

PROTECTED AREAS LAW MATRIX*

GREAT BARRIER REEF MARINE PARK ACT 1975

Ben Boer and Stefan Gruber

Notes:

1. The Great Barrier Reef Marine Park Act 1975 was comprehensively reviewed in 2006, as a result of which some significant amendments have been made in the past four years. See Review of the Great Barrier Reef Marine Park Act 1975; Review Panel Report available at <http://www.environment.gov.au/coasts/gbr/publications/pubs/gbr-marine-park-act.pdf>
2. The Act now requires that a Great Barrier Reef Report be prepared every five years. The first such report was prepared in 2009 and is available at http://www.gbrmpa.gov.au/corp_site/about_us/great_barrier_reef_outlook_report
3. The legal aspects for the Great Barrier Reef are briefly reviewed as part of the Australian Legislative Review Case Study by Ben Boer and Stefan Gruber 2010.

NAME OF INSTRUMENTS analysed	<p>Great Barrier Reef Marine Park Act 1975 (Commonwealth) http://www.frli.gov.au/ComLaw/legislation/actcompilation1.nsf/browseview?openform&VIEW=current&ORDER=bytitle&CATEGORY=actcompilation-Gr</p> <p>Act No. 85 of 1975 taking into account amendments up to Act No. 8 of 2010 Great Barrier Reef Marine Park Regulations 1983 http://www.frli.gov.au/comlaw/Legislation/LegislativeInstrumentCompilation1.nsf/0/B848F59AD1D4C14ACA257677007D4F1E?OpenDocument</p> <p>Other relevant legislation:</p> <p>Crimes Act 1914 (Commonwealth) http://www.frli.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/F576CFDF015E631CCA25775E00084505?OpenDocument&mostrecent=1</p> <p>Criminal Code Act 1995 (Commonwealth) http://www.frli.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/3A5F446649A6CE6BCA25773C001A6973?OpenDocument&mostrecent=1</p> <p>Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)</p>
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* This matrix has been developed in order to provide a standardised framework for the analysis of the main legal instruments on protected areas of any country, and thus provide a basis for comparison.

	http://www.frli.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/CF1BFB521C9ABD19CA25774400247593?OpenDocument&mostrecent=1	
JURISDICTION: national or sub-national	Australia	
Available online	Full texts at www.ECOLEX.org (LEX-FAOC014966)	
Valid as of	1 July 2010	
TOPIC	QUESTION	APPLICATION
1. Identification	1. Full title	An Act to establish a Great Barrier Reef Marine Park and for related purposes
	2. Enactment date; if not enacted state date of bill (i.e. draft)	1975
	3. Enacted by (institution/level of government)	Australian Commonwealth Government
	4. Minister or policy-level body granted regulatory/other powers to implement the instrument?	Minister for the Environment, Water, Heritage and the Arts. Section 7(2) directs the Authority to perform its functions under the general directions of the Minister given in accordance with the Act.
	5. Specialized PA agency/dept. responsible for daily implementation	The Great Barrier Reef Marine Park Authority (Part II & III, ss 6 – 17). Specifically s. 7(1)(b).
2. Scope Geographical	6. Is the instrument only for terrestrial areas?	No; by its nature, it deals mainly with the marine and coastal environment. It governs any land within an area proclaimed by the Governor General; the area of competence includes marine areas constituting the entire Great Barrier Reef ecosystem. (ss 30 and 31)
	7. Does it cover terrestrial and marine areas?	Yes. The Act principally establishes a marine park in areas of the Great Barrier Reef region by proclamation under s 31., Section 31(2) states: Where an area is, for the time being, declared by Proclamation under subsection (1) to be a part of the Marine Park: <ul style="list-style-type: none"> (a) the waters of any sea within the area; (b) the sea-bed beneath any sea within the area; (c) the subsoil beneath any such sea-bed, extending to such depth below the sea-bed as is specified in the Proclamation; (d) the sub-soil beneath any land within the area, extending to such depth below the surface as is specified in the Proclamation; and (e) the airspace above the area, extending to such height above the surface as is specified in the Proclamation; shall be taken to be in the Marine Park and, for the purposes of this Act, part of the area.
Conservation	8. Does it provide only for marine PAs?	Yes.
	9. Does it focus on biodiversity conservation?	Yes. There are several provisions relating directly to biodiversity conservation. Section 2A(1) provides: The main object of this Act is to provide for the long term protection and conservation of the environment, biodiversity and heritage values of the Great Barrier Reef Region. The Authority is empowered to make zoning plans for any area of the Marine park (s. 32) to address specified objects, which include: <ul style="list-style-type: none"> • to Protect the ecosystem within the Great Barrier Reef Region

Governance		<ul style="list-style-type: none"> • to protect areas in the Marine Park that are of high conservation value; • to protect and conserve the biodiversity of the Marine Park, including ecosystems, habitats, populations and genes; and • to preserve some areas of the Reef in its natural state undisturbed by man except for scientific research <p>Further, under s 39X the Authority is empowered to prepare management plans for one or more areas; one or more species; or one or more ecological communities within the Marine park.</p> <p>The objects of plans of management include ensuring management for the recovery and continued protection and conservation of species and ecological communities that are, or may become extinct, extinct in the wild, critically endangered; endangered; vulnerable; or conservation dependent. (s. 39Y(b)).</p>
	10. Does it focus on specific types of ecosystems?	It focuses on marine and coastal ecosystems, and in particular on the protection of the coral reefs which are the dominant ecological feature of the region.
	11. Does it cover conservation of cultural values?	Yes. The cultural and spiritual affiliations of traditional indigenous owners are addressed; see definition of traditional owner in s 3. The Park Authority is authorized to prepare Plans of Management for, among whose objects is to ensure development of particular areas of the Marine Park in which the Authority considers that nature conservation values, cultural and heritage values, or scientific values are or maybe threatened. The Management plans should aim at reducing or eliminating such threats. (s 39Y(a)).
	12. Does it relate only to Government/publicly owned PAs?	Yes. The Great Barrier Reef Marine Park is established by an Act of Parliament to consist of areas in the Great Barrier Reef Region declared by the Governor General to be parts of the Marine Park. (s. 30) The power of overall policy direction is generally vested in the Minister, while a Statutory Agency, the Great Barrier Reef Marine Park Authority, constituted by the Authority's Chairperson and staff, is responsible for the management of the Marine Park. (s. 7(1B) and s 40).
	13. Does it cover public/private ownership?	No
	14. Does it cover Private Protected Areas (PPAs)?	No
	15. Does it provide for co-management?	Yes. There are several forms of co-management for the park. The first is at the level of government. The most important relationship is between the Commonwealth Government and the government of the State of Queensland. By necessity, these two governments collaborate in the management of the region, as the Park lies in the waters of both the Commonwealth and the Queensland Government, as recorded in the definition of the Great Barrier Reef Region in s 3; see further Q 22. The next set of relationships is between the Queensland Government and relevant local governments. A further level is with communities, Indigenous persons, business and industry; all of these relationships are noted in the objects of the Act, which include: s 2A (b) encourage engagement in the protection and management of the Great Barrier Reef Region by interested persons and groups, including Queensland and local governments, communities, Indigenous persons, business and industry;

		<p>In the preparation of Management Plans, the Authority may enter into agreements or arrangements with a group of people who are representative of a community group that has a special interest in an area of the Marine Park. Such an agreement or arrangement may relate to the development and/or implementation of a plan of management for a species or ecological community within the concerned area.</p> <p>In such a case, if the Authority considers it appropriate, the plan of management may allow the community to manage the area, species or ecological community within the specified area, jointly with the Authority: s39ZA.</p>
	<p>16. Does it cover Community Conserved Areas (CCAs)?</p>	<p>Yes. As stated in Q 15, the Act provides for co-management (although not referred to as such), under a plan of management, of certain aspects of the Marine Park with communities with a special interest in the area of the Marine Park.</p> <p>The term “community group having a special interest” is defined to include a reference to the people in the group who have some form of native title to the area or its resources or have some other special identification with the area or its resources. (s.39V)</p>
<p>3. Policy context</p>	<p>17. Summarise stated purpose or objective of the instrument</p>	<p>2A Objects of this Act</p> <ol style="list-style-type: none"> (1) The main object of this Act is to provide for the long term protection and conservation of the environment, biodiversity and heritage values of the Great Barrier Reef Region. (2) The other objects of this Act are to do the following, so far as is consistent with the main object: <ol style="list-style-type: none"> (a) allow ecologically sustainable use of the Great Barrier Reef Region for purposes including the following: <ol style="list-style-type: none"> (i) public enjoyment and appreciation; (ii) public education about and understanding of the Region; (iii) recreational, economic and cultural activities; (iv) research in relation to the natural, social, economic and cultural systems and value of the Great Barrier Reef Region; (b) encourage engagement in the protection and management of the Great Barrier Reef Region by interested persons and groups, including Queensland and local governments, communities, Indigenous persons, business and industry; (c) assist in meeting Australia’s international responsibilities in relation to the environment and protection of world heritage (especially Australia’s responsibilities under the World Heritage Convention). (3) In order to achieve its objects, this Act: <ol style="list-style-type: none"> (a) provides for the establishment, control, care and development of the Great Barrier Reef Marine Park; and (b) establishes the Great Barrier Reef Marine Park Authority; and (c) provides for zoning plans and plans of management; and (d) regulates, including by a system of permissions, use of the Great Barrier Reef Marine Park in ways consistent with ecosystem-based management and the principles of ecologically sustainable use; and

		<p>(e) facilitates partnership with traditional owners in management of marine resources; and</p> <p>(f) facilitates a collaborative approach to management of the Great Barrier Reef World Heritage area with the Queensland government.</p>
	<p>18. Specify any references to global or regional conventions</p>	<p>The Act includes specific reference to the World Heritage Convention, with the “other objects” of the Act including in s 2A: the Authority is required, in the preparation of management plans, to have regard to the protection of world heritage values of the Marine Park.</p> <p>See also s 2A(3), 32(1)(e),</p> <p>The Act also refers to the definition of “world heritage” as found in the Environment Protection and Biodiversity Conservation Act 1999. several definitions concerning world heritage</p> <p>The 1989 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties is referred to in s 61 ACA(4),</p>
	<p>19. Specify reference to any significant environmental law principle such as the precautionary principle, public participation., access to information</p>	<p>Principles associated with of sustainable development are included in the Act in s 3A:</p> <p>For the purposes of this Act, the following principles are <i>principles of ecologically sustainable use</i>:</p> <ul style="list-style-type: none"> (a) decision-making processes should effectively integrate both long-term and short-term environmental, economic, social and equitable considerations; (b) the precautionary principle; (c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations; (d) the conservation of biodiversity and ecological integrity should be a fundamental consideration in decision-making; (e) improved valuation, pricing and incentive mechanisms should be promoted. <p>The Precautionary Principle: is specifically defined in s 3; it means “the principle that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.”</p> <p>In managing the Park and performing its other functions, s 6(3) states that the Authority must have regard to, and seek to act in a way that is consistent with the principles of ecologically sustainable use</p> <p>Public participation</p> <p>Prior to preparing a management plan, the Authority must issue a public notice stating the proposal, set out the parameters of the plan and invite interested persons to make written submissions over matters to be included in the plan. The Authority is mandated to take into account any submissions made. Section. 39ZB states:</p> <p>(1) Before preparing a plan of management, the Authority must, by public notice:</p>

		<p>(a) state that it proposes to prepare the plan; and</p> <p>(b) set out the area, species or ecological community to which the plan is to relate; and</p> <p>(c) invite the public to make comments in relation to matters to be included in the plan by the date specified in the notice (which must be at least 1 month after the date the notice is published in the <i>Gazette</i>); and</p> <p>(d) specify the address to which comments must be sent.</p> <p>(2)The Authority must take into account any comments made in accordance with the notice.</p> <p>(4)After the publication of the notice, the Authority may decide that the proposed plan of management is to cover an area, species or ecological community not mentioned in the notice but, if it does so, it is not required to give a further public notice in relation to the proposed plan.</p> <p><i>Access to Information</i></p> <p>(i). At all stages of proposals and final preparation of a plan of management or zoning plan where the Authority is required to issue a public notice, it is also mandated to indicate that the information is public and give the address from which copies of the plans in question may be obtained (s. 32(2) 39ZB & 39ZE.</p>
4. Objectives and policies	<p>20. Summarize any general or specific policy for PAs stated in the instrument</p>	<p>There are no specific policies for PAs spelled out in the Act as such. However, s 7A(4) allows the Authority to make and publish plans and policies:</p> <p>(4)The Authority may prepare and publish plans and policies about:</p> <p>(a) the way in which the Authority intends to manage the Marine Park or perform its other functions; and</p> <p>(b) the way in which the Authority considers that this Act or a zoning plan applies:</p> <p>(i) in relation to persons generally or a class of persons; or</p> <p>(ii) in relation to persons generally, or a class of persons, in relation to particular circumstances.</p> <p>(5) A plan or policy prepared under subsection (4) is not a legislative instrument</p>
	<p>21. Specify any objectives expressed for PAs stated in the instrument</p>	<p>See Q 17.</p>
5. Definitions	<p>22. Is the term PA defined in the instrument? If so, how?</p>	<p>The term “protected area” is not defined as such in the Act. However, the “ Great Barrier Reef Region” is defined.</p> <p>It means:</p> <p>(a) the area described in Schedule 1; and</p> <p>(b) such area (if any) contiguous with the northern boundary of that area as is prescribed;</p> <p>other than any part of such an area that is referred to in section 14 of the <i>Seas and Submerged Lands Act 1973</i> or is an island, or a part of an island, that forms part of Queensland and is not owned by the Commonwealth.</p>

IUCN Categories	<p>23. Are specific categories/types of PAs provided? If so, specify any that are based on:</p> <p>(i) conservation/management objectives (ii) ecosystem types (e.g. MPAs) (iii) tenure/governance considerations (PPAs/community-owned) (iv) jurisdictional considerations, and whether there are transboundary issues involved</p> <p>Indicate if these categories/types are included in definitions or in body of instrument</p>	<p>The statute establishes only Marine Park extending to the declared parts of the Great Barrier Reef Region. (s. 30)</p> <p>However:</p> <p>(i). There is recognition of community involvement where the Authority is empowered to enter into agreements or arrangements with a community group that has a special interest in an area of the Marine Park. Such an agreement or arrangement may relate to the development and/or implementation of a plan of management for a species or ecological community within the concerned area. (s.39ZA).</p> <p><i>Definitions</i></p> <p>The Marine Park is constituted by the Great Barrier Reef World Heritage Area, with the exact parameters defined in Schedule 1. (s. 3)</p> <p>The transboundary matters involved concern the limits of the coastal waters of Queensland and the limits of the jurisdiction of the Commonwealth government. No serious conflict exists between the two levels of government with respect to the boundaries of jurisdiction. The arrangements are briefly summarized in the 2009 <i>Great Barrier Reef Outlook Report</i> at page 120: “The Great Barrier Reef encompasses both Commonwealth and Queensland jurisdiction. Joint marine parks management ensures integrated field management of both the Great Barrier Reef Marine Park and the adjacent Great Barrier Reef Coast Marine Park. Fisheries management, both within the Region and beyond, is a Queensland Government responsibility. The assessment and approval provisions of the Environment Protection and Biodiversity Conservation Act 1999 apply throughout the Region; its Commonwealth Area provisions apply only in Commonwealth Territory.”</p>
	<p>24. Is there explicit reference to IUCN categories?</p>	<p>Yes: Zoning plans made under s 32B(c) must designate an IUCN category for the zone, or each part of a zone of the Park.</p> <p>S 34(2) provides that In designating an IUCN category in relation to a zone for the purposes of paragraph 32B(2)(c), the Authority must have regard the purposes for which the zone may be used or entered, and the Australian IUCN Reserve Management Principles for the category. The principles referred to are those set out in the Environment Protection and Biodiversity Conservation Regulation 2000, Cl. 10.1 and Schedule 5.</p>
	<p>25. If so, are they reproduced verbatim or in a modified form?</p>	<p>They are not reproduced verbatim, but s 3 indicates that they are the same as found in the Environment Protection and Biodiversity Conservation Act 1999. See also Q 26.</p>
	<p>26. If the IUCN categories are not mentioned or incorporated, are any categories actually used in the instrument similar to the IUCN categories? be specific</p>	<p>The Act makes provision for designating IUCN categories for zones within the park.</p> <p>Section 32B 1) provides</p> <p>A zoning plan prepared in respect of an area must provide that, for the purposes of this Act, the area:</p> <p>(a) constitutes a single zone; or</p> <p>(b) is divided into 2 or more zones described in the plan.</p>

		<p>(2) The plan must do the following in relation to the zone or each of the zones:</p> <ul style="list-style-type: none"> (a) give the zone a name or other designation; (b) make provision with respect to the purposes for which the zone may be used or entered; (c) designate an IUCN category for the zone, or each part of the zone. <p>Under s 35B(2), the categories are again mentioned:</p> <p style="padding-left: 40px;">In designating an IUCN category in relation to a zone for the purposes of paragraph 32B(2)(c), the Authority must have regard to:</p> <ul style="list-style-type: none"> (a) the purposes for which the zone may be used or entered; and (b) the Australian IUCN Reserve Management Principles for the category. <p>Under Table A of Schedule 3 of the Act, “the Authority may, with the Minister’s approval, amend the zoning plan for the purpose of designating an IUCN category for each zone, or each part of a zone, described in the plan.”</p> <p>There is no further guidance in the Act or the Regulations concerning the application of the IUCN categories.</p>
6. Institutional Arrangements: At the PA System level	<p>27. Are there provisions for:</p> <ul style="list-style-type: none"> - an overall PA System institutional structure (Minister, cabinet)? - overall administration of the PA System programme and implementation (department, agency, intergovernmental commission)? If so, describe. 	<ul style="list-style-type: none"> (i). The power of proclaiming any parts of the Great Barrier Reef Region to constitute the Marine Park is vested in the Governor-General. (ss 30 and 31) (ii). The Minister referred to in the Act , who has overall policy and Executive authority over the Great Barrier Reef Marine Park Authority, is the Commonwealth Minister for Environment Protection, Heritage and the Arts (iii). There Act established the Great Barrier Reef Marine Park Authority, with administrative authority over the marine park. (ss 6 and 7). (iv). The Authority comprises of a Chairperson, and not more than 4 other members appointed by the Governor General., one of whom must be appointed on the nomination of Queensland (s 10) (v). The Authority is empowered to recruit such staff, as public servants, as may be necessary for performance of duties. In addition, it may engage independent contractors, or employees of the Commonwealth and Queensland governments. (Part VI).
	<p>28. Does the instrument provide for future designation of management entities at individual PA level? If so, specify.</p>	<p>No.</p>
	<p>29. Is there a requirement for inter-agency cooperation? If so, specify.</p>	<p>Yes. Given the division of the park’s jurisdiction between the Commonwealth and the state of Queensland, inter-agency cooperation is vital. The day-to-day management of the park is carried out by Queensland employees, with general oversight from the Authority and the relevant Commonwealth and Queensland Ministers. This is encapsulated at page 120 of the <i>Great Barrier Reef Outlook Report 2009</i>: “The Great Barrier Reef encompasses both Commonwealth and Queensland jurisdiction. Joint</p>

At the individual PA level		<p>marine parks management ensures integrated field management of both the Great Barrier Reef Marine Park and the adjacent Great Barrier Reef Coast Marine Park. Fisheries management, both within the Region and beyond, is a Queensland Government responsibility.”</p> <p>The Act includes several provisions which generally envisage inter0agency cooperation:</p> <ul style="list-style-type: none"> (i). The Authority is generally required to carry out research and investigations relevant to the Marine Park, either by itself or in co-operation with other institutions and persons. (s. 7) (ii). The Authority has power to perform any of its functions in co-operation with Queensland, with an authority of that State or with a local governing body in that State. (s8(3))
	<p>30. Is a specific body or bodies provided with authority to manage individual PAs? If so, describe (see also questions 25 and 26).</p>	<p>No. The Great Barrier Reef Marine Park Authority is the only authority to manage the park; the park is not divided into separate PAs; see s 7.</p>
	<p>31. Is there a statutory basis for public participation in such bodies or other consultation/involvement of the public in the governance/management of individual PAs? If so, specify.</p>	<p>Yes The Act includes a number of provisions concerning public participation: Under 39ZA, arrangements can be made with a group of people who are representative of a community group that has a special interest in an area of the Marine Park. The agreement can include development and implementation of the plan of management, and actual involvement in the management of a species or ecological community. In the preparation of a management plan, the Authority must issue public notices invite interested persons to make comments on over matters to be included in the plan. The Authority takes into account any comments made to it in this regard. (s. 39ZB). The Authority must issue a public notice once the plan of management is complete giving notification as such, and inviting the public to make comments about the plan (s 39ZE).</p>
7. Advisory Bodies	<p>32. Does the instrument provide for advisory bodies - at PA System level? - at individual PA level?</p>	<p>There is no explicit advisory body established by the Statute.</p>
	<p>33. If advisory bodies are provided for, indicate the relevant provisions that create those bodies, or enables their creation and describe the purpose, membership, powers and functions of those advisory bodies.</p>	<p>N/A</p>
	<p>34. If statutory bodies are not provided for, is there a statutory basis for scientific input or consultations; if so, specify.</p>	<p>There is not express provision, but the Authority is required to observe the Precautionary Principle in preparation of plans of management for the Marine park. (s. 39Z) This may provide a basis to invite scientific input and consultation under the public participation requirements in preparation of management plans and zoning.</p>
	<p>35. Are there provisions to assess and report on effectiveness of the PA System? If so, specify.</p>	<p>Yes. The Authority must prepare and give to the Minister a report in relation to the Great Barrier Reef Region every 5 years, the first report was delivered in 2009: <i>Great Barrier Reef Outlook Report 2009</i>: s 54.</p> <ul style="list-style-type: none"> (i). The report must contain an assessment of the current health of the ecosystem within the Great Barrier Reef region, and outside if relevant, (ii). It must also contain assessments of the current biodiversity; commercial and non-commercial uses; ecosystem risks; current ecosystem resilience; and

		<p>measures taken to protect ecosystem. It must also provide an assessment of factors influencing current and projected future environmental, economic and social value of the region; long-term outlook for the ecosystem, etc.</p> <p>(iii). The Minister is required to arrange for the contents of the report to be peer-reviewed by at least 3 persons possessing appropriate qualifications.</p> <p>(iv). The Minister must table a copy of each report in each House of Parliament</p>
8. PA System Planning and Management	<p>36. Does the instrument provide for a system of Protected Areas (PA System)?</p>	<p>No. The instrument provides for one Protected Area, a Marine Park in the Great Barrier Reef Region.</p>
	<p>37. Does the instrument require the preparation of a plan for development and management of a PA System? If so describe purpose, responsible entity and key elements</p>	<p>Yes. The Authority is empowered to prepare plans of management for the Marine park. (Part VB,)</p> <p>Section 39Y Objects of plans of management: The objects of plans of management are as follows:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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; (e) to provide for the management of areas of the Marine Park in conjunction with community groups in circumstances where those groups have a special interest in the areas concerned; (f) to enable people using the Marine Park to participate in a range of recreational activities. <p><i>Key Elements</i></p> <ul style="list-style-type: none"> (i). Arrangements with community groups – the Authority may enter into agreements with community groups with a special interest in particular areas of the park to involve them in preparation and/or implementation of management plans

- (ii). Public participation – the Authority must issue public notice giving notice of the proposal for a management plan, and notifying the completion of the plan, and inviting public comments in both situations. It must also take into account any submissions made in this regard.
- (iii). Public Access to information – The Authority is mandated to avail copies of the management plan to the public to enhance effective participation in the public consultations
- (iv). Entry into force – a plan of management only comes into force after publication in the Gazette, while enforcement provisions of such a plan take effect as declared by the relevant regulations

Amendment of a management plan – Under s 37, the Authority may amend the management plan for the Marine park only if :

- (a) the plan has been in operation for at least 7 years; or
- (b) if the plan has been previously amended under this section—the most recent of those amendments has been in operation for at least 7 years.

- (v). The provisions of public participation and access to information applied in preparation of management plan apply to amendments

Revocation of a management plan of management: s 39ZH provides that the Authority may, by legislative instrument, revoke a plan of management.

The Authority can also make zoning plans, under Part V, Division 2. Under s 32(1) The objects of this Division are:

- (a) to regulate the use of the Marine Park so as to:
 - (i) protect the ecosystem within the Great Barrier Reef Region; and
 - (ii) ensure the use is ecologically sustainable use; and
 - (iii) manage competing usage demands; and
- (b) to protect areas in the Marine Park that are of high conservation value; and
- (c) to protect and conserve the biodiversity of the Marine Park, including ecosystems, habitats, populations and genes; and
- (d) to regulate activities that exploit the resources of the Great Barrier Reef Region so as to:
 - (i) minimise the adverse effect of those activities on the Great Barrier Reef; and
 - (ii) ensure the ecologically sustainable use of the resources; and
- (e) to protect the world heritage values of the Great Barrier Reef World Heritage Area; and
- (f) to provide for the ecologically sustainable use of marine resources by

		<p>traditional owners consistent with their traditional practices; and</p> <p>(g) to reserve some areas of the Great Barrier Reef Region for public enjoyment and appreciation; and</p> <p>(h) to preserve some areas of the Great Barrier Reef Region in a natural state, undisturbed except for the purposes of scientific research that cannot be undertaken elsewhere in the Marine Park.</p> <p>There are extensive provisions concerning notice of intention to prepare a zoning plan, and the mechanics of their preparation, commencement, amendment and revocation. See ss 32A to 37.</p>
9. Establishment, amendment, abolition	38. Are there provisions for the establishment of PAs? Describe the authority entitled to do so and the process (incl. poss. for public partic.)	There Act established only one protected area, The Great Barrier Reef Marine Park. (s.30) However, the Governor-General can proclaim a specified area of the Great Barrier Reef Region to be part of the Marine Park. Before the Governor-General makes such a proclamation, the Minister must consider a report by the Authority in that regard. (s 31(1) and (5)).
	39. Are there provisions for altering the boundaries of PAs? Describe the authority entitled to do so and the process (incl. poss. for public partic.)	The Governor-General may issue a Proclamation to amend an earlier Proclamation declaring an area of the Great Barrier Reef to be part of the Marine Park. Such a proclamation must be made in accordance with a resolution passed by each House of Parliament on a motion. The Minister is also expected to consider a report prepared by the Authority in this regard. (s. 31(3), (4)&(5)).
	40. Are their provisions for changing the status of PAs? Describe the authority entitled to do so and the process (incl. poss. for public partic.)	Not as such; however, zoning plans (see Q 37) can be changed, thus changing the activities that can be conducted in particular parts of the park
	41. Is there a process for abolishing PAs? Describe the authority entitled to do so and the process (incl. poss. for public partic.)	The Governor-General may make a Proclamation removing an area in the Great Barrier Reef Region from the Marine park. However, prior to that, the Minister must be satisfied that the Proclamation is in accordance with a similar resolution passed by each House of Parliament on a motion. The Minister is also expected to consider a report prepared by the Authority in this regard. (s 31(4)&(5)).
	42. Are the levels of authority the same for questions 38-41, or are they different (e.g. higher level for abolition than for creation of PAs)	Yes
	43. Are there specific provisions regarding questions 38-41 which are specific to transboundary PAs, or those listed under international agreements (e.g. Ramsar, World Heritage)	No
	Establishment of PAs on non-governmental land	44. Are there provisions related to the establishment by the government of PAs on land which is not government-owned; if so specify these provisions in relation to - private property - land owned by indigenous or local communities and in which cases they provide/do not provide for compensation

	<p>45. Are there provisions related to the recognition/inclusion in the PA System of PAs established by “conservation agreements” with</p> <ul style="list-style-type: none"> - individual private owners? - land trusts? - local and/or indigenous communities? 	<p>work in partnership with the Authority s according to agreements made under the Act;</p> <p>There are no “conservation agreements” but see the arrangements that can be made under s 39ZA, at Q 31.</p> <p>Because of the special nature of the arrangements for the management of the Great barrier Reef, agreements and arrangements are made from time to time between the Commonwealth Government and Queensland Government concerning management arrangements. The Act does not contain <i>specific</i> provisions concerning such agreements, but alludes to them in s 7(1)(ca) and (cc).The original arrangements were agreed in 1979 under the Emerald Agreement; the current agreement is entitled the <i>Great Barrier Reef Intergovernmental Agreement</i>, available at http://www.environment.gov.au/coasts/gbr/publications/pubs/gbr-agreement-2009.pdf</p> <p>The objectives of the 2009 agreement are:</p> <p>The parties agree that the objective of this agreement is to ensure an integrated and collaborative approach by the Commonwealth and Queensland to the management of marine and land environments within and adjacent to the Great Barrier Reef World Heritage Area, so as to:</p> <ul style="list-style-type: none"> • provide for the long-term protection and conservation of the environment and biodiversity of the Great Barrier Reef ecosystem, as encompassed by the Great Barrier Reef World Heritage Area, and its transmission in good condition to future generations • allow ecologically sustainable use of the Great Barrier Reef ecosystem subject to the overarching objective of long-term protection and conservation • provide for meeting Australia’s international responsibilities for the Great Barrier Reef World Heritage Area under the World Heritage Convention. <p>The Agreement also provides for the Great Barrier Reef Ministerial Council:</p> <ul style="list-style-type: none"> • The Ministerial Council will consist of four members: • The Commonwealth Minister responsible for administering the Great Barrier Reef Marine Park Act 1975, who is the Chairperson • One Commonwealth Minister appointed by the Prime Minister • Two Queensland Ministers appointed by the Queensland Premier. • Ministers appointed to the Council must have responsibility for matters relating to the environment and marine parks and may include ministers with responsibility for science, tourism and/or natural resource management. • Ministers responsible for mining may not be members of the Council. • <p><i>Traditional owners</i></p> <p>Traditional owners are recognised under the Act and have entitlements relating to activities within their customs and traditions. Section 3 defines “traditional owner”:</p> <p>traditional owner means an Indigenous person:</p>
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		<p>(a) who is recognised in the Indigenous community or by a relevant representative Aboriginal or Torres Strait Islander body:</p> <p>(i) as having spiritual or cultural affiliations with a site or area in the Marine Park; or</p> <p>(ii) as holding native title in relation to that site or area; and</p> <p>(b) who is entitled to undertake activities under Aboriginal or Torres Strait Islander custom or tradition in that site or area.</p> <p>Traditional owners are mentioned in the objects of zoning plans under the Act (s 32)(1); the objects, inter alia, “provide for the ecologically sustainable use of marine resources by traditional owners consistent with their traditional practices”</p>
<p>10. Requirement For Management Plans</p>	<p>46. Is there a requirement for individual PA management plans? If so, describe:</p> <ul style="list-style-type: none"> - generic elements (e.g. zoning) - procedure for preparation (who is involved?) - who approves - legal status of approved plan (binding nature, enforceability) - authority(ies) responsible for implementation of the plan and powers. 	<p>For the Great Barrier Reef, both management plans and zoning plans are required. The Authority is required to prepare zoning plans for every area that is declared to be part of the Marine Park</p> <p>In addition, there is provision for preparation of management plans for the entire, parts, species or ecological communities of the Great Barrier Reef Marine Park. (s. 39W&39X).</p> <p><i>Zoning Plans</i></p> <p>A zoning plan means a zoning plan prepared in accordance with Division 2 of Part V of the Act, s 32 to 37A.</p> <p><i>Procedure</i></p> <p>(i). In preparing a zoning plan, the Authority is required to issue a public notice on the intended zoning, inviting interested persons to make submissions in that regard: s 32C</p> <p>(ii). The Authority must prepare a set of operational principles to be followed in preparing the plan, and a statement of environmental. Economic and social assessments. This too must be made available to the public: s 34</p> <p>(iii). After the zoning plan has been prepared, the Authority is mandated to issue a public notice stating the plan has been prepared, and to invite representations from interested person regarding the zoning plan: s35B</p> <p><i>Approval</i></p> <p>(i). After receiving public comments, the Authority must consider all the submissions and where necessary, alter the zoning plan accordingly: s 35B(2)</p> <p>(ii). The Plan is then submitted to the Minister together with any comments received from the public, and any comments by the Authority on those comments; s 35C(1)</p> <p>(iii). The Minister can accept the plan, or refer it back to the Authority with suggestions for further consideration: s 35C(2)</p> <p>(iv). The plan is then re-submitted to the Minister, who must lay it before both Houses of Parliament within 15 days of its receipt.: s 35C(7)</p> <p>(v). Either House of Parliament may, within 15 days of its presentation, pass a motion disallowing the plan, in which case the Authority has to begin the</p>

process all over again: s 35E.

- (vi). If at the end of this period no such motion is passed, the Minister is required to issue a public notice stating that the plan is to come into operation on a specified date.

Implementation

Each zoning plan duly approved is to be implemented by the Authority. While it is in force, the Authority is mandated to perform its functions and exercise its powers in relation to the zone according to the plan and not otherwise. (s. 36)

Plans of Management

Under s 39X, the types of plans of management are for

- (a) one or more areas of the Marine Park;
- (b) one or more species within the Marine Park or within an area or areas of the Marine Park;
- (c) one or more ecological communities within the Marine Park or within an area or areas of the Marine Park.

Under s 39Y, the objects of plans of management of plans are:

- (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;
- (e) to provide for the management of areas of the Marine Park in conjunction with community groups in circumstances where those groups have a special interest in the areas concerned;
- (f) to enable people using the Marine Park to participate in a range of recreational activities.

Procedure

- (i). Prior to preparing a management plan, the Authority must issue a public notice stating the proposal, set out the parameters of the plan

		<p>and invite interested persons to make written submissions over matters to be included in the plan. The Authority is mandated to take into account any submissions made to it in this regard. (s. 39ZB).</p> <p>(ii). The Authority may, by public notice, issue a moratorium on the grant of new permits while a plan of management is being prepared: s39ZC</p> <p>(iii). The Authority must issue a public notice once the plan of management is complete giving notification as such, and inviting interested persons to make written submissions about the plan; s 39ZE.</p> <p>(iv). The plan cannot be inconsistent with the Act, or the zoning plan in force for the area: s 39ZD(2)(b)</p> <p>Approval</p> <p>(i). After receipt of public comments over a draft plan, and considering the comments, the Authority may alter the plan or issue a public notice stating that the management plan has been confirmed:s39ZE</p> <p>(ii). The plan of management comes into force on the day this public notice is published in the Gazette</p> <p>Implementation</p> <p>The Authority has the responsibility to implement the plans of management. As indicated above, it is also empowered to enter into agreement/arrangements with communities with a special interest in the area of the Marine park in question for implementation of the plan of management: s 39ZA(1) and (2)</p>
	47. Are there provisions for monitoring the implementation of Management Plans? If so specify.	Not specifically; however, the Five Year <i>Great Barrier Reef Marine Park Outlook Report</i> provides an avenue to assess if the zoning and management plans already prepared are being implemented. (s.54).
	48. Is a reporting system created to review the effectiveness of the management plan? If so, specify.	Yes. The Authority is expected to prepare an outlook report every five years reporting on the current status of the health of the ecosystem. (s. 54)
11. Buffer	49. Are there provisions for the creation of buffer zones around PAs? If so describe, in particular: - how they are established - what their legal status is - the restricted activities therein - if there are provisions for their integration into land use plans	There are no express provisions in the Act, but buffer zones are dealt with in the Great Reef Marine Park Regulations ¹⁹⁸ , under which buffer zones may be set up under the zoning provisions: they are defined in s 73: . Buffer Zone means the zone described in the Zoning Plan as the Buffer Zone. Clause 40 refers to activities in the Buffer Zone, which is set up under the relevant zoning plan. These activities relate to fishing and aquaculture in the buffer zones. See also clauses 64, 65, 73 E, 73F, 73G, 73H, 73I and 73J.
	50. Are there provisions for the creation of corridors connecting individual PAs? If so describe, in particular: - how they are established, - what their legal status is - the restricted activities therein	No. The Zoning provisions could however be used to connect particular areas of ecological importance of the park.
12. Connectivity	51. If no legal status is provided for creation of corridors, can these be recognized by the instrument in other ways (in the PA System, or in land use plans?)	Corridors connecting different parts of the Marine park through zoning plans and management plans prepared under s. 32 and Part VB respectively. Note that the report, Australia's Biodiversity Conservation Strategy 2010–2020 Consultation draft mentions the

		importance of marine connectivity at page 91, although it does not refer specifically to the Great Barrier Reef.
13. Individual PAs: Development proposals and Activities	52. Are specific activities prohibited or allowed within PAs, or specific types of PAs; if so describe (as the case may be by types). Give special attention to e.g.: - recreational uses - commercial activities - access to genetic material - introduction of invasive species	Yes. Part VAA sets out a wide range of offences and penalties in relation to Great Barrier Reef Marine Park and Region for prohibited activities and conduct, including mining fishing, fish farming, construction, building, removal of structures, discharge of waste Entering the area of the Great Barrier Reef Region without compulsory pilotage, etc.
	53. Is there a statutory basis for public participation or consultation on proposed development or activities? If so, specify.	Public participation is largely at the level of preparation of management plans and zoning plans, as indicated at Q 46.
	54. In the case of allowed activities, who has the authority to grant use/access to the PA resources (e.g. forest products, genetic resources)	The Great Barrier Reef Marine Park Authority reserves the right to grant use to the Marine park resources. As this authority is mainly built into the zoning plans,
	55. Indicate provisions authorizing more detailed regulation of activities based on an approved management plan (e.g. zoning)	For each area of the Great Barrier Reef Region declared to be part of the Marine park, the Authority is mandated by law to prepare a zoning plan to guide regulation of activities in the area. (s. 32) and see Q 46.
	56. Are local communities/ indigenous concerns addressed? If so describe.	Yes. In the preparation of plans of management for the different parts of the Marine park, the Authority is empowered to enter into agreements with different communities with special interest in the particular area for the preparation and/or implementation of the management plan. (s. 39ZA), and see Q 46. In addition, while not specific to indigenous communities, the provisions for public participation in preparation of zoning and management plans provide an avenue for all interested and affected stakeholders to take part.
57. Are other cultural, social or spiritual considerations addressed? If so, describe.	The Authority may take into consideration cultural and heritage values of certain areas of the Marine park in preparation of management plans, where it feels such values are under threat with the aim of reducing or eliminating such threats. (s. 39Y).	
14. Process and activities affecting Pas	58. Are there provisions in the instrument for EIA with respect to activities within PAs? If so, specify.	There are no EIA provision in the Act itself; however, the Great Barrier Reef Regulations refer to EIA, primarily as it applies under the Environment Protection and Biodiversity Conservation Act, 1999; that Act includes EIA processes for all activities, as referred to in the definition of EIA is for the Park as found in the regulations: environmental impact statement , in relation to an activity, means any of the following kinds of statements or assessments about the impact the activity about the impact the activity is likely to have on the Marine Park or the Great Barrier Reef: (a) an environmental impact statement in accordance with Division 6 of Part 8 of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> ; (b) a statement or an assessment: (i) that has been prepared under a law of Queensland for the

		<p>purposes of an accredited assessment process mentioned in subsection 87 (4) of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>; and</p> <p>(ii) in connection with which the Authority is satisfied there has been undertaken an investigation as extensive as would have been undertaken for the purposes of a statement mentioned in paragraph (a);</p> <p>(c) a statement or an assessment:</p> <p>(i) that has been prepared for the purposes of a bilateral agreement under Part 5 of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> between the Commonwealth and Queensland; and</p> <p>(ii) in connection with which the Authority is satisfied there has been undertaken an investigation as extensive as would have been undertaken for the purposes of a statement mentioned in paragraph (a).</p>
	<p>59. Are there provisions in the instrument for EIA with respect to activities outside PAs which may affect the PA concerned, e.g?</p> <p>- in the buffer zone</p> <p>- elsewhere</p>	<p>This point is covered in the recent amendments to the Environmental Protection and Biodiversity Conservation Act covering the Park., in the sense that approvals must be obtained for actions both within and outside Park; see s 24B</p> <p>24B Requirement for approval of activities in the Great Barrier Reef Marine Park</p> <p><i>Actions in Great Barrier Reef Marine Park affecting the environment</i></p> <p>(1) A person must not take in the Great Barrier Reef Marine Park an action that has, will have or is likely to have, a significant impact on the environment.</p> <p>Civil penalty:</p> <p>(a) for an individual—5,000 penalty units;</p> <p>(b) for a body corporate—50,000 penalty units.</p> <p><i>Actions outside Great Barrier Reef Marine Park affecting the environment in the Marine Park</i></p> <p>(2) A person must not take outside the Great Barrier Reef Marine Park but in the Australian jurisdiction an action that:</p> <p>(a) has or will have a significant impact on the environment in the Great Barrier Reef Marine Park; or</p> <p>(b) is likely to have a significant impact on the environment in the Great Barrier Reef Marine Park.</p> <p>In order to obtain an approval, an EIA would be required in most cases; the level of assessment depends on a number of factors, including the potential significance of the impact; see Part 8 of the Environmental Protection and Biodiversity Conservation Act, summarized at the beginning of the Part as follows:</p> <p>This Part provides for the assessment of impacts of controlled actions, to provide information for decisions whether or not to approve the taking of</p>

		<p>the actions. However, this Part does not apply to actions that a bilateral agreement or Ministerial declaration says are to be assessed in another way.</p> <p>For actions that are to be assessed under this Part, the Minister must choose one of the following methods of assessment:</p> <ul style="list-style-type: none"> (a) an accredited assessment process; (aa) an assessment on referral information (see Division 3A); (b) an assessment on preliminary documentation (see Division 4); (c) a public environment report (see Division 5); (d) an environmental impact statement (see Division 6); (e) a public inquiry (see Division 7).
15. Enforcement and Monitoring	<p>60. Are officers responsible for enforcement designated? If so, who appoints them and what necessary qualifications must they have (if any)?</p>	<p>Yes. The Act provides for the appointment of inspectors:</p> <ul style="list-style-type: none"> (i). The Authority may appoint any person to be an Inspector, (ii). Every member of the Australian Federal Police is designated as an Inspector (ss 43 and 44)
	<p>61. If so, what monitoring or other powers are they granted? Relate back to review of effectiveness of and feedback to the management plan.</p>	<p>Inspectors have the following powers, as set out in Part 13A of the Regulations:</p> <p>Part 13A Inspector powers</p> <p>187B Power of inspector to give directions</p> <ul style="list-style-type: none"> (1) For the purpose of ensuring that the Act and these Regulations are complied with, an inspector may, subject to this regulation, give reasonable directions to any person: <ul style="list-style-type: none"> (a) who is within the Marine Park; or (b) who is outside the Marine Park and the inspector believes on reasonable grounds may enter, or who has recently entered and left, the Marine Park. (2) A direction may be given orally, in writing, by radio or by any other appropriate means of communication. (3) The inspector must identify himself or herself when giving the direction and must produce his or her identity card at the first practicable opportunity to the person to whom the direction is given. <p><i>Note</i> Identity cards are issued to inspectors under section 45 of the Act.</p> (4) A person commits an offence if: <ul style="list-style-type: none"> (a) the person is a person mentioned in paragraph (1) (a) or (b); and (b) the person is given a direction under sub-regulation (1); and (c) the person fails to comply with the direction. <p>Penalty: 50 penalty units.</p> (5) An offence against sub-regulation (4) is an offence of strict liability. <p>187C General powers of inspectors</p>

		<ol style="list-style-type: none"> (1) An inspector may: <ol style="list-style-type: none"> (a) require any person in the Marine Park whom the inspector finds committing, or reasonably suspects of having committed, an offence against the Act or these Regulations to leave the Marine Park or the zone or location within the Marine Park where the person is found; and (b) require any person whom he or she reasonably suspects of having done an act in respect of which the person is required to hold a permission, permit or other authority under the Act, these Regulations or a zoning plan to produce such a permission, permit or authority or evidence of such a permission, permit or authority. (2) For paragraph (1) (a), the inspector may require the person to leave the Marine Park, or the zone or location within the Marine Park where the person is found, for a specified period that is reasonable in all of the circumstances. (3) A person commits an offence if: <ol style="list-style-type: none"> (a) a requirement is made of the person under this regulation; and (b) the person fails to comply with the requirement. Penalty: 50 penalty units. (4) An offence against subregulation (3) is an offence of strict liability.
	<p>62. Does the instrument specify provisions to whom these officers report? If so, specify.</p>	<p>Given the complexity of jurisdictional scope and the size of the park a number of agencies are involved in compliance management activities. Generally inspectors report to the agencies which employ them. Ultimately, reports would normally find their way to the Authority. The following extract for the Authority's website gives a flavour of the way in which compliance is managed:</p> <p><i>Compliance management in the Great Barrier Reef World Heritage Area</i> The compliance management program for the Great Barrier Reef World Heritage Area includes the use of a wide range of compliance and enforcement tools including on-ground compliance and surveillance, and a broader education program.</p> <p>Given the size of the area, the Field Management Compliance Coordination Unit is a cooperative compliance management and surveillance program that involves a significant number of Australian and Queensland government agencies including:</p> <p>The Great Barrier Reef Marine Park Authority Queensland Department of Environment and Resource Management Border Protection Command Queensland Boating and Fisheries Patrol Queensland Police Service Commonwealth Director of Public Prosecutions Australian Federal Police Australian Maritime Safety Authority Maritime Safety Queensland</p>

		<p>The GBRMPA sees communication and education as the most effective strategy to encourage compliance with Marine Park management principles and legislation. This includes education, the provision of maps and reference material promoting voluntary compliance. However, where necessary, the GBRMPA does undertake enforcement and prosecution action where it is deemed appropriate and necessary.</p> <p>See Great Barrier Reef Marine Park Authority, Compliance management in the Great Barrier Reef World Heritage Area http://www.gbrmpa.gov.au/corp_site/management/ddm/compliance_management</p>
63.	Does the relevant agency have sole authority to enforce? If so, specify.	As noted in Q 61, a range of bodies are involved in compliance management
64.	If the agency does not have sole authority to enforce, what other bodies are authorised to enforce?	See Q 61; note also that enforcement of the provisions of the Ac is supported by the Australian Federal Police who are <i>ex-officio</i> Inspectors.
65.	What is the relationship of agency enforcement officers to the police and other enforcement authorities?	The members of the Australian Federal Police are ex official Inspectors for purposes of the Act. Since powers of Inspectors appointed by the Authority are generally restricted to be exercised within the Marine park, the Police officers are empowered to exercise all these powers where an offence under the Act is committed outside the Marine park.
66.	Do provisions specify enforcement powers and functions (arrest, stop and search, etc.)? If so, specify.	Yes. See Q 61. Powers of arrest are vested in the Federal Police
67.	Are there provisions for criminal enforcement? If so, specify.	Yes.
68.	Are there provisions for civil enforcement (as distinct from criminal enforcement)? If so, specify.	<p>Yes.</p> <p>The Environment Protection and Biodiversity Conservation Act 1999 contains the provisions for civil enforcement concerning approval of activities within the Park:</p> <p>Subdivision FA—Great Barrier Reef Marine Park 24B Requirement for approval of activities in the Great Barrier Reef Marine Park <i>Actions in Great Barrier Reef Marine Park affecting the environment</i></p> <p>(1) A person must not take in the Great Barrier Reef Marine Park an action that has, will have or is likely to have, a significant impact on the environment. Civil penalty:</p> <p>(a) for an individual—5,000 penalty units; (b) for a body corporate—50,000 penalty units.</p> <p><i>Actions outside Great Barrier Reef Marine Park affecting the environment in the Marine Park</i></p> <p>(2) A person must not take outside the Great Barrier Reef Marine Park but in the Australian jurisdiction an action that:</p> <p>(a) has or will have a significant impact on the environment in the Great Barrier Reef Marine Park; or (b) is likely to have a significant impact on the environment in the Great Barrier Reef Marine Park.</p>

		<p>Civil penalty:</p> <ul style="list-style-type: none"> (a) for an individual—5,000 penalty units; (b) for a body corporate—50,000 penalty units. <p><i>Exceptions to prohibition</i></p> <p>(3) Subsection (1) or (2) does not apply to an action if:</p> <ul style="list-style-type: none"> (a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of the subsection; or (b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of the subsection; or (c) there is in force a decision of the Minister under Division 2 of Part 7 that the subsection is not a controlling provision for the action and, if the decision was made because the Minister believed the action would be taken in a manner specified in the notice of the decision under section 77, the action is taken in that manner; or (d) the person taking the action is the Commonwealth or a Commonwealth agency; or (e) the action is an action described in subsection 160(2) (which describes actions whose authorisation is subject to a special environmental assessment process). <p>Note: Section 28 regulates actions by the Commonwealth or a Commonwealth agency with a significant impact on the environment.</p>
<p>16. Sanctions and incentives</p>	<p>69. Do provisions of the instrument provide for offences and related penalties? If so, specify.</p>	<p>Yes. Offences and prescribed in various parts of the Act, dealing with different aspects: The following is an example.</p> <p>38AA Mining or geological storage operations in Great Barrier Reef Region: offence</p> <p>(1) A person commits an offence if:</p> <ul style="list-style-type: none"> (a) the person engages in conduct; and (b) the conduct is mining operations or geological storage operations; and (c) the conduct is engaged in the Great Barrier Reef Region; and (d) the person is not authorised to engage in the conduct by: <ul style="list-style-type: none"> (i) a permission granted under the regulations for the purposes of this section; or (ii) an authority given in accordance with a condition of a permission referred to in subparagraph (i). <p>Penalty:</p> <ul style="list-style-type: none"> (a) for an aggravated offence—imprisonment for 3 years or 2,000 penalty units, or both; or (b) in any other case—1,000 penalty units. <p>Note: See also Division 8.</p> <p>(2) Strict liability applies to paragraphs (1)(c) and (d).</p>

	<p>70. Are the specified penalties an adequate deterrent for the seriousness of the offences?</p>	<p>(i). The penalties vary depending on the offence in question. It is notable that where prohibited activities concern the health of the ecosystem of biodiversity, the penalty is higher.</p> <p>(ii). Further, where the offender is a body corporate, a number of provision of the Act invoke s 4B(3) of the <i>Crimes Act, 1914</i> that allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by a court on an individual convicted of the same offence.</p> <p>(iii). Other serious offences have been classified as <i>strict liability</i> offences pursuant to s 6.1 of the <i>Criminal Code</i>. For instance,</p>
	<p>71. Does the instrument include provisions for forfeiture, recovery of costs (e.g. pollution clean-up or restoration of ecosystems)?</p>	<p>Yes. There is a range of sections relating to forfeiture in the Great Barrier Reef Marine Park Act and in the Environment Protection and Biodiversity Conservation Act. For example, in s 61AMD Offences and contraventions in relation to fishing,</p> <p>(1) This section applies in relation to an offence against this Act, or a contravention of a civil penalty provision, constituted by conduct that is fishing, if the fishing involved a primary commercial fishing vessel or a dory.</p> <p>(2) In determining, in the case of an offence or contravention involving a primary commercial fishing vessel:</p> <p>a) the penalty, or the amount of a penalty, to be imposed on a person for the offence or contravention; or</p> <p>b) whether the forfeiture of a thing used in the offence should be ordered under Division 10 of Part 17 of the Environment Protection and Biodiversity Conservation Act 1999;</p> <p>all fish on board the primary commercial fishing vessel at the time the vessel was apprehended in relation to the offence or contravention are taken to be fish in relation to which the offence or contravention was committed.</p>
	<p>72. Does the instrument provide incentives or rewards for compliance with its provisions?</p>	<p>No</p>
<p>17. Finance</p>	<p>73. Does the instrument include specific provisions on how PAs are funded? If so, specify.</p>	<p>Yes.</p> <p>The Great Barrier Reef Marine Park Authority:</p> <p>(i). Receives and disburses moneys from Parliament for payment to Queensland as financial assistance for matters pertaining to the Marine Park. (s. 7(cb))</p> <p>(ii). Receives moneys paid by Queensland under an agreement between:</p> <p>c) The Commonwealth and Queensland</p> <p>d) Queensland and the Authority</p> <p>e) The Commonwealth, Queensland and the Authority (s. 7(cc))</p> <p>(iii). All amounts received by the Authority from Queensland under the above agreements for management, protection or maintenance of the Great Barrier Reef World Heritage Area must be applied in accordance with that agreement and not otherwise. (s. 52).</p> <p>(iv). The Act establishes the Great Barrier Reef Management Special Account to received and be credited with all amounts being paid to the Authority. (s. 49)</p>

	<p>74. Does the instrument include provisions authorizing special financial tools for the PA system or for specific protected areas? If so, describe.</p>	<p>Yes. The Act has two specific instruments intended to enhance the ability of the Authority in performing its duties and reducing financial overheads:</p> <ul style="list-style-type: none"> (i). Tax Exemption – The Authority is not subject to taxation under the laws of the Commonwealth, State or Territory. (s. 55). (ii). Any financial liabilities of the Authority are taken to be the liabilities of the Commonwealth. (s. 8A)
	<p>75. Does the instrument include provisions for the PA agency to accept donations in cash or in kind?</p>	<p>Yes. The Authority is authorised to credit the Great Barrier Reef Field Management Account with amounts of any gifts given or bequests made for the purposes of the account. Section 50 provides:</p> <p>Credits to the Account</p> <p>There must be credited to the Account amounts equal to the following:</p> <ul style="list-style-type: none"> (a) amounts that, under an agreement referred to in paragraph 7(1)(cc), are paid by Queensland to the Authority for the purpose of the management, protection or maintenance of the Great Barrier Reef World Heritage Area; (b) amounts that, under such an agreement, the Commonwealth agrees to allocate for that purpose; (c) amounts received by the Authority in relation to property paid for with amounts debited from the Account; (d) amounts of any gifts given or bequests made for the purposes of the Account.
	<p>76. Does the PA agency have the power to collect, retain and utilize revenues (e.g. entrance fees, fees for services, concessions)?</p>	<p>Yes. The Act empowers the Authority to collect an environmental management charge from visitors, service charges etc. The provision is given effect by Part 8 of the <i>Great Barrier Reef Marine Park Regulations 1983</i> on Environmental Management Charges. These revenue are called the Reef Tax, currently AUD\$20.00 per person per day in the Great Barrier Reef region, which must be paid by any person who wishes to enter the area.</p>
	<p>77. Does the instrument provide for revenues to be shared or given to local communities? If so, please specify.</p>	<p>The Act permits the Authority to provide assistance upon request, to institutions or persons on environmental management matters; research or investigations; educational, advisory and informational services; and availing of facilities. (s. 7A)</p>