay Section | 4 July 2001 | GN 26 |
| Cleveland Bay Section | 4 July 2001 | GN 26 |
| Burdekin Section | 2 August 2000 | GN 30 |
| Edgumbe Section | 4 July 2001 | GN 26 |
| Airlie Beach Section* | 4 July 2001 | GN 26 |
| Repulse Bay Section | 2 August 2000 | GN 30 |
| Sandringham Section* | 4 July 2001 | GN 26 |
| Broad Sound Section | 22 December 2000 | S 671 |
| Farnborough Section | 4 July 2001 | GN 26 |
| Keppel Bay Section | 4 July 2001 | GN 26 |
| Curtis Island Section | 22 December 2000 | S 671 |
| Boyne Section | 4 July 2001 | GN 26 |
| Bustard Bay Section | 2 August 2000 | GN 30 |

* Amended by the *Great Barrier Reef Marine Park (Declared Areas) Amendment Proclamation 2001 (No. 1)*.

Table 2. Overview of provisions of the Great Barrier Reef Marine Park Zoning Plan 2003

(Note: this list is not exhaustive, please refer to the Zoning Plan for details of provisions)

| Zone | Objectives | Examples of 'as of right' activities | Examples of activities requiring permission of the Authority |
|-------------------------|---|--|---|
| General Use Zone | The objective of the General Use Zone is: (a) to provide for the conservation of areas of the Marine Park, while providing opportunities for reasonable use. | <ul style="list-style-type: none"> • Low impact activities such as recreational activities not involving taking of animals/plants, • Photography, film & sound recording, • Limited impact research, Limited education programs, • Navigation of vessels, • Fishing involving: trawling, line fishing, trolling, netting (including bait netting), limited spearfishing, crabbing, limited collecting, harvest fishing (tropical rock lobster, sea cucumber, coral, aquarium fish), • Traditional use of marine resources under an accredited agreement. | <ul style="list-style-type: none"> • Aquaculture operations, • Fishing involving: harvest fishing (that is not conducted within an accredited management plan), conduct of a developmental fisheries program, operating a fishing industry service vessel, • Tourism programs, • Vessel charter operations, • Construction and operation of facilities or carrying out of works; • Research or Educational programs other than limited education/limited impact research, • Traditional use of marine resources (other than activities conducted under an accredited agreement). • Any other purpose consistent with the objectives of the zone |
| Habitat Protection Zone | The objectives of the Habitat Protection Zone are: (a) to provide for the conservation of areas of the Marine Park through the protection and management of sensitive habitats, generally free from potentially damaging activities; and (b) subject to (a), to provide opportunities for reasonable use. | As above EXCEPT trawling and navigation of ships (other than in a designated shipping area). | As above, AND the navigation of ships outside of designated shipping areas. |

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| Conservation Park Zone | <p>The objectives of the Conservation Park Zone are:</p> <p>(a) to provide for the conservation of areas of the Marine Park;</p> <p>(b) subject to (a), to provide opportunities for reasonable use and enjoyment, including limited extractive use</p> | <ul style="list-style-type: none"> • Low impact activities such as recreational activities not involving taking of animals/plants, • Photography, film & sound recording, • Limited impact research, Limited education, • Navigation of vessels (other than ships), • Fishing involving: limited line fishing, trolling, bait netting, limited spearfishing, limited crabbing, limited collecting, harvest fishing (coral, aquarium fish), • Traditional use of marine resources under an accredited agreement. | As above. |
| Buffer Zone | <p>The objectives of Buffer Zone are:</p> <p>(a) to provide for the protection of the natural integrity and values of areas of the Marine Park, generally free from extractive activities;</p> <p>(b) subject to (a), to provide opportunities for:</p> <p>(i) certain activities, including the presentation of the values of the Marine Park, to be undertaken in relatively undisturbed areas; and</p> <p>(ii) trolling for pelagic species</p> | As above EXCEPT fishing is limited to trolling for pelagic species, and limited impact research is limited to non-extractive research. | As above. |
| Scientific Research Zone | <p>The objectives of the Scientific Research Zone are:</p> <p>(a) to provide for the protection of the natural integrity and values of areas of the Marine Park, generally free from extractive activities; and</p> <p>(b) subject to (a), to provide opportunities for scientific research to be undertaken in relatively undisturbed areas.</p> | As above EXCEPT both limited impact research (extractive) and limited impact research (non-extractive) are allowed. Fishing is not allowed in the zone. | As above. |

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| National Park Zone | <p>The objectives of the Marine National Park Zone are:</p> <p>(a) to provide for the protection of the natural integrity and values of areas of the Marine Park, generally free from extractive activities; and</p> <p>(b) subject to (a), to provide opportunities for certain activities, including the presentation of the values of the Marine Park, to be undertaken in relatively undisturbed areas.</p> | <ul style="list-style-type: none"> • Low impact activities such as recreational activities not involving taking of animals/plants, • Photography, film & sound recording, • Limited impact research (non-extractive), Limited education programs, • Navigation of vessels (other than ships), • Traditional use of marine resources under an accredited agreement. | <p>As above. Research, including limited impact (extractive) research that is relevant to the management of the Maine Park, or that cannot reasonably be conducted elsewhere.</p> |
| Preservation Zone | <p>The objective of the Preservation Zone is:</p> <p>(a) to provide for the preservation of the natural integrity and values of areas of the Marine Park, generally undisturbed by human activities.</p> | <ul style="list-style-type: none"> • Navigation of vessels (other than ships) for access to the coast of Queensland, • Operation of an aircraft >500 feet above the surface, • See also "Additional purposes for ruse and entry" | <p>Research that is relevant to the management of the Maine Park and that cannot reasonably be conducted elsewhere.</p> |
| Commonwealth Islands Zone | <p>The objectives of this Zoning Plan for the Commonwealth Islands Zone are:</p> <p>(a) to provide for the conservation of the natural integrity and values areas of the Marine Park above low water mark; and</p> <p>(b) to provide for use of the zone by the Commonwealth; and</p> <p>(c) subject to (a), to provide for facilities and uses consistent with the values of the area</p> | <ul style="list-style-type: none"> • Low impact activities such as recreational activities not involving taking of animals/plants, • Photography, film & sound recording, • Limited education, • Traditional use of marine resources under an accredited agreement, • Navigation of aircraft. | <ul style="list-style-type: none"> • Tourism programs, camping, • Aircraft and vessel charter operations, • Construction and operation of facilities or carrying out of works; • Research, educational programs • Traditional use of marine resources (other than activities conducted under an accredited agreement). • Any other purpose consistent with the objectives of the zone. |

