

Guidelines

Activity Assessment - No or low adverse impact activity under clause 2.3B of the *Whitsundays Plan of Management 1998*

6 January 2021

Target Audience

Primary: Staff of the Great Barrier Reef Marine Park Authority and Queensland Parks and Wildlife Service who are involved with applications.

Secondary: Groups and individuals applying for permission; interested members of the public.

Purpose

The purpose of this guideline is to provide a consistent and transparent application of clause 2.3B of the Whitsundays Plan of Management when dealing with an application for a permission made under the Regulations.

General principles

1. The intent of clause 2.3B is that the integrity of the Whitsundays Plan of Management (the Plan of Management) be maintained and to provide additional flexibility for **Managing Agencies** to consider permitting certain activities, managed by the Plan of Management, where they are satisfied it will have **no or low adverse impact** on the values of the Planning Area.

Clause 2.3B Permissions for conduct with no or low adverse impact on values of Planning Area

- (1) This Plan does not prevent the Authority from granting a relevant permission that is applied for on or after 1 January 2018 if:
 - (a) in dealing under the Regulations with the application, the Authority has assessed the risks of the conduct proposed to be permitted and is satisfied that the conduct:
 - (i) is not likely to have an adverse impact on any of the values of the Planning Area; or
 - (ii) is likely to have only a low adverse impact on any of those values; and
 - (b) the conduct permitted by the permission accords with the intent of this Plan, and objects, mentioned in clause 1.3.

Note: This clause does not limit the discretion of the managing agencies under the Regulations to refuse to grant the permission.

2. One way the managing agencies envisage this might occur is where the proposed conduct is likely to have either no or low adverse impact on the values of the Planning Area and adjacent National Park values, and one or more benefits to its values.
3. For the purposes of this clause and its use with the [Managing Agencies Risk Assessment: Permission System Procedure](#), no or low adverse impact generally aligns with positive, negligible or minor impact as per the Consequence scales within the procedure. The term *low impact activity* is defined differently under the Zoning Plan (see [Definitions](#)).
4. To balance conservation, access and use in the Marine Parks there are activities that require permission regardless of their impact on the values of the Marine Parks, particularly in Planning Areas.
5. The popularity of the Whitsundays makes it an area sought for filming activities and charity events. These events have the potential to benefit the local community, showcase the region's outstanding universal values, and encourage broad support for protecting the Planning Area. The ability to conduct such activities temporarily at specific locations may conflict with the settings (e.g. the vessel or group size) but are managed to have no or low adverse impact.
6. New technologies are also being constantly developed and may create opportunities for different above or below water experiences that have no or low adverse impact, while having possible benefits on the values of the Planning Area.

7. Within the scope of clause 2.3B, are activities that require permission under the Zoning Plan (e.g. for some types of commercial filming, community and sporting events or tourism activities) and are managed by the Plan. Refer also to point 17.
8. There may also be instances where proposed conduct is a low impact activity under the Zoning Plan but because of the Plan of Management provisions a permission is required and the proposed conduct is potentially within the scope of clause 2.3B.
9. [Applications for permissions](#) are assessed having regard to the mandatory considerations set out in the Regulations and in accordance with relevant plans and policies published by the managing agencies. This includes assessing the purpose and risks of the activity and potential impacts on Marine Parks values. This guideline supplements the [Managing Agencies Risk Assessment: Permission System Procedure](#).

Decision principles

Making a decision in accordance with the clause

10. Applicants for a Marine Parks permit cannot specifically request the use of clause 2.3B.
11. Clause 2.3B (1) does not compel the Managing Agencies to grant a permission. The managing agencies will always have discretion to decide whether to grant a permission having regard to all mandatory considerations under the Regulations. There may be other factors that suggest a permission should not be granted even where the requirements of clause 2.3B appear to be satisfied.
12. The Managing Agencies encourage applicants for permissions to apply for activities consistent with the Plan of Management provisions such that clause 2.3B is not required to be considered.
13. The Managing Agencies will determine when an application is received if it is appropriate for this guideline and clause 2.3B to be considered. There is another clause (refer to the *Guidelines for Application of plans of management to an activity not mentioned in a plan*) which may be an alternative choice for the decision maker. To assist delegates Figure 1 is a decision flow chart for when the plan of management discretionary clauses may apply.

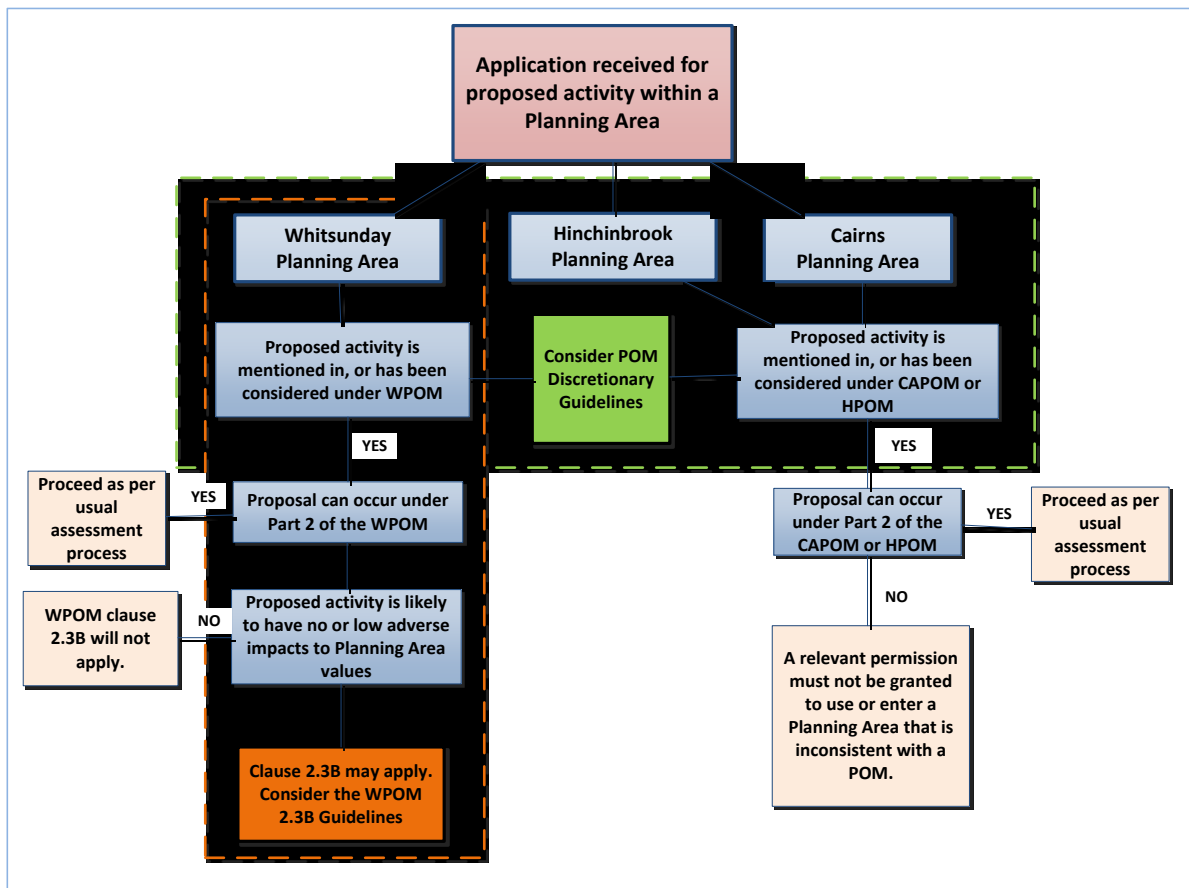


Figure 1: Flow chart when to consider plan of management clauses that are discretionary

14. Upon receiving an application the delegate will determine if it is appropriate to consider the clause and this guideline.
15. The delegates for granting permission will generally only consider relying on clause 2.3B if they are satisfied the proposed conduct:
 - a) cannot occur under Part 2 – Enforcement Provisions of the Plan of Management;
 - b) maintains the values of the Planning Area;
 - c) is in accordance with the intent and objects of the Plan of Management and Zoning Plans; and
 - d) where relevant is consistent with adjoining National Park values and management intent.

Also, if the benefits outweigh any low adverse impact, then granting the permission is likely to accord with the intent and objects of the Plan.
16. If over time there is a high level of demand for one-off events, it may be necessary for the managing agencies to consider limiting the number of such events to minimise potential cumulative impacts.
17. Additional daily access tourism permissions (special tourism permissions) and endorsements for access above setting limits will not be considered under this clause as they would be inconsistent with the intent and objects of the Plan of Management. Daily access and endorsements have already been provided for eligible tourism operators as part of previous planning processes.

Assessing merits of proposed conduct

18. The assessing officer should determine in their assessment if the proposed conduct meets the following criteria:
 - a. aspects of the proposed conduct is restricted by the enforcement provisions of Part 2 of the Whitsundays Plan of Management;
 - b. either positive, negligible or minor impact on Planning Area values, and a low **residual risk** as per the [Risk Assessment: Permission System Procedure](#);
 - c. minimal **cumulative impacts**;
 - d. intent and objects of the Plan of Management are maintained;
 - e. is not for regular activities;
 - f. consistent with the values of adjoining national park; and
 - g. generally there is a benefit to the overall values of the Planning Area.
19. Conduct proposed to take place in a sensitive part of the Planning Area, such as significant bird sites, no-anchoring areas, and setting 5 (protected) areas, are unlikely to have no or low adverse impact and are unlikely to be granted in accordance with clause 2.3B.
20. Proposed conduct which has no or low adverse impacts and which benefits the overall values of the Planning Area and the condition of the Marine Parks, may include the use of new technology.
21. Where the proposed conduct is one-off and does not align with the setting provisions (group size and/or overall length of vessels limits); the appropriateness of relying on clause 2.3B to exceed these limitations will be assessed on a case-by-case basis. The most likely consideration for application of this clause would be for one-off events such as large-scale filming, charity, community and sporting events such as marine debris clean up days, and charity events. *Note the term of permission is likely to be limited to the timeframe of the event.*

Example

An application is made for a permission to film and record a documentary using a 40 metre vessel with a group size of 50 people within a setting 3 (moderate) area for a single day. The applicant has provided a justification why the vessel and groups size is essential and why the proposed location is required. All alternative options have been exhausted in discussion with the managing agencies. As the setting 3 (moderate) area provisions only allow a vessel length of 35 metres or less, and a group size of up to 40 people, the managing agencies will carry out a risk assessment of the potential impacts and consider benefits to the values of the Planning Area. If a low residual risk (see definitions) is determined and there are benefits, then the granting of a permission may be considered.

22. Proposed conduct that seeks to increase the group size and/or vessel length limit in a setting on a regular basis is not considered to have no or low adverse impact as it may restrict the reasonable use by the public and other users to the Planning Area and/or impact on values at locations.

23. It is likely that separate authority may also be required under the *Queensland Marine Parks Act 2004* and *Nature Conservation Act 1992*, such as a Commercial Activity Agreement.

Background

24. Plans of management help to protect and conserve the Planning Areas while allowing for a range of experiences and reasonable opportunities for access and use.
25. The Whitsundays Plan of Management allows for a finer scale of protection and management than the reef-wide Zoning Plan. To deliver a range of experiences, the Plan of Management closely manages access (vessel length and group sizes), types of tourism operations, frequency of visitation and other uses. It also manages particular activities (whether recreational or commercial) such as motorised water sports, aircraft landing areas, private mooring facilities and anchorages.
26. The Planning Area is highly popular and receives the highest concentration of use in the Great Barrier Reef Marine Park. Since the commencement of the Plan of Management in 1998, the area has experienced significant growth in visitation and changes in use patterns in both the Planning Area and the adjacent coast.
27. The reef-wide marine environment including, fringing reef communities, have experienced increased adverse impacts due to a range of factors such as severe weather events, declining water quality and climate change. Chronic stressors have deprived natural habitats and other social and cultural assets of sufficient time to recover between acute events. The impacts of climate change, combined with chronic stressors and a more frequent disturbance regime will further reduce reef resilience. There will be flow-on impacts for Reef-dependent industries and community benefits
28. Each reef, bay and coastal area within the Planning Area has been assigned a 'setting' ranging from setting 1 (intensive) areas to setting 5 (protected) areas. Setting limits apply to all users of the Planning Area. The main factors controlled in the settings are overall vessel length and group size.
29. The Plan of Management is reviewed from time to time to ensure effective management of the Planning Area. The 2017 review highlighted the need for increased flexibility to grant permissions for proposed conduct that had no or low adverse impacts on the values of the Planning Area.
30. On 18 September 2020, the State of Queensland through the Department of Environment and Science accredited the Whitsundays Plan of Management. The Gazette Notice including details of the accreditation can be viewed on the [Department of Environment and Science website](#). Essentially, the provisions of the Plan now also apply to the Great Barrier Reef Coast Marine Park adjoining the Whitsunday Planning Area including settings, significant bird site exclusions and scenic flight height restrictions. The accreditation of the Plan does not change how visitors and commercial operators use the Whitsunday Planning Area as the Marine Parks are jointly and complementarily managed.

Definitions

Impact

Has the same meaning as 'relevant impacts' of proposed conduct or permitted conduct in the [Great Barrier Reef Marine Park Regulations](#). See below.

Cumulative impacts

Has the meaning given in the [Risk Assessment – Permission System Procedure](#): the interaction of effects between one or more impacts and past, present, and reasonably foreseeable future pressures.

Low impact activities

Has the meaning given in the Zoning Plan: generally means an activity that is likely to have a negligible impact on the Marine Park, but does not include an activity declared for the purposes of this definition in the Regulations. Guidance on the interpretation of this definition is provided in the [Environmental Impact Management Permission System Policy](#).

Low adverse impact

Generally means the values effected by a potential hazard are maintained and can continue to function at a high capacity despite any threatening processes. It generally means the same as minor impact in the [Risk Assessment – Permission System Procedure](#). The proposed conduct also has low residual risk.

Managing Agencies

The managing agencies are the Great Barrier Reef Marine Park Authority (GBRMPA) and Queensland Parks and Wildlife Service and Partnership (QPWS&P), who collectively administer a joint permission system.

Marine Parks

Includes the Commonwealth Great Barrier Reef Marine Park and the Queensland Great Barrier Reef Coast Marine Park.

No adverse impact

Generally means the same as positive or negligible impact in the [Risk Assessment – Permission System Procedure](#). The proposed conduct also has low residual risk.

Relevant impact

Has the same meaning as ‘relevant impact’ in the [Great Barrier Reef Marine Park Regulations](#):

- a) the potential direct and indirect impacts of the conduct, and the potential cumulative impacts of the conduct (in conjunction with other conduct, events and circumstances), on the environment, biodiversity, and heritage values, of the Marine Park or a part of the Marine Park; or
- b) the risk of the proposed conduct restricting reasonable use by the public of a part of the Marine Park and the extent of that restriction (if any).

Residual risk

Has the meaning given in the [Risk Assessment – Permission System Procedure](#): the risk posed to Marine Parks values after all possible avoidance and mitigation measures have been exhausted; the final risk level.

Special tourism permission

Has the meaning given in the [Great Barrier Reef Marine Park Regulations](#).

Related legislation / standards / policy

Complementary legislation for the operation of a joint permissions system, includes:

- a. [Great Barrier Reef Marine Park Act 1975](#) (Cth) and [Marine Parks Act 2004](#) (Qld) (the Acts)
- b. [Great Barrier Reef Marine Park Regulations 1983](#) (Cth) and [Marine Parks Regulation 2017](#) (Qld) (the Regulations)
- c. [Great Barrier Reef Marine Park Zoning Plan 2003](#) (Cth) and [Marine Parks \(Great Barrier Reef Coast\) Zoning Plan 2004](#) (Qld) (the Zoning Plans)
- d. [Whitsundays Plan of Management 1998](#)
- e. The [Environmental Impact Management Permission System Policy, Assessment and Decision Guidelines](#), [Application for Joint Permissions Guideline](#), [Risk Assessment: Permission System Procedure](#).

Supporting information

Hyperlinks to supporting information are provided throughout the document.

Extracts from *Whitsundays Plan of Management 1998*

1.3 Intent of this Plan

- (1) The intent of this Plan, in conjunction with other management mechanisms, is to protect and conserve identified values, and world heritage values, of the Marine Park and Planning Area, while allowing for reasonable opportunities to access and use the Planning Area having regard to the precautionary principle.

Note 1: For **world heritage values**, see section 528 of the *Environment Protection and Biodiversity Conservation Act 1999* (which is relevant because of subsection 3(1A) of the *Great Barrier Reef Marine Park Act 1975* and subsection 13(1) of the *Legislation Act 2003*).

Note 2: For **precautionary principle**, see subsection 3(1) of the Act (which is relevant because of subsection 13(1) of the *Legislation Act 2003*).

- (2) Section 39Y of the Act sets out the following objects of plans of management:

- (a) to ensure, for particular areas of the Marine Park in which the Authority considers that nature conservation values, cultural and heritage values, or scientific values, are, or may be, threatened, that appropriate proposals are developed to reduce or eliminate the threats;

- (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;
- (c) to ensure that activities within areas of the Marine Park are managed on the basis of ecologically sustainable use;
- (d) to provide a basis for managing the uses of a particular area of the Marine Park that may conflict with other uses of the area or with the values of the area;

2.3A Permissions must be consistent with this Plan

- (1) The Authority must not grant a relevant permission to use or enter the Planning Area that is inconsistent with this Plan.

2.3B Permissions for conduct with no or low adverse impact on values of Planning Area

- (1) This Plan does not prevent the Authority from granting a relevant permission that is applied for on or after 1 January 2018 if:
 - (a) in dealing under the Regulations with the application, the Authority has assessed the risks of the conduct proposed to be permitted and is satisfied that the conduct:
 - (i) is not likely to have an adverse impact on any of the values of the Planning Area; or
 - (ii) is likely to have only a low adverse impact on any of those values; and
 - (b) the conduct permitted by the permission accords with the intent of this Plan, and objects, mentioned in clause 1.3.

Note: This clause does not limit the Authority's discretion under the Regulations to refuse to grant the permission.

- (2) This clause has effect despite any other provision of this Plan.

Further information

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