

APPENDIX C

Draft : Environmental Impact Statement

Appendix C

Legislation and Approvals

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Appendix C Legislation and Approvals

C.1 Introduction

This report addresses Section 3.8 of the Terms of Reference for the Cairns Shipping Development Project (the project). It documents the Commonwealth, Queensland and local government legislation, policies and the planning framework relevant to the project and identifies the approvals required for the project.

The project and its components are located in areas under the jurisdiction of the Australian Government, the Queensland Government, the Cairns Regional Council, and Ports North. Approvals for various components of the project are required under the laws relevant to each jurisdiction. This section summarises the approvals required for the project, however, some exemptions may apply.

This chapter does not provide a legal opinion on the applicability of specific legislation and the triggering of associated approvals; it simply highlights key legislation relevant to the proposal. The advice is based on current planning approval requirements and may change in the lead up to project implementation.

C.1.1 Methodology and Assumptions

C.1.1.1 Methodology

The assessment of the relevant planning and environmental legislation, policies and plans included:

- A review of the Commonwealth, Queensland and local government legislative and policy framework directly related to the planning, approval, construction and operation of the project and the management of land use and development within the project area. Please note, this is not an exhaustive list of all legislation, rather the legislative framework which directly influences the design, construction or operation of the project
- A review of the project's consistency with existing national, state, regional and local plans, policies and guidelines
- Identification of approvals likely to be required for the project based on the review of Commonwealth, Queensland and local government legislation and policy frameworks.

C.1.1.2 Assumptions and Technical Limitations

Specific assumptions and technical limitations for this report are:

- Current information available to August 2014 has been used in the preparation of this report
- Although this report identifies likely approvals for the construction and operation of the project, the recommendations are based on the interpretation of publicly available materials and the information provided specifically for the purpose of the preparation of the Environmental Impact Study (EIS). This report does not provide a legal opinion on the applicability of specific legislation and the triggering of associated approvals.

C.1.2 The Assessment Process

On 24 September 2012, the Coordinator-General declared the project to be a 'coordinated project' under section 26(1)(a) of the *State Development and Public Works Organisation Act 1971* (Qld)

(SDPWO Act). This declaration initiated the statutory environmental impact assessment procedure of Part 4 of the SDPWO Act, which requires the proponent (Ports North) to prepare an EIS for the project.

In addition, on 4 October 2012, the DSEWPaC determined that the project was a ‘controlled action’ under the EPBC Act. The relevant controlling actions are:

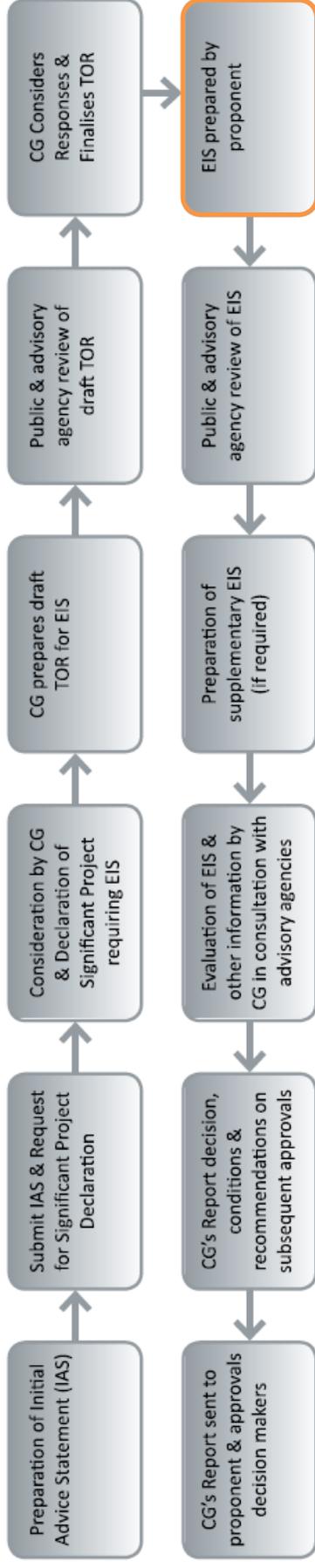
- World Heritage properties (sections 12 & 15A)
- National Heritage places (sections 15B & 15C)
- Listed threatened species and communities (sections 18 & 18A)
- Listed migratory species (sections 20 & 20A)
- Commonwealth marine areas (sections 23 & 24A)
- Great Barrier Reef Marine Park (sections 24B & 24C)
- Commonwealth land (sections 26 & 27A).

Thus, the project requires assessment and approval by the Minister for Sustainability, Environment, Water, Population and Communities (DSEWPaC) before it may proceed, and an Environmental Impact Study (EIS) process is to be conducted. The conduct of this Environmental Impact Study under the SDPWO Act will meet the impact assessment requirements under both Commonwealth and Queensland legislation.

The overarching approvals required for this project are Commonwealth government approval by the Minister for DSEWPaC for a controlled action under the EPBC Act; and the Queensland Coordinator General’s approval of the project as a ‘coordinated project’.

The assessment process for these approvals is the statutory environmental impact assessment procedure under Part 4 of the SDPWO Act. This process is summarised in **Figure C.1.2a** (the orange borders representing the current stage in the assessment process).

STATE APPROVAL



COMMONWEALTH APPROVAL

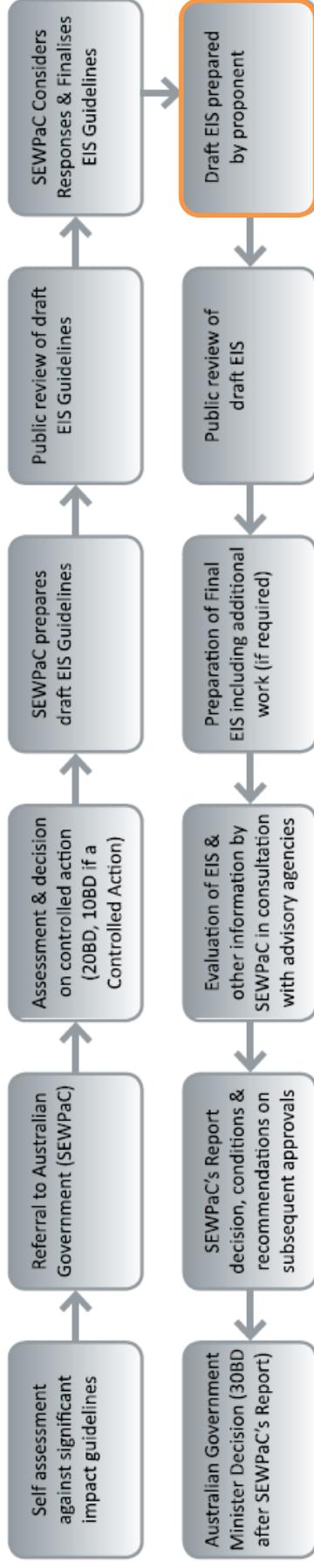


Figure C.1.2a The assessment under EIS process under the SDPWO Act linked to EPBC Act

C.1.3 International Convention/Treaty Obligations

In addition to the requirements enacted by Commonwealth and State legislation a number of international conventions are relevant to the Great Barrier Reef, including, but not limited to:

- *Convention for the Protection of the World Cultural and Natural Heritage, 1972* (the World Heritage Convention)
- *Convention on Biological Diversity, 1992* (the Biodiversity Convention)
- *Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973* (CITES)
- *Convention on the Conservation of Migratory Species of Wild Animals, 1979* (the Bonn Convention)
- *Convention on Wetlands of International Importance Especially as Waterfowl Habitats, 1971* (the Ramsar Convention)
- *International Convention for the Prevention of Pollution from Ships, 1973* (the MARPOL Convention)
- *United Nations Convention on the Law of the Sea, 1982* (the Law of the Sea Convention or UNCLOS)
- *United Nations Framework Convention on Climate Change, 1992* (the FCCC;)
- UNESCO 2001 Convention for the Protection of the Underwater Cultural Heritage consideration.

Relevance to the project

The project recognises that the increasing level of use and development in and adjacent to the GBR Marine Park demands special attention and the need for strong policies to be put into place to ensure that the values of the marine park are adequately maintained. The project will operate cooperatively and closely with the Great Barrier Reef Marine Park Authority (GBRMPA) to ensure that the above international conventions are at the forefront of decision making.

C.1.4 Relevant Commonwealth Legislation

The following provides an overview of relevant Commonwealth legislation, including:

- Aboriginal and Torres Strait Islander Heritage Protection Act 1994
- Environment Protection and Biodiversity Conservation Act 1999
- Environmental Protection (Sea Dumping) Act 1981
- Great Barrier Reef Marine Park Act 1975
- Historical Shipwrecks Act 1976
- Marine Safety (Domestic Commercial Vessel) National Law Act 2012
- Maritime Transport and Offshore Facilities Security Act 2003
- Native Title Act 1993

- Navigation Act 2012
- Work Health and Safety Act 2011.

C.1.4.1 Aboriginal and Torres Strait Islander Heritage Protection Act 1994

This Act provides for the preservation and protection from injury or desecration of significant areas and objects in Australia and its waters, being areas and objects that are of particular significance to Aboriginals or Torres Strait Islanders in accordance with culture and tradition. It enables the Australian Government to respond to requests by an Aboriginal or Torres Strait Islander person (or a person representing an Aboriginal or Torres Strait Islander person) to protect traditionally important areas and objects that are under threat, if it appears that relevant State or territory laws have not provided effective protection.

Relevance to the project

A Cultural Heritage Management Plan is required for the project. In the event that this is judged to not provide effective protection as per the *Aboriginal and Torres Strait Islander Heritage Protection Act 1994*, relevant steps will be taken to address the matter under all relevant legislation.

This is addressed in further detail in **Chapter B13, Cultural Heritage**.

C.1.4.2 Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)

This Act seeks to protect the environment, particularly matters of national environmental significance. It streamlines national environmental assessment and approval processes, protects and manages nationally and internationally important flora, ecological communities and heritage places.

The EPBC Act requires a proponent to refer a proposed action to the Australian Government for assessment of impacts against matters of national environmental significance if the proponent believes such matters would be significantly affected.

The nine matters of national environmental significance protected under the Act are:

1. World heritage properties
2. National heritage places
3. Wetlands of international importance (listed under the RAMSAR Convention)
4. Nationally threatened species and ecological communities
5. Migratory species protected under international agreements
6. Commonwealth marine areas
7. The Great Barrier Reef Marine Park
8. Nuclear actions (including uranium mines)
9. A water resource, in relation to coal seam gas development and large coal mining development.

The EPBC Act and its environment assessment process is triggered when a proposal is deemed to have a significant impact on one or more of the items listed above.

The MNES Significant impact guidelines provide guidance to parties proposing to undertake actions to determine whether a referral to the Australian Government is required under the EPBC Act. The guidelines outline a ‘self-assessment’ process, including detailed criteria, to assist persons in deciding whether or not referral may be required. If the proposed action(s) have, or are likely to have a significant impact on a matter of national environmental significance (MNES), approval from the minister is required.

The guidelines outline the following considerations in assessing whether an action is likely to have a significant impact:

- Whether there are any MNES located in the area affected by the proposed action
- Whether there is a chance or possibility of the impact occurring
- What is the potential for impacts, direct and indirect, on MNES from the proposed action at its broadest scope (eg: all staffs and components, including all related activities and infrastructure)
- Whether any of the potential impacts on MNES are significant, having regards to:
 - A significant impact being one which is important, notable, or of consequence
 - The sensitivity, value, and quality of the environment which is impacted, and
 - The intensity, duration, magnitude and geographic extent of the impacts.

Relevance to the project

On the 4th October, 2012, the project was referred to the Minister for Sustainability, Environment, Water, Population and Communities (SEWPaC), (now known as the Department of Environment).

It was determined that the proposed activities were a ‘controlled action’ under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) as the action has the potential to have a significant impact on a number of matters of National Environmental Significance that are protected under Part 3 of the EPBC Act.

The relevant controlling provisions are listed as:

- World Heritage properties
- National Heritage Places
- Listed threatened species and communities
- Listed migratory species
- Commonwealth marine areas
- Great Barrier Reef Marine Park
- Commonwealth land.

A single integrated assessment will be undertaken to support decisions under both the EPBC Act and the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act) based on this EIS documentation.

MNES Guidelines

The MNES guidelines provide guidance to parties proposing to undertake actions to determine whether a referral to the Australian Government Department of the Environment for an assessment

and approval by the Australian Government Environment Minister is required under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The guidelines outline a ‘self-assessment’ process, including detailed criteria, to assist persons in deciding whether or not referral may be required. If the proposed action(s) have, or are likely to have a significant impact on a matter of national environmental significance (MNES), approval from the minister is required.

The guidelines identify the nine matters of MNES (described in **Section C1.4.2** of this chapter), and outlines the following considerations in assessing whether an action is likely to have a significant impact:

- Whether there are any MNES located in the area affected by the proposed action;
- The potential for impacts, direct and indirect, on MNES from the proposed action at its broadest scope (eg: all staffs and components, including all related activities and infrastructure)
- Whether any of the potential impacts on MNES are significant, having regards to:
 - A significant impact being one which is important, notable, or of consequence
 - The sensitivity, value, and quality of the environment which is impacted, and
 - The intensity, duration, magnitude and geographic extent of the impacts.

Relevance to the project

The guideline assisted in determining that the project has the potential to have a significant impact on MNES. As such, the project was referred to the Australian Government Department of the Environment.

C.1.4.3 Environmental Protection (Sea Dumping) Act 1981

This Act regulates the dumping and incineration of materials at sea. It also controls the loading of materials for the purposes of dumping and incineration. The Act fulfils Australia’s international obligations under the London Protocol to prevent marine pollution. Through the Act, the Department of Environment assesses proposals to load and dump wastes at sea, permits acceptable activities and places conditions of approval to mitigate and manage environmental impacts.

Relevance to the project

The project requires approval for the disposal of dredging material at sea. The National Assessment Guidelines for Dredging (2009) provides the framework to assess the environmental impacts from the disposal of dredged material at sea. As discussed further in Section 6 of this chapter, a permit will be required under GBRMP Act 1975 with the GMRMPA also assessing the need for a Sea Dumping Permit update. Due to the assessment requirements under the Sea Dumping and the EPBC Act, the proponent will seek a coordinated assessment process to ensure the project is referred and assessed under both Acts at the same time.

This is addressed in further detail in **Chapter A4, Project Description**.

C.1.4.4 Great Barrier Reef Marine Park Act 1975

The Great Barrier Reef Marine Park Act 1975 is the primary Act in respect to the Great Barrier Reef Marine Park. The primary functions of the Act include provisions that:

- Establish the Great Barrier Reef Marine Park Authority (GBRMPA) a Commonwealth authority responsible for the management of the Marine Park
- Provide a framework for planning and management of the Marine Park through zoning and management plans
- Provide mechanisms for environmental impact assessment and permitting of uses
- Research, monitoring and interpreting data
- Providing information, educational services and marine environmental management advice.

The main objective 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.

Relevance to the project

The project area encompasses parts of the Great Barrier Reef Marine Park (GBRMP). The *Great Barrier Reef Marine Park Zoning Plan 2003* defines what activities can occur in various parts of the GBRMP. A detailed assessment of the project zoning is provided in Section 6.15 of this report.

Part 2A of the GBRMP Regulations specifies the general procedure for an application for permission. In addition, disposal of dredge material in the GBRMP will be subject to an environmental levy, which is based on environmental risk and cubic metre of dredge material disposed. The project proposes dredging within the state GBRMP area and disposal of the dredge material within the federal GBRMP area. Approvals required for these activities are identified in **Section C.1.7** of this report. The EIS process undertaken for this project seeks to comply with the requirements and procedures outlined in the GBRMP Regulations.

C.1.4.5 Historic Shipwrecks Act 1976

This Act protects historic wrecks and associated relics, more than 75 years old and in Commonwealth waters, extending from below the low water mark to the edge of the continental shelf. The Act aims to ensure that historic shipwrecks are protected for their heritage values and maintained for recreational, scientific and educational purposes. In 2009, the *UNESCO 2001 Covenant for the Protection of the Underwater Cultural Heritage* came into force and set a new international standard for managing underwater cultural heritage. The *Historical Shipwrecks Act 1976* is currently under review with regards to the consideration of the covenant. It is not envisaged that the review process will be finalised within the project's application timeline.

Relevance to the project

The project seeks to comply with all relevant provisions outlined in the *Shipwrecks Act 1976* and relevant covenants in relation to the protection of underwater cultural heritage. The construction and operational components of the project will seek to avoid disturbance to historic wrecks and associated relics and associated zones.

This is addressed in further detail in **Chapter B13, Cultural Heritage**.

C.1.4.6 Marine Safety (Domestic Commercial Vessel) National Law Act 2012

The purpose of this Act is:

- To form a part of a cooperative scheme between the Commonwealth, the States and the Northern Territory that provides a single national framework for ensuring the safe operation, design, construction and equipping of domestic commercial vessels
- To implement Australia's international obligations in relation to the safety of domestic commercial vessels
- To facilitate the development of a safety culture that will prevent, or mitigate the effects of, marine incidents
- To provide a framework for the development and application of consistent national standards relating to the operation, design, construction and equipping of domestic commercial vessels;
- To enhance the efficient and orderly operation of domestic commercial vessels
- To provide an effective enforcement framework.

Relevance to the project

The project recognises that the controls and regulations around shipping in the GBR are comprehensive and specially tailored management tools to ensure that shipping through the region occurs in a highly regulated and controlled manner.

The project will be guided by Ports North regarding the requirements under this act and compliance with the requirements of Australian Maritime Safety Authority (AMSA) and its role as the National Regulator for the safety of domestic commercial vessels in Australian waters.

This is addressed in further detail in **Chapter B17, Hazard and Risk.**

C.1.4.7 Maritime Transport and Offshore Facilities Security Act 2003

The purpose of this Act is to safeguard against unlawful interference with maritime transport or offshore facilities. This Act establishes a regulatory framework centred on the development of security plans for ships, other maritime transport operations and offshore facilities.

Relevance to the project

The project recognises that the controls and regulations around shipping in the marine park are comprehensive and specially tailored management tools to ensure that shipping through the region occurs in a highly regulated and controlled manner. The project will be guided by Ports North and will meet the maritime security regime as required by the Port Authority in accordance with the Department of Infrastructure and Transport.

Part C of this EIS documents the dredge management plan, vessel traffic management plan, and the maritime operations management plan.

C.1.4.8 Native Title Act 1993

The function of this Act includes establishing a framework through which native title can be recognised, in addition to providing protection for native title rights. Proposed activities or developments that may affect native title are classed as ‘future acts’ under the Act.

The *Native Title Act 1993* provides for the determination of native title claims, the treatment of future acts, and the requirement for consultation and/or notification of relevant native title claimants where future acts are involved. Under the Act, any past grants of freehold or certain leasehold interests are recognised as having extinguished native title if they occurred prior to certain dates. The *Native Title Act 1993* operates in conjunction with associated state legislation, such as the *Native Title (Queensland) Act 1993*.

Relevance to the project

At the time of preparation of this report, there has been only one native title determination in relation to native title in the Trinity Inlet area for the *Mandingalbay Yidinji People*. It appears that dredging for future channel widening and new swing basin will be clear of the determination area.

A native title claim for part of Trinity Inlet and the landside area of the western side of Trinity has been made by the *Gimuy Walubara Yidinji People*. The dredging and infrastructure works will impact this area and consequently, a *Cultural Heritage Management Plan* will be developed with the *Gimuy Walubara Yidinji People* for the works within their native title claim area.

This is addressed in further detail in **Chapter B13, Cultural Heritage**.

1.1.1 Navigation Act 2012

This Act is the primary legislative means for the Australian Government to regulate international ship and seafarer safety. The purpose of this Act is:

- To promote the safety of life at sea
- To promote safe navigation
- To prevent pollution of the marine environment
- To enforce national and international standards.

Relevance to the project

The project recognises that the controls and regulations around shipping in the GBR are comprehensive and specially tailored management tools to ensure that international shipping through the region occurs in a highly regulated and controlled manner. The project will be guided by Ports North, who will inform the project on the requirements of the AMSA, the national regulator regarding internal ship safety requisites or requirements or pre-requisites.

This is addressed in further detail in **Chapter B17, Hazard and Risk** and **Chapter B15, Waste Management**. Part C of this EIS documents the dredge management plan, vessel traffic management plan, and the maritime operations management plan.

C.1.4.9 Work Health and Safety Act 2011

The purpose of the Act is to provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplaces, including to:

- Protect workers and other persons against harm
- Provide for fair and effective workplace representation, consultation, co-operation
- Promote improvements in work health and safety practice
- Promote the provision of advice, information, education and training
- Secure compliance through appropriate enforcement measures
- Ensure appropriate scrutiny and review of actions
- Provide a framework for continuous improvement of standards
- Maintain and strengthening the national harmonisation of laws relating to work health and safety.

In addition, the Act operates simultaneously with, but does not limit the operation of the *Public Safety Preservation Act 1986*, the *Transport Operations (Marine Safety) Act 1994*, *(Qld) Occupational Health and Safety (Maritime Industry) Act 1993 (Cth)*, *Navigational Act 2012*.

Relevance to the project

The project will ensure health and safety regulations are met, so far as is reasonably practicable, by eliminating risk to health and safety for the course of the project.

This is addressed in further detail in **Chapter B17, Hazard and Risk**.

C.1.5 Relevant Queensland Legislation

The following provides an overview of relevant Queensland government legislation including:

- *Aboriginal Cultural Heritage Act 2003*
- *Building Act 1975*
- *Coastal Protection and Management Act 1995*
- *Environmental Protection Act 1994*
- *Environmental Offsets Act 2014*
- *Fire and Rescue Service Act 1990*
- *Fisheries Act 1994*
- *Land Act 1994*
- *Land Title Act 1994*
- *Land Protection (Pest and Stock Route Management) Act 2002*
- *Local Government Act 2009*
- *Marine Parks Act 2004*
- *Native Title (Queensland) Act 1993*
- *Nature Conservation Act 1992*
- *Queensland Heritage Act 1992*
- *State Development and Public Works Organisation Act 1971*
- *Sustainable Planning Act 2009*
- *Sustainable Planning and Other Legislation (SPOLA) Act*
- *Transport Infrastructure Act 1994*
- *Transport Operations (Marine Pollution) Act 1995*
- *Transport Operations (Marine Safety) Act 1995*
- *Transport Operations (Road Use Management) Act 1995*
- *Transport Security (Counter Terrorism) Act 2008*
- *Vegetation Management Act 1999*
- *Waste Reduction and Recycling Act 2011*
- *Water Act 2000*
- *Workplace Health and Safety Act 2011.*

C.1.5.1 Aboriginal Cultural Heritage Act 2003

Under this Act, Aboriginal cultural heritage is protected through a duty of care which requires all persons to take reasonable and practical measures to avoid harming cultural heritage. In this regard, a duty of care guideline has been gazetted under the Act which sets out reasonable and practical measures for ensuring that the duty of care is met.

Major aspects of this Act are:

- Blanket protection of areas and objects of traditional and customary significance, as well as areas of archaeological significance
- Recognition of the key role of traditional owners in cultural heritage matters
- Establishment of practical and flexible processes to address cultural heritage in a timely and cost efficient manner
- The replacement of cultural heritage permitting arrangements with the duty of care, the cultural heritage management planning process and other agreement based mechanisms
- Increased penalties for harming Aboriginal and Torres Strait Islander cultural heritage.

In accordance with Section 87, 88 and 89 of the *Aboriginal Cultural Heritage Act* requires development of a *Cultural Heritage Management Plan* if:

- An EIS is required
- An environment authority is required under a different Act etc.

The requirements of a *Cultural Heritage Management Plan* and the assessment process are outlined in Part 7 of the Act.

Relevance to the project

Under section 87 of the *Aboriginal Cultural Heritage Act 2003*, a *Cultural Heritage Management Plan (CHMP)* is required to be approved for the site by the Department of Environment and Heritage Protection prior to commencing any works.

Further details regarding this requirement are in **Chapter B1, Cultural Heritage**.

C.1.5.2 Building Act 1975

The *Building Act 1975* allows provision for assessments of developments. It calls up a set of Building Codes and Australian Standards which all buildings must comply. These codes regulate items such as structural design, fire and safety considerations.

Relevance to the project

Building and infrastructure works will require approval processes to be undertaken. Once the detailed design has been finalised, referral requirements will be identified.

C.1.5.3 Coastal Protection and Management Act 1995

This Act provides for the protection, conservation, rehabilitation and management of the Queensland coastal zone, including its resources and biological diversity. The Act has regard to the goal, core objectives and guiding principles of the National Strategy for *Ecologically Sustainable Development* in the coastal zone. This is achieved through the preparation of coastal management plans, declaring control districts in the coastal zone with special development controls, management practices and integration with other relevant legislation. The Coastal Protection and *Management Act 1995* is currently being reviewed and the proposal includes the abolishment of the existing coastal management districts. It is not expected that review process pertaining to the Act will be completed before the commencement of this project.

Relevance to the project

The project is located within a coastal management district. Capital dredging and the disposal of dredge material below the high water mark are activities which are likely to require approval under this Act before any relevant marine works begin.

Under Chapter 2, Part 5 of the Act an allocation of quarry material will be required prior to the issue of any approval under the Act for the removal of dredged material from State land under tidal water.

This is addressed in further detail in **Chapter B3, Coastal Processes**.

C.1.5.4 Environmental Offsets Act 2014

This Act coordinates the delivery of environmental offsets in Queensland. Its purpose is to counterbalance the significant residual impacts of particular activities on prescribed environmental matters through environmental offsets.

Relevance to the project

A number of State plans and policies require the use of offsets where impacts on areas of high ecological significance are unavoidable. **Chapter B8, Terrestrial Ecology** addresses the impacts on terrestrial ecology and **Chapter B7, Marine Ecology** addresses the impacts on marine ecology. As the project proposes works (dredging) in an area of high ecological significance requiring development permits, the project may require the implementation of an offset strategy to offset any residual ecological impacts in the area.

C.1.5.5 Environmental Protection Act 1994 (EP Act)

The EP Act, in particular Section 36 and 37, creates a general duty for all people, companies and government bodies to take all reasonable and practicable steps to avoid harm to the environment. The EP Act outlines the scope and content for preparing environmental protection policies to protect Queensland's environment.

The Act also provides for the regulation and approval of prescribed Environmentally Relevant Activities (ERAs) that have potential to cause environmental harm. Registration certificates under the Act are required for the operator of an ERA that has development approval.

Relevance to the project

The following regulations and policies existing under the *Environmental Protection Act 1994* and are relevant to the project:

- *Environmental Protection Regulation 2008*
- *Environmental Protection (Air) Policy 2008*
- *Environmental Protection (Noise) Policy 2008*
- *Environmental Protection (Water) Policy 2009*
- *Environmental Protection (Waste Management) Policy 2000*
- *Environmental Protection (Waste Management) Regulation 2000.*

The Act provides for the regulation and approval of prescribed Environmentally Relevant Activities (ERAs) that have potential to cause environmental harm. Registration certificates under the Act are required for the operator of an ERA that has development approval. Development permits and registration certificates to carry out the following main ERAs are likely to be required:

- ERA16 – Extractive and Screening Activities (Dredging) and Registration Certificate
- ERA 8 – Chemical Storage.

These registration certificates will be obtained by approved contractors prior to the commencement of works.

In the event that works for the upgrade of the wharf involves the removal of soil on a site that is listed on the environmental management register / contaminated land register (EMR/CLR), a permit for the removal and disposal of contaminated soils will be required under the Act.

Section C.1.7 of this chapter provides a summary of approvals required for the project.

C.1.5.6 Fire and Rescue Service Act 1990

This Act establishes the Queensland Fire and Rescue Service which has the responsibility to provide for the prevention and response to fires and other incidents endangering persons, property or the environment and for related purposes. The Act puts in place the *Building fire regulations* and the *Fire and Rescue Service Regulation 2011* which controls and prevents fires. The regulation sets out permits and conditions for lighting fires and undertaking activities that have the potential to create fires.

Relevance to the project

The uses associated with the project will seek to comply with the regulations and procedures outlined in this Act.

This is addressed in further detail in **Chapter B17, Hazard and Risk.**

C.1.5.7 Fisheries Act 1994

This Act provides a framework for the management, use, development and protection of fisheries resources and fish habitats, the management of aquaculture activities and helping to prevent shark attacks. The purpose of the Act is to manage the use, conservation and enhancement of the

community's fisheries resources and fish habitats in a way that seeks to apply balance and promote the principles of ecologically sustainable development.

Through various Fish Habitat Management Operational Policies declared under the *Fisheries Act 1994*, the Department of National Parks, Recreation and Sport and Racing is responsible for the conservation and management of fisheries important to the State by ensuring the continued use of fisheries resources (including fish, marine plants and other fish habitats) occurs in a sustainable manner by adopting a strategic approach to maintain and enhance fish habitats in Queensland. This Act prohibits work in a declared fish habitat area without approval.

Relevance to the project

Marine-based works in any areas containing marine plants has the potential to damage marine plants and thus, approval is required pursuant to Schedule 3 of the *Sustainable Planning Regulation 2009* and the *Fisheries Act 1994*.

As the Trinity Inlet Fish Habitat Area (FHA) is located within the project area, a development permit for operational works that are completely or partly within a FHA will be required. The assessment process for such approvals will be facilitated under the IDAS framework and will require assessment by Fisheries Queensland against the State Development Assessment Provisions – Module 5: Fisheries resources.

In addition, as the *Fisheries Act* does not support dredging within a FHA declared by Regulation under Section 120 of the *Fisheries Act 1994*, there is a legislative need to amend or revoke the declared FHA. Approval of State Cabinet and the Governor-in-Council is required for any declaration that involves the amendment of the *Fisheries Regulation 2008*.

This is addressed in further detail in **Section C.1.7** of this report and **Chapter B7, Marine Ecology**.

1.1.2 Land Act 1994

This Act provides a framework for the allocation of State land as either leasehold, freehold or other tenure. Permits may be acquired under this Act for the occupation of a reserve, road or unallocated State land. The Act also regulates the opening and closing of State and local roads and land dealings relating to changes in land tenure.

Relevance to the project

There is potential for the requirement of a number of permits and approvals under the *Land Act 1994* where local government and/or the Department of Transport and Main Roads (TMR) is unable to authorise proposed use or changes, for example:

- Road closure applications and or road opening
- Permits to occupy or other tenure instruments for the use or occupation of unallocated State land, reserves or roads
- Open, closing or surrendering a reserve.

Approvals that may be required for the project are identified in **Section C.1.7** of this chapter.

No impact on land tenure is expected to arise from the project, although approval will be required from Queensland Rail if the fuel pipeline is proposed to traverse the rail corridor.

C.1.5.8 Land Protection (Pest and Stock Route Management) Act 2002

This Act provides a framework and powers for improved management of weeds, pest animals and the stock route network.

Relevance to the project

In accordance with section 77 of the Act, Ports North have a responsibility to control or eradicate any ‘declared’ plants and animals on land that is owned or managed by the port authority. The project is also required to adequately address weed eradication and prevention of weed transportation. The presence of such on the site will require specific management strategies to be implemented during construction to ensure the requirements of the Act are met.

This is addressed in further detail in **Chapter C1, Environmental Management Plan (Construction and Operation)**.

C.1.5.9 Local Government Act 2009

This Act provides a legal framework for an effective, efficient and accountable system of local government. It recognises a jurisdiction sufficient to allow a local government to take government of its area with a minimum of intervention by the State. Part of the functioning of local government under the Act, is the power to make local laws and subordinate local laws with regard to a range of matters.

Relevance to the project

Relevant local laws and subordinate local laws adopted by the Cairns Regional Council will need to be considered in regard to the construction and future operation stages. The Cairns Shipping Development project team will continue to liaise with the relevant local government to determine permits required under local laws for the project during these project phases.

C.1.5.10 Marine Parks Act 2004

This Act supports the conservation of the marine environment and provides for the declaration and establishment of marine parks and associated zoning and management plans. It further recognises cultural, economic, environmental and social relationships within marine parks and surrounding areas.

The *Marine Parks Regulations 2006 and the Great Barrier Reef Coast Marine Park Zoning Plan*, in accordance with the Act, includes provisions relating to the zoning and objectives for those areas within marine parks, regulations associated with entry, use and the type of activities permitted within marine parks and review rights. Specifically, the regulation declares the zoning and protection of the Great Barrier Reef Marine Park.

Relevance to the project

The proposed dredging at Trinity Inlet and Bay is situated within the Great Barrier Reef Marine Park (General Use Zone) and will require the issue of a Marine Park Permit in accordance with the Act. A number of policies and guidelines will be addressed in applying for a permit and will include and not limited to the *GBRMPA Dredging Policy, Environmental Protection Agency – Disposing of material*

in tidal waters and the Memorandum of Understanding between GBRMPA and Queensland Ports Association 2009.

Required approvals and permits are identified in **Section C.1.7** of this report.

C.1.5.11 Native Title (Queensland) Act 1993

This Act, in association with the *Native Title Act 1993* (Cwlth), provides a mechanism to validate past Acts, and intermediate period Acts invalidated because of the existence of native title, to confirm certain rights and to ensure that Queensland law is consistent with standards set by the *Native Title Act 1993* (Cwlth) for future dealings affecting native title.

Relevance to the project

At the time of preparation of this report, there has been only one native title determination in relation to native title in the Trinity Inlet area for the *Mandingalbay Yidinji People*. It appears that dredging for future channel widening and new swing basin will be clear of the determination area.

A native title claim for part of Trinity Inlet and the landside area of the western side of Trinity has been made by the *Gimuy Walubara Yidinji People*. Works will impact this area and consequently, a *Cultural Heritage Management Plan* will be developed with the *Gimuy Walubara Yidinji People* for the works within their native title claim area.

This is addressed in further detail in **Chapter B13, Cultural Heritage**.

C.1.5.12 Nature Conservation Act 1992

A framework is created under this Act for the dedication, declaration and management of protected areas, protection of wildlife and its habitat. A complex system of regulations has been created under the Act.

The *Nature Conservation (Wildlife) Regulation 2006* in accordance with the Act catalogues the flora and fauna recognized as extinct, endangered, vulnerable, rare, near threatened, least concern, international and prohibited that may be impacted by the project. The Regulation further addresses the significance and declared management intent for each class.

The *Nature Conservation (Whales and Dolphins) Conservation Plan 1997* in accordance with the Act is designed to protect and conserve whales and dolphins in Queensland waters. The plan outlines management strategies to minimise harm and distress caused by anthropogenic activities such as pollution, noise disturbance and direct contact that may result from the construction and operation of the project.

The *Nature Conservation (Protected Areas) Regulation 1994* in accordance with the Act provides a list of former and current descriptions for protected areas as declared by the State of Queensland. Specific to the project, the regulation identifies national parks, conservation parks, resource reserves and nature refuges that are of particular importance to marine and estuarine ecology in and adjacent to Cairns Port.

Relevance to the project

Protected species and areas declared and managed under the Act, Regulations and Plans are discussed in more detail in **Chapter B2, Nature Conservation Values**.

During operational works and construction phases of the project, permits for clearing or damage mitigation under the Act may be required.

C.1.5.13 Queensland Heritage Act 1992

This Act operates in tandem with the *Aboriginal Cultural Heritage Act 2003* (Qld) to protect Queensland's cultural heritage. This Act provides for the conservation of Queensland's cultural heritage for the benefit of the community and future generations through:

- Establishing the Queensland Heritage Council
- Keeping the Queensland Heritage Register
- Providing for the establishment of local heritage registers
- Regulating, in conjunction with other legislation, development affecting the cultural heritage significance of registered places
- Providing for heritage agreements to encourage appropriate management of registered places
- Providing for appropriate enforcement powers to help protect Queensland's cultural heritage.

Under the Act, it is an offence to knowingly destroy or otherwise interfere with registered places or heritage items. The Act also sets out the assessment requirements for any development applications for development in or on a heritage place and is administered by the Queensland Heritage Council and the Department of Environment and Heritage Protection.

Relevance to the project

As identified in **Chapter B13, Cultural Heritage**, the Cairns Wharf Complex is listed on the Queensland Heritage Register (QHR 601790) and therefore approval for the development within a heritage –listed place under the Heritage Act will be required in accordance with Schedule 3 of the SP Reg.

The recommended concept for the wharf includes the provision of new dolphin structures placed between existing bents. The proposed updates will have minimal impact on the existing heritage listed structure and will require a development permit demonstrating consistency with Module 9 of the State Development Assessment Provisions (SDAP).

Further detail regarding the heritage assessment requirements is included in **Chapter B13, Cultural Heritage**.

C.1.5.14 State Development and Public Works Organisation Act 1971 (SDPWO Act)

This Act (SDPWO Act) establishes the framework for environmental assessment of declared coordinated projects in Queensland, identifying an Environmental Impact Assessment (EIA) process and its relationship with other Queensland legislation. The approvals framework applicable to the project is set by the *Sustainable Planning Act (2009)* (SPA) and the *Environmental Protection Act 1994* (EP Act).

The EIA under the SDPWO Act is one of the processes accredited under the bilateral agreement between the Australian and Queensland Governments for the environmental assessment of projects

which trigger the controlled action provisions of the *Environment Protection and Biodiversity Conservation Act 1999*.

Relevance to the project

On 24 September 2012, the Coordinator-General declared the project to be a ‘coordinated project’ requiring an EIS under section 26(1) (a) of the Act.

This declaration initiated the statutory EIS process of part 4 of the Act, which requires the proponent to prepare an EIS statement for the project, of which this document forms a part.

C.1.5.15 Sustainable Planning Act 2009

This Act and the associated *Sustainable Planning Regulation 2009* forms the foundation of Queensland’s planning and development legislation. It sets a framework to integrate planning and development assessment so that development and its effects are managed in a way that is ecologically sustainable. In accordance with Section 3, the purpose of the Act is to achieve ecological sustainability by:

- Managing the process by which development takes place, including ensuring the process is accountable, effective and efficient and delivers sustainable outcomes
- Managing the effects of development on the environment, including managing the use of premises
- Continuing the coordination and integration of planning at the local, regional and State levels.

Port Authorities act as the Assessment Manager for all development applications for development undertaken wholly on strategic port land. The *Sustainable Planning Regulations 2009* (SP Reg) states:

- Making a material change of use of premises on strategic port land that is inconsistent with the Land Use Plan approved under the *Transport Infrastructure Act 1994*, section 286, is assessable development (Schedule 3)
- Reconfiguring a lot comprising strategic port land is defined under the *Transport Infrastructure Act 1994*, is exempt development (Schedule 4).

Development on strategic land can also constitute assessable development under the provisions of Schedule 3 of SP Reg if the proposed development is making a material change of use of premises for an ERA under the *Environmental Protection Act 1994*.

Relevance to the project

Ports North has the responsibilities of the Assessment Manager under the SP Act for development on strategic port land and administers the responsibilities for land use planning through the Integrated Development Assessment System (IDAS). A number of aspects of the project involve development listed under Schedule 3 of the SP Reg and as such will trigger the requirement for approval under the SP Act and associated legislation. These are identified in **Section C.1.7** of this appendix.

1.1.3 Sustainable Planning and Other Legislation Act 2009

This Act makes a number of amendments to the *Sustainable Planning Act 2009* and consequential amendments to a range of other legislation. The purpose of this Act is to:

- Streamline planning, assessment and approval processes
- Remove unnecessary red tape
- Re-empower local governments to plan for their communities.

A key element of this Act is the introduction of the State Assessment and Referral Agency (SARA). The introduction of SARA means that where the State is an assessment manager or referral agency for a development application, the chief executive administering the SP Act will assess the application and will consider the application from a State perspective resolving any conflicts between State agencies, codes and policies and ensuring conditions are reasonable and relevant to the proposal.

Relevance to the project

SARA will be the assessment manager for development approvals for the project where a State agency currently has a jurisdiction. Schedule 7 of *Sustainable Regulation 2009* has been referred to regarding the referral agencies and their jurisdictions as identified in **Section C.1.7** of this report.

C.1.5.16 Transport Infrastructure Act 1994

This Act provides a framework for integrated planning and management of an efficient transport infrastructure network. This Act sets out the provisions for creating port authorities and identifying strategic port land to be regulated by a port authority.

Section 285 of the Act requires each Port Authority to prepare Land Use Plans (LUP) for approval by the Minister of Transport. Under the *Transport Infrastructure Act 1994* (TI Act) and the SP Act, port authorities are considered the Assessment Manager for development undertaken wholly on strategic port land. Integration of assessable development on strategic port land into IDAS is achieved by SP Act.

It also outlines the requirements for anyone wishing to undertake work in, or interfering with, a State-controlled road.

Relevance to the project

Ports North is a “port authority” under the provisions of the TI Act. Development of strategic port land declared under the TI Act is regulated by Ports North in accordance with its LUP adopted in accordance with Section 285 of the Act. The relevant LUP is discussed in further detail in Chapter B1: Land.

In accordance with section 50 of the Act, a road corridor permit may be required for any ancillary works and encroachments in a State-controlled road. Further, it is possible that approval/s may be required under the following section/s of the Act:

- Section 33 – approval of the chief executive for carrying out road works on a State-controlled road
- Section 62 – approval of an access between a particular property and a State-controlled road.

Transport impacts are addressed in **Chapter B14, Transport**.

C.1.5.17 Transport Operations (Marine Pollution) Act 1995

The overall purpose of this Act is to protect Queensland's marine and coastal environment by minimising deliberate and negligent discharges of ship-sourced pollutants into coastal waters.

Relevance to the project

The dredging contractor will be responsible for ensuring that the operation of its vessel in Queensland waters is consistent with the purpose of the Act and does not willingly discharge any pollutants into the waters which are an offence under the Act.

This is addressed in further detail in **Chapter B14, Transport**.

C.1.5.18 Transport Operations (Marine Safety) Act 1994

This Act establishes a system under which Maritime Safety Queensland can effectively plan and manage marine safety and related marine operational issues.

Relevance to the project

The project seeks to comply with all relevant provisions outlined in this Act and ensure the safe operation of its marine vessels.

This is addressed in further detail in **Chapter B17, Hazard and Risk**.

C.1.5.19 Transport Operations (Road Use Management) Act 1995

The overall purpose of the *Transport Operations (Road Use Management) Act 1995* is to:

- Provide for the effective and efficient management of road use in the State
- Provide a scheme for managing the use of the State's roads
- Provide for the effective and efficient management of vehicle use in a public place.

Relevance to the project

Movement of vehicles on public roads during the construction and operation phase of this project will be required to meet the provisions of this Act.

This is addressed in further detail in **Chapter B14, Transport**.

C.1.5.20 Transport Security (Counter Terrorism) Act 2008

The main purpose of this Act is to provide for planning for the protection of particular surface transport operations and their users against significant adverse impacts associated with terrorist acts involving surface transport operations.

Relevance to the project

Under the Act, a surface transport operation is an activity or system for:

- Transporting passengers by high occupancy vehicles (which carry 10 or more seated adults)

- Transporting goods by high payload vehicles (carrying more than 20 tonnes).

In the event that a surface transport operation as part of project is declared as a security-identified surface transport operation under section 11 of the Act, it will be necessary for a Risk Management Plan to be prepared for the approval of the chief executive and the approved plan then implemented in accordance with the Act.

This is addressed in further detail in **Chapter B14, Transport**.

C.1.5.21 Vegetation Management Act 1999

This Act regulates the clearing of ‘remnant’ and ‘regulated regrowth’ vegetation, with exemption under the *Nature Conservation Act 1992*, the *Land Act 1994*, and the *Forestry Act 1959*.

Relevance to the project

Clearing of any relevant remnant or regulated regrowth vegetation will constitute operational works under schedule 3 of the *Sustainable Planning Regulation 2009* which will require a development approval. Any application for clearing is required to be assessed against the State Development Assessment Provisions (SDAP) Module 8: Clearing native vegetation.

Prior to obtaining this development approval there is a requirement under section 22A of the *Vegetation Management Act 1999* that the Chief Executive is satisfied that the proposed clearing is for a relevant purpose to enable an application for clearing to be assessed.

This is addressed in further detail in **Chapter B8, Terrestrial Ecology**.

C.1.5.22 Waste Reduction and Recycling Act 2011

This Act outlines a number of measures to reduce waste generation and landfill disposal and encourage recycling. The Act promotes waste avoidance and reduction and encourages resource recovery and efficiency. The *Waste Reduction and Recycling Regulations 2011* sit under the Act and provides the requirements regarding waste management.

Relevance to the project

The project will be required to meet the provisions and procedures outlined in this Act. Waste management options which will be employed to reduce or avoid impacts due to inappropriate handling of waste have been identified in **Chapter B15, Waste Management**.

C.1.5.23 Water Act 2000

This Act vests all rights to the use, flow and control of water in Queensland in the State and it provides for a:

- Sustainable management framework for the planning, allocation and use of water resources
- Regulatory framework for service providers covering asset management, customer standards, and dam safety
- Governance regime for statutory authorities that provide water services
- Regulation of works and other activities undertaken in watercourses.

Relevance to the project

The project will be required to meet the provisions and procedures outlined in this Act.

This is addressed in further detail in **Chapter B6, Water Resources**.

C.1.5.24 Work Health and Safety Act 2011

The overall objective of this Act is to provide for a balanced and nationally consistent framework to ensure the health and safety of workers and workplaces. This Act outlines workplace health and safety compliance and advisory standards as well as enforcement procedures.

Relevance to the project

The project will be required to meet the compliance and advisory standards, procedures and obligations outlined in this Act.

This is addressed in further detail in **Chapter B17, Hazard and Risk**.

C.1.6 Relevant Plans and Policies

The following outlines the project's consistency with the applicable national, State, regional and local planning framework, including:

- *Australian Maritime Safety Authority Marine Orders*
- *Cairns Plan*
- *Cairns Port Authority Land Use Plan (LUP)*
- *Environmental Protection and Biodiversity Conservation Act Environmental Offsets Policy 2013*
- *Environmental Protection Policies (EPP)*
- *Environmentally Relevant Activities (ERA)*
- *Far North Queensland Regional Plan 2009-31 (FNQRP)*
- *Fish habitat policies*
- *Great Barrier Reef Marine Park –Strategic Plan*
- *Great Barrier Reef Marine Park – 25 Year Strategic Plan*
- *Great Barrier Reef Marine Park - Cruise Shipping Policy for the GBRMP 1999*
- *Great Barrier Reef Marine Park – Managing Tourism Permissions to Operate in the GBRMP 2003*
- *Great Barrier Reef Marine Park – Dredging and Spoil Policy*
- *Great Barrier Reef Marine Park Authority – Statement of Expectation*
- *Great Barrier Reef Marine Park Regulations 1983*
- *Great Barrier Reef Marine Park Zoning Plan 2003*
- *Great Barrier Outlook Report 2014*
- *Maritime Safety Queensland Regulation 2002*
- *National Assessment Guidelines for Dredging (2009)*
- *National Strategy for Ecologically Sustainable Development (1992)*
- *Queensland Biosecurity Strategy 2009-14*
- *Queensland Coastal Plan*
- *Queensland Coastal Contingency Action Plan (QCCAP)*
- *Queensland Local Industry Policy*
- *Queensland Ports Strategy 2014*
- *Standards for Hydrographic Surveys within Queensland Waters*
- *State Development Assessment Provisions (SDAP)*
- *State Planning Policies (SPP)*
- *State Planning Regulatory Provisions (SPRP)*

- *Transport Operations (Marine Pollution) Regulation 2008*
- *Workplace Health and Safety Regulation 2011.*

C.1.6.1 Australian Maritime Safety Authority Marine Orders

Marine Orders are a form of delegated legislation under Australia's Commonwealth laws. They provide an efficient means of implementing Australia's international maritime obligations by giving effect to international conventions in Australian law. The legislation provides the substantive powers for the Australian Maritime Safety Authority (AMSA) to perform certain functions and operational activities, including monitoring and enforcement.

AMSA has two series of Marine Orders:

- Marine Orders 1-98, primarily reflecting international obligations and standards that apply to certain Australian flagged vessels and foreign vessels;
- Marine Orders 500-507, containing the national law requirements applying to domestic commercial vessels.

Project relevance/consistency

The dredging contractor will be responsible for ensuring that the operation of its vessel in is consistent with the purpose of the marine orders.

Chapter C4, Maritime Operations Management Plan outlines the project's consistency with the marine orders.

C.1.6.2 CairnsPlan (Cairns Regional Council Planning Scheme)

The CairnsPlan details Council's intention for the City of Cairns, applying to the entire City with the exception to areas identified as Strategic Port Land (SPL) pursuant to the *Transport Infrastructure Act 1994* (TI Act). The plan interfaces with the intent of the Ports North Land Use Plan for Strategic Port Land.

The CairnsPlan divides the City into 12 districts, each of which is subject to a detailed District Plan which provides information on the preferred pattern of development. The project is located within the Portsmouth-Woree Industrial district.

The CairnsPlan further divides the City into 19 Planning Areas, the key element in illustrating the land use strategy for the City, by identifying compatible land uses and the preferred dominant land uses in each Planning Area.

It is noted that Cairns Regional Council is in the process of drafting a new planning scheme for the region. It is currently being reviewed by the State Government and is likely to be finalised at the end of 2014.

Project relevance/consistency

The *Transport Infrastructure Act (TI Act)* stipulates that Strategic Port Land (SPL) is not subject to a local government planning scheme. SPL is land that is included in the Port Authority's current Land Use Plan (LUP) approved under Section 286(5) of the TI Act.

Development within the SPL is regulated under Schedule 3 of the *Sustainable Planning Regulation 2009* (SP Reg) and requires assessment against the LUP. As such, this Land Use Plan is the key planning document for the Cairns SPL parts of the study area.

Ports North has control over development within the Cairns SPL and acts as the assessment manager for development applications.

Chapter B1, Land discusses the planning intent for the area in detail and outlines the project's consistency with the CairnsPlan.

C.1.6.3 Ports North (Cairns Port Authority) Land Use Plan

Land use and development on Strategic Port Land (SPL) is controlled by the Land Use Plan (LUP) prepared by Ports North in accordance with Section 285 of the TI Act. The LUP specifies Strategic Port Land as well as the current and future uses of SPL. The Land Use Plan sets out the main Local Area Plans that are applicable to the project which include the Seaport Local Area Plan (LAP) for the Seaport area identified within the SPL and a Cityport LAP for the Cityport area identified within the SPL.

The Seaport LAP recognises that expansion of the Port is required to meet the demand for passenger related facilities.

Project relevance/consistency

Some of the land-based infrastructure required to service proposed cruise ship operations (for example, fuel supply storage and distribution pipeline) will potentially be located within the Seaport LAP area and may trigger the requirement for approval in accordance with the requirements of the LUP.

Such approvals will be assessed by Ports North and may require referral to state agencies depending on the final siting arrangements.

Chapter B1, Land provides further discussion on this plan.

C.1.6.4 Environmental Protection and Biodiversity Conservation Act Environmental Offsets Policy 2013

The Environmental Offsets Policy outlines the Australian Government's approach to the use of environmental offsets under the EPBC Act 1999 and their role in environmental impact assessments. Offsets are measures proposed to compensate for the residual impacts of an action on the environment after avoidance and mitigation measures are taken. Where appropriate, offsets are considered during the assessment phase of the EIS, and their suitability is considered as part of the decision to approve or not approve a proposed action under the EPBC Act. The Environmental Offsets Policy includes an offset assessment guide and balance sheet to quantify impacts and offsets and is applicable where an impacted protected matter is a threatened species or ecological community.

In summary, offsets will be required if, after avoidance and mitigation measures are taken, the magnitude of the residual impact on a protected matter is significant and likely. If required, an offset package will be developed in consultation with the Department of the Environment and with consideration to the types of activities appropriate as offsets for the impact and the specific size and scope of an offsets package.

Project relevance/consistency

During the assessment of this EIS, the decision maker will consider the significance of the residual impacts and if offsets are a suitable compensation approach. If an offset is appropriate, then the proponent (in this case Ports North) should discuss offset options with the Department of the Environment and submit an offset proposal which describes the offset and demonstrates how it provides an appropriate benefit to compensate for any residential impact on the protected matter. The decision maker then considers the offset proposal in deciding whether to approve the proposed action. If granted an approval that incorporates offsets as a condition of approval, Ports North will be responsible for ensuring that the offsets are provided in accordance with the conditions.

C.1.6.5 Environmental Protection Policies (EPP);

The *Environmental Protection Act 1994* sets out a number of regulations and policies to protect against activities causing environmental harm.

The following regulations and policies are relevant to the project:

- *Environmental Protection Regulation 2008*
- *Environmental Protection (Air) Policy 2008*
- *Environmental Protection (Noise) Policy 2008*
- *Environmental Protection (Water) Policy 2009*
- *Environmental Protection (Waste Management) Policy 2000*
- *Environmental Protection (Waste Management) Regulation 2000.*

Project relevance/consistency

The project will seek to comply with all policies and guidelines outlined under the Environmental Protection Act 1994. Further details about these policies and their applicability to the project are provided in the relevant chapters of this EIS. Far North Queensland Regional Plan 2009-31 (FNQRP);

The *Far North Queensland Regional Plan* (FNQRP) provides for the strategic planning framework for the Far North Queensland Region. The FNQRP identifies a number of policy outcomes, strategies and actions to guide development and activities around the Cairns CBD and recognises the Port of Cairns as a key regionally significant transport infrastructure. The FNQRP outlines the following land use policies to support the ongoing operation of the port and the minimisation of conflict with surrounding land uses:

- Sea ports and their access road and operation at Cairns (and Mourilyan) are protected from encroachment of noise sensitive land uses except where permitted in land use plans for strategic port land
- Adequate strategic port land at Cairns (and Mourilyan) is made available for coastal uses, such as commercial fishing, other land based marine activities and logistics (including bulk sugar terminal, live cattle or forestry cargo handling facilities)
- The development of sustainable cruise shipping infrastructure and services is facilitated.

The land based works associated with the project is located within the ‘Urban Footprint’ area and dredging within the inner shipping channel situated within the ‘Regional Landscape and Rural Production Area’.

Project relevance/consistency

The FNQRP identifies policies that deal with a range of regional matters. Of key relevance to the project are the policies relating to the natural environment, economic development, and water management. The relevant policies are summarised below.

Natural Environment

To protect, manage and enhance the region’s natural assets urban development is to be located outside of areas of high ecological significance, or operated to avoid impacts on ecological impacts, and if unavoidable, minimise impacts and offset the residual impacts so there is a net gain of the impacted values. Offsets requiring revegetation that cannot be achieved on the development site should be focussed within strategic rehabilitation areas (identified by the FNQRP) where appropriate.

As the proposed works are located within an area of high ecological significance, offsets may be required. Ecological impacts are discussed in **Chapter B7, Marine Ecology and Chapter B8, Terrestrial Ecology**.

To protect and manage the region’s coastal resources, development is to be located, designed, and managed to firstly avoid, then minimise and offset impacts on coastal resources and ecologically significant coastal areas, including fish habitat areas. Impacts on fish habitat areas are to be offset in accordance with the relevant fisheries management policies and guidelines. Development does not occur within erosion prone or storm tide inundation hazard areas, except in accordance with relevant policies of the state and regional coastal management plans.

Impacts on marine ecology and fish habitat areas are addressed in **Chapter B7, Marine Ecology and Chapter B8, Terrestrial Ecology**.

Economic Development

The economic development policies in the FNQRP seek to support a diverse regional economy that minimises the cause of climate change and promote and expand regional activity, including export and imports. Land use policies are concerned with strategically locating business and industry uses and protecting them from incompatible development, providing adequate strategic port land at Cairns is for coastal industries, and providing an adequate supply of land to accommodate future growth in operations at air and sea ports.

The project seeks to facilitate additional economic activities at the port and is consistent with the economic development policies outlined in the FNQRP.

Water Management

To protect and improve the physical condition, ecological health, environmental values and water quality of the region’s surface and groundwater systems, development must be planned, designed, constructed and managed in accordance with best practice environmental management and meet the objectives of the Environmental Protection Policy (Water) 1997. Urban development, other than for

required community infrastructure is to be set back from wetlands and waterways through the adoption of appropriate buffer zones.

The location of the project in the wetland and waterway area is unavoidable due to its coastal dependant nature. Impacts on water quality are addressed in **Chapter B5, Marine Water Quality**.

C.1.6.6 Fish Habitat Policies

The *Fisheries Act 1994* outlines a number of fish habitat policies, with management objectives for assessing development proposals which impact on the values and functions of fish habitats. The purpose of these policies is to ensure the long-term protection and enhancement of marine plants and fish habitats along Queensland's coast. Namely:

- Management and protection of marine plants and other tidal fish habitats (FHMOP 001)
- Management of declared fish habitat areas (FHMOP 002)
- Departmental procedures for permit applications assessment and approvals for insect pest control in coastal wetlands (FHMOP 003)
- Dredging, extraction and spoil disposal activities: Departmental procedures for provision of fisheries comments (FHMOP 004)
- Marine fish habitat offset policy (FHMOP 005.2)
- Fish habitat area selection and assessment (FHMOP007)
- Waterway barrier works approvals and fishway assessments: Departmental procedures (FHMOP 008)
- Restoration notices for fish habitats - formulation and implementation: Departmental procedures (FHMOP 009)
- Tidal fish habitats, erosion control and beach replenishment (FHMOP 010).

Project relevance/consistency

The project involves the disturbance of marine plants. FHMOP 001 guides the assessment of applications for the disturbance of marine plants and fish habitats. It identifies works that may be approved and works not supported. The policy identifies 'coordinated projects' under the State Development and *Public Works Organisation Act 1971* as works that may be approved and recognises the role of the Coordinator General in the assessment and decision making process.

The project will involve dredging within the Trinity Inlet Fish Habitat Area (FHA). FHMOP 004 does not support dredging within a declared FHA. Therefore, approval from the State Government is required and a legislative process of amending or revoking the declared FHA will need be undertaken as outlined in **Section C.1.7** of this report.

C.1.6.7 Great Barrier Reef Marine Park – -Strategic Plan 2013 -2017

The Strategic Plan 2013-2017 provides the roadmap for action by the Great Barrier Reef Marine Park Authority over the next four years. It focuses our resources and efforts on achieving the best possible outcomes for the Great Barrier Reef. Central to the plan is GBRMPA's continued recognition and support of the Great Barrier Reef's vital role in the life of the community and industry.

The Strategic Plan sets out four key strategic objectives:

1. To protect and restore the Reef's biodiversity
2. To safeguard the Reef's heritage values
3. To ensure use of the region is ecologically sustainable and the socioeconomic benefits derived from the Reef are maintained
4. To maintain a high performing, effective and efficient organisation.

Project relevance/consistency

Applications for activities proposed within the Great Barrier Reef Marine Park will be completed in liaison with the GBRMPA ensuring that the reef is planned, developed and managed in line with the strategic objectives. As identified in the chapters in this EIS, the reef's protection and health are deemed a priority for the project and all activities will be undertaken in accordance with Marine Park Permits and other management arrangements set in place for the course of the project.

C.1.6.8 Great Barrier Reef Marine Park – 25 Year Strategic Plan

The Strategic Plan for the GBRMP released in 1994 sets a 25 year plan with strategies for management and preservation of the Great Barrier Reef World Heritage Area for the future.

The overall vision for the Plan states that:

In the Great Barrier Reef World Heritage Area in 25 years there will be:

- *A healthy environment: an Area which maintains its diversity of species and habitats, and its ecological integrity and resilience, parts of which are in pristine condition*
- *Sustainable multiple use*
- *Maintenance and enhancement of values*
- *Integrated management*
- *Knowledge-based but cautious decision making in the absence of information*
- *An informed, involved, committed community.*

Project relevance/consistency

The project seeks to comply with the vision, objectives and strategies outlined in this 25 year plan for the GBRMP. Activities proposed within the Marine Park will be undertaken in close consultation with GBRMPA and will be required to gain the relevant approvals and permits under the *Marine Parks Act 2004* and *Great Barrier Reef Marine Park Act 1971*. These are identified in **Section C.1.7** of this chapter.

C.1.6.9 Cruise Shipping Policy for the GBRMP 1999

This policy provides guidance for cruise shipping activities within the Great Barrier Reef Marine Park. It outlines the procedures and protocols for marine park access, suitable anchorages and permission requirement for to cruise shipping related activities.

Attachment 1 of this policy outlines interim cruise shipping strategies, addressing permits, access, bookings, and activities. Attachment 2 identifies designated locations with the GBRMP suitable for cruise ship anchorages.

Project relevance/consistency

The project considers and will be consistent with the cruise shipping policy for the GBRMP. The proposed works is not envisaged to affect existing designated anchorages.

C.1.6.10 Dredging and Spoil Disposal Policy – GMPMA

The purpose of this policy is to provide a transparent, consistent and contemporary approach to environmental impact management of dredging and spoil disposal in the GBRMP.

This policy provides specific guidance on requirements for dredging activities and dredge material disposal, including:

- Dredging and dredge material disposal are unlikely to be approved if they damage sensitive environments (these may include dugong protection areas, fish spawning aggregation sites, seagrass beds, breeding areas and diverse, rare or very old coral assemblages)
- Proponents must comply with the *National Ocean Disposal Guidelines for Dredged Material 2002*
- The methods used for dredging must minimise environmental impact (cutter suction is generally preferable to a dragline or grab method)
- The disposal site is to provide the best overall environmental outcome and is only to occur at a GBRMPA approved location
- Dredging material that is contaminated (defined as above the Maximum Levels of the National Ocean Disposal Guideline for Dredging Materials 2002) cannot be disposed of to the Marine Park.

Project relevance/consistency

Dredging activities and disposal of dredge material are proposed within the Great Barrier Reef Marine Park (GBRMP). This EIS demonstrates that all reasonable steps will be taken to manage the risks associated with and the potential environmental impacts arising from the proposed activities within the Marine Park.

Proposed management, monitoring reporting and auditing requirements for the dredging and disposal activities will be guided by the GMRMPA and will meet the conditions of the various environmental approvals.

C.1.6.11 Great Barrier Reef Marine Park Regulations 1983

The GBRMP Regulations are the primary regulations in force under the *Great Barrier Reef Marine Park Act 1975*. They provide the framework for planning and management of the marine park, through the implementation of zoning plans, management plans and a system of permissions. These Regulations include a number of offence provisions, in addition to provisions relating to matters such as applications for and the granting of permissions, compulsory pilotage, Environmental Management Charge, plans of management and review rights.

Part 2A of the GBRMP Regulations specifies the general procedure for an application for permission under the GBRMP Act.

Project relevance/consistency

The project in consultation with GBRMPA will comply with the management systems as outlined in the GMRMP Regulations. Where required under the regulations, permits will be sought for those activities inconsistent with the marine park zoning.

C.1.6.12 Great Barrier Reef Marine Park Zoning Plan 2003

Under the GBRMP Act, the GBRMPA administers a framework for planning and management of the Marine Park through the implementation of zoning plans, management plans and a system of permissions.

The zoning plan takes account of the World Heritage values of the GBRMP and the principles of ecologically sustainable use. The Plan aims to conserve the biodiversity of the Great Barrier Reef ecosystem within a network of highly protected zones, provide opportunities for the ecologically sustainable use of the Reef and access to the Great Barrier Reef Region for current and future generations. There are four sections of the Marine Park and each have a Zoning Plan as a basis for management. These are:

- The Far Northern Section
- The Cairns Section
- Central Section
- Mackay/Capricorn Section.

The parts of the Marine Park used most by cruise ships are the Cairns Area and the Whitsundays.

Zoning provides protection for areas critical to maintaining a healthy environment and sets a broad framework for the management of human use by designating where specific types of activities can take place. Zoning also defines what activities can occur in various parts of the GBRMP. **Figure C.1.6.12a** represents the GBRMP Zoning Plan map for Trinity Bay.

Project relevance/consistency

A portion of the proposed project area is located within the General Use Zone. Under the GMRMP this area is identified as being suitable for uses such as boating, diving, fishing and trawling.

Although the main approach channel itself does not fall within the GBRMP, the existing maintenance dredging disposal area is located within the General Use Zone.

The area to the immediate east of the access channel is zoned part of the Estuarine Conservation Zone and allows for the maintenance of fisheries production, traditional hunting and gathering.

Under the Cairns GBRMP Cairns Zoning Plan, only the General Use Zone may be used or entered without a permit for the navigation of ships.

GBRMPA has issued a marine park permit (Permit No: G10/33155.1) to Ports North which is valid for the period 17 June 2010 to 1 June 2020 for the disposal of up to a maximum of 6,600,000 (wet

load) cubic metres (m³) of dredge material associated with maintenance dredging at Cairns Port within the approved Dredge Material Placement Area (located within a circular area of one nautical mile diameter centred on Latitude -16.70, Longitude 145.8133), refer to **Figure C.1.6.12**.

A Marine Park Permit under the GBRMP Act will be required for the capital dredging and disposal of dredging material within the General Use Zone of the GBRMP, as well as a new permit for the future maintenance dredging component. Approvals required for the project are identified in **Section C.1.7** of this report.

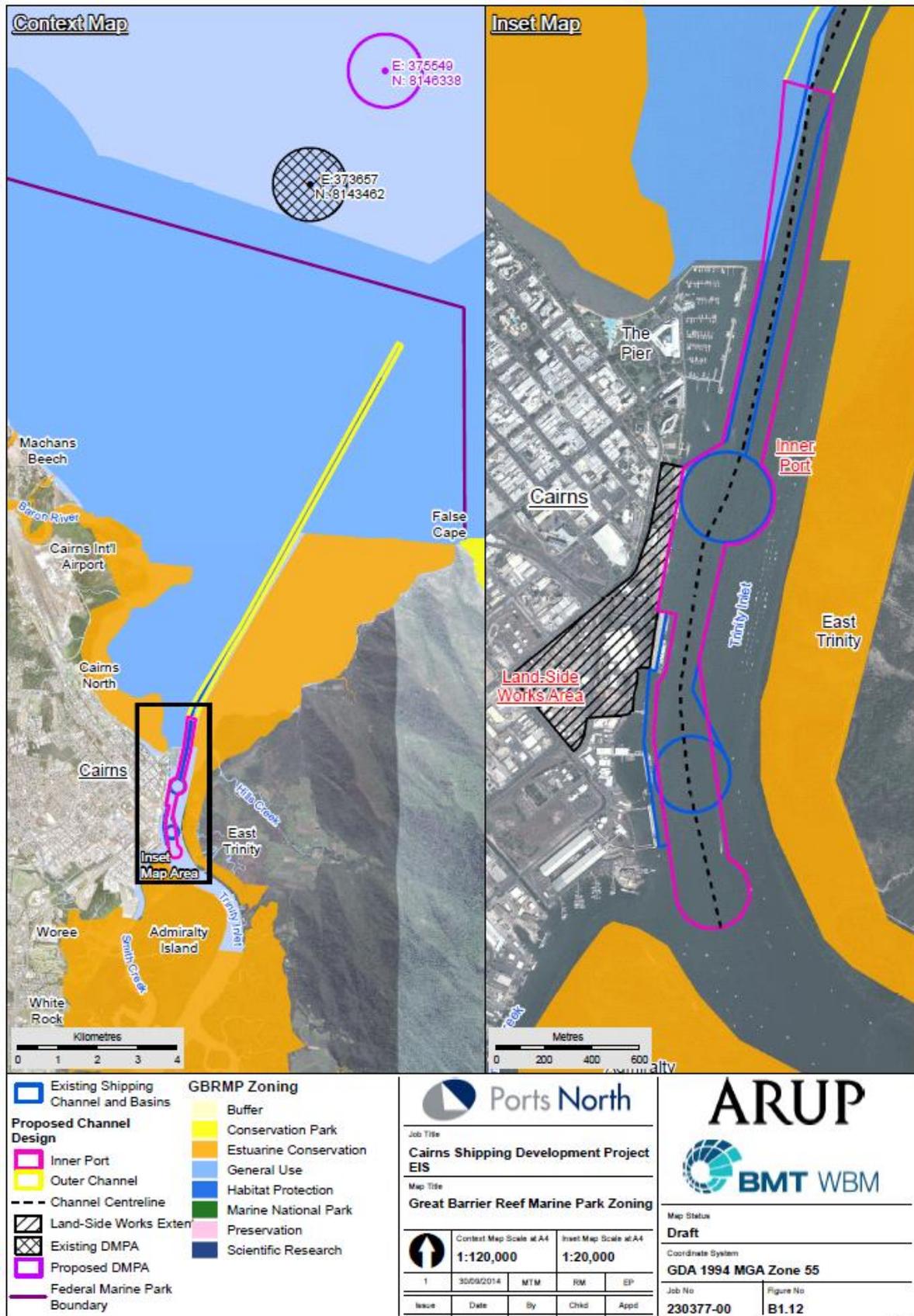


Figure C.1.6.12a GBRMP Zoning

C.1.6.13 Great Barrier Reef Outlook Report 2014

The *Great Barrier Reef Outlook Report 2014* assesses the performance of the long-term protection of the Reef every five years as required under the *Great Barrier Reef Marine Park Act 1975* (Section 54). It provides key input for any future changes to zoning plans and the consideration of broader issues by government.

The Outlook Report recognises the *2014 Queensland Ports Strategy* which is expected to critically influence future planning and management of ports in and adjacent to the Region, including environmental protection arrangements. The strategy indicates that significant port development will be prioritised and consolidated in major port areas, restricting significant port development (within and adjoining the Great Barrier Reef World Heritage Area) to within existing major port limits for the next 10 years until 2022.

Project relevance/consistency

The project proposes dredging within the GBR as a means to accommodate expected growth in shipping activity at the Port of Cairns. The project will strictly abide by the GBRMPA policies that guide assessment and management processes for dredging and dredge material disposal. The project will support the GBRMPA goal of long-term planning to minimise impacts on the marine park.

C.1.6.14 Maritime Safety Queensland Regulation

Maritime Safety Queensland is responsible for:

- Improving maritime safety for shipping and small craft through regulation and education
- Minimising vessel-sourced waste and responding to marine pollution
- Providing essential maritime services such as pilotage for regional ports and aids to navigation
- Encouraging and supporting innovation in the maritime industry.

Project relevance/consistency

The project will need to comply with the regulation, guidelines and policies administered by Maritime Safety Queensland for the capital dredging works, maintenance dredging, ship navigation and safety during operation.

C.1.6.15 National Assessment Guidelines for Dredging (2009)

The National Assessment Guidelines for Dredging, 2009 set out the framework for the environmental impact assessment and permitting of the ocean disposal of dredged material. The framework includes:

- Evaluating alternatives to ocean disposal
- Assessing loading and disposal sites
- Assessing potential impacts on the marine environment and other users
- Determining management and monitoring requirements.

For material to be disposed of within a marine environment, the characteristics of the material and potential impacts at the disposal site must be reported as required under the guidelines.

Project relevance/consistency

The preparation of this EIS and the approvals process undertaken for this project demonstrate compliance with the National Assessment Guidelines for Dredging.

Chapter C2, Dredge Management Plan outlines the project's consistency with these dredging guidelines, namely the evaluation of contamination status of the proposed material and the proposed dredge material management.

C.1.6.16 National Strategy for Ecologically Sustainable Development

Ecologically Sustainable Development (ESD) is development that aims to meet the needs of people today while conserving our ecosystems for the benefit of future generations. The National Strategy for ESD has evolved over several years through extensive consultation with all levels of government, business, industry, academia, conservation organisations, community groups and individuals. In December 1992, the Council of Australian Governments endorsed the National Strategy for ESD. The document is intended to play a critical role in setting the scene for broad changes in direction and approach for governments to take to try to achieve ESD. The Council encouraged businesses, unions and community groups to use the Strategy for ESD as a basis for actions which contribute to the pursuit of Australia's goal for ESD.

A key challenge in regards to land use planning and decision making, is to ensure land use decision making processes at all levels of government meet the overall goal of ESD. The Strategy's approach to dealing with this challenge is to encourage environmental and economic land use decision making which takes full account of all relevant land and resource values and to establish and operate systems of land use decision making and dispute resolutions. An objective identified by the Strategy is to continue to develop cooperative and consultative arrangements between jurisdictions modelled on approaches such as the Great Barrier Reef Marine Park Authority.

Since 1992, the principles of ESD have been incorporated into many Acts of parliament including the *Commonwealth Environment Protection and Biodiversity Act 1999*(Cwlth) (EPDC Act) and the *Environmental Protection Act 1994* (Qld) (EP Act).

Relevance to the project

The project will continue to be reviewed in accordance with the bilateral agreement between the Commonwealth and Queensland governments that enshrine both pieces of legislation. The implementation of the principles of ESD is accordingly discussed in the separate section of this report dealing with the *Environment Protection Act 1994* (Qld) (EP Act)

Chapter B7, Marine Ecology and **Chapter B8, Terrestrial Ecology** address marine and terrestrial ecology, and **Chapter B3, Coastal Processes** addresses coastal processes.

C.1.6.17 Queensland Biosecurity Strategy 2009-14

The *Queensland Biosecurity Strategy* sets out the strategic direction for:

- Queensland's biosecurity
- Articulates a shared vision for Queensland's biosecurity system
- Sets out the high level goals and strategies for biosecurity in Queensland

- Identifies the key strategies that will be pursued to achieve these goals
- Positions Queensland within the changing national and international biosecurity environment.

Project relevance/consistency

The strategy places a duty of care on anyone conducting an activity that has biosecurity implications to take all reasonable measures to mitigate the biosecurity risks associated with that activity.

Measures to mitigate the risks from pests and diseases are detailed in **Chapter C1, Environmental Management Plan (Construction and Operation)**.

C.1.6.18 Queensland Coastal Management Plan 2014

The *Coastal Management Plan* is prepared under the *Coastal Protection and Management Act 1995* identifies how the coastal zone of Queensland is to be managed. The plan provides non-regulatory policy guidance to coastal land managers. The plan identifies various approaches to managing coastal land, including the preservation of coastal land forms and coastal processes, conservation of matters of state environmental significance, maintaining and enhancing indigenous peoples' connections to coastal and marine resources, maintaining public access to the coast, and planning and monitoring coastal land uses. The plan is applied to guide planning, activities and works that are not assessable development under the SP Act.

Project relevance/consistency

In considering development on Strategic Port Land, Ports North will have regard to this plan in its decision-making and assessment manager role of the project. The project will operate under the guidance of the Ports North in meeting the requirements of the Coastal Management Plan.

C.1.6.19 Queensland Coastal Contingency Action Plan (QCCAP)

The Action Plan, supported by Maritime Safety Queensland, outlines Australia's national arrangements for oil and chemical spills under the Inter-Governmental Agreement on Australia's National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances. QCCAP also links to Queensland's revised disaster management arrangements and supports Queensland's recently revised State Disaster Management Plan.

Project relevance/consistency

The project will have procedures and protocols in place to meet the objectives of the QCCAP.

Chapter B17, Hazard and Risk outlines the project's consistency with this plan.

C.1.6.20 Queensland Ports Strategy 2014

The *Queensland Ports Strategy 2014* was developed by the Queensland Government to provide a framework for port development for the next 10 years. Its vision is to "*drive economic growth through the efficient use and development of Queensland's long-established major port areas, while protecting and managing Queensland's outstanding environmental assets*".

The Strategy identifies a number of actions which relate to the establishment of Priority Port Development Areas (PPDA), concentrating port development to protect the environment, requirements and guidelines for port masterplanning, legislative reform and improving and optimising

ports and supply chains performance. Although not identified as a Priority Port Development Area, the Strategy recognises the Port of Cairns as a multi-purpose regional port that caters for a diverse range of uses including bulk and general cargo, defence, cruise shipping, fishing fleet and reef passenger ferries.

The Strategy seeks to establish the following Priority Port Development Areas (PPDAs):

- Port of Abbott Point
- Port of Brisbane
- Port of Gladstone
- Port of Hay Point and Port of Mackay
- Port of Townsville.

These ports are strategically positioned and focussing development in these ports maximises efficiencies and economic outcomes while minimising environmental impacts.

Outside of PPDAs, dredging within and adjoining the Great Barrier Reef World Heritage Area will be prohibited for the expansion of existing port facilities or the establishment of new ports. The Strategy identifies transitional arrangements for EIS processes for projects that have commenced prior to the development of this Strategy and the commencement of new ports legislation. The Strategy recognises that dredging is necessary to maintain safe port operations, and as such prohibition on dredging will not apply if the dredging is undertaken for safety or navigation reasons increase a port's resilience to natural events, maintain effective operation of existing port facilities, and for non-port related reasons. Nevertheless, dredging will be subject to rigorous environmental assessment.

Another action identified by the Strategy is for the State Government to establish and introduce a guideline for port master planning to consider issues beyond the port boundaries such as supply chain connections, environmental and community values and surrounding land uses. The port masterplans are to contain environmental management frameworks to manage land and marine based environmental values.

To facilitate the proposed actions, the Queensland Government will introduce the Port Bill to Parliament and establish a committee to oversee the implementation of the Action Plan contained in the Strategy.

Project relevance

Whilst the project proposes dredging in the GBR for a Port not identified as a PPDA, this EIS process has commenced prior to the development of this strategy and the commencement of the proposed ports legislation.

C.1.6.21 Standards for Hydrographic Surveys within Queensland Waters

Maritime Safety Queensland has developed standards for hydrographic surveys within Queensland waters in consultation with all Queensland Port Authorities. These standards are based on the national Principles for Gathering and Processing Hydrographic Information in Australian Ports prepared by the Association of Australian Port and Marine Authorities (AAPMA). They supplement the *International*

Hydrographic Organisation (IHO) Special Publication S44 which provides the minimum international standards for hydrographic surveys.

The Audit Plan for Hydrographic Surveys within Queensland Waters sets out the procedure for selecting, conducting and reporting of survey audits.

Project relevance/consistency

The dredging work associated with the project will seek to comply with and monitored for compliance with the standards for Hydrographic surveys within Queensland waters as provided by Maritime Safety Queensland.

C.1.6.22 State Development Assessment Provisions (SDAP);

The State Development Assessment Provisions (SDAP) sets out the matters of interest to the state for development assessment, where the Chief Executive administering the SP Act, (being the Director-General of DSDIP), is responsible for assessing or deciding development applications. The SDAP is prescribed in the *Sustainable Planning Regulations 2009*.

Project relevance/consistency

The SDAP identifies the following matters of State interests potentially applicable to the project:

- Coastal protection – coastal zone, coastal management district, and coastal hazard areas
- Regional ecosystems – of least concern
- Queensland heritage place
- Wetland protection area (at East Trinity)
- Strategic Port (Cairns Port)
- Strategic airports (the obstacle limitation surface of Cairns Airport encompasses the project area)
- State controlled roads (eg: Comport Road, Bunda Street, Kenny Street, Draper Street).

Development approvals required for the project which involve the above matters will require assessment against the corresponding modules of the SDAP. **Table C.1.6.22a** below provides a summary of each SDAP and outlines the project relevance and consistency.

Table C.1.6.22a State Development Assessment Provisions – relevant modules

SDAP Name	Purpose and Outcomes	Relevance to the Project	Project Consistency
Module 1: Community amenity	The purpose of the code is to: (1) ensure that state transport operations and infrastructure are protected from development on nearby land that may lead to operational constraints on the state’s transport system (2) protect the community from significantly adverse impacts on health, wellbeing and quality of life resulting from environmental emissions (noise and vibration) generated by existing and future state transport operations and infrastructure.	The project will need to comply with the assessment criteria outlined in this module. Specifically the works will need to ensure that land affected by environmental emissions (noise and vibration) from State-Controlled transport operations and infrastructure is developed in a way that reduces the community’s exposure to such emissions.	The air quality, noise and vibration impacts associated with the project are addressed in Chapter B17, Hazard and Risk and Chapter, B10, Noise and Vibration .
Module 4: Environmentally relevant activities	The purpose of this code is to protect Queensland’s environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development).	A material change of use for an environmentally relevant activity mentioned in column 1 of Table 4.1.1 in this module must comply with the relevant provisions	The project involves a number of environmentally relevant activities and impacts on matters of state environmental significance. Where adverse impacts are unavoidable, environmental offset(s) may be required to comply with this code.
Module 5: Fisheries resources	The purpose of this code is to ensure development in and adjacent to declared fish habitat areas is managed to support the fish stocks on which Queensland’s fishing and seafood industry sectors rely. The code is designed to ensure that development: (1) is managed to support fish stocks (2) maintains the integrity, structure and fish habitat values of all fish habitat areas, and ensuring these areas are given significant protection from physical disturbance.	The project is within the Trinity Inlet declared fish habitat area and is therefore required to comply with the criteria for assessment outlined in this module.	Chapter B7, Marine Ecology discusses the impacts on marine ecology and the Trinity Inlet fish habitat area. It is noted that amendment of the current Fish Habitat Area boundaries is proposed to facilitate works within the Fish Habitat Area (refer to Section C.1.7.4).
Module 7: Water resources	The purpose of this Module is to provide for the sustainable management of water and other resources.	The project will involve taking or interfering with a watercourse and is therefore required to comply with the relevant provisions outlined in this module.	Chapter B7, Marine Ecology discusses the impacts on marine ecology.

SDAP Name	Purpose and Outcomes	Relevance to the Project	Project Consistency
Module 8: Native vegetation clearing	<p>The purpose of the code is to regulate the clearing of native vegetation within the Queensland bioregions. The key outcome of this Module is to:</p> <ul style="list-style-type: none"> (1) conserve remnant vegetation (2) conserve vegetation in declared areas (3) ensure clearing does not cause land degradation (4) prevent loss of biodiversity (5) maintain ecological processes (6) manage environmental effects of the clearing (7) reduce greenhouse gas emissions. 	<p>The project is located within the Coastal bioregions and clearing of native vegetation within this region is required to comply with the Coastal bioregion state code.</p> <p>This module is not applicable as no clearing of native vegetation is proposed for the project</p>	Not Applicable.
Module 9: Queensland heritage	<p>The purpose of this code is to ensure that development of State heritage places and archaeological places is compatible with the long-term conservation of these places.</p>	<p>The project will involve works within the Cairns Wharf Complex which is listed on the Queensland heritage register. The project will need to comply with the assessment criteria outlined in this module.</p>	<p>Consistency with the assessment criteria outlined in the module is demonstrated in Chapter B13, Cultural Heritage.</p>
Module 10: Coastal protection	<p>The purpose of this code is to ensure development in coastal areas:</p> <ul style="list-style-type: none"> (1) is managed to protect and conserve environmental, social and economic coastal resources (2) enhances the resilience of coastal communities to coastal hazards. 	<p>The project will involve tidal works and development within a coastal management district. The project will need to comply with the assessment criteria identified in this module.</p>	<p>The project is generally consistent with the purpose of the code.</p> <p>Where adverse impacts are unavoidable, environmental offset(s) may be required to comply with this code.</p>
Module 11: Wetland protection and wild river areas	<p>The purpose of this code is to ensure that development in wetland protection areas is planned, designed, constructed and operated to prevent the loss or degradation of wetland environmental values, or enhances the values of wetlands within these areas.</p>	<p>The project is located within the Trinity inlet and is required to comply with the assessment criteria outlined in this module</p>	<p>Consistency with the assessment criteria outlined in the module is demonstrated in Chapter B3, Coastal Processes.</p>

SDAP Name	Purpose and Outcomes	Relevance to the Project	Project Consistency
Module 13: Major hazard facilities	<p>The purpose of this code is to:</p> <ul style="list-style-type: none"> (1) assess off-site physical or chemical risks associated with developments involving a major hazard facility or proposed major hazard facility (2) identify clear, concise and robust assessment criteria to assess any off-site risks a major hazard facility or proposed major hazard facility may have on its surrounding environment (3) minimise the risk of knock-on effects between a major hazard facility or proposed major hazard facility and any adjacent buildings or structures, hazardous facilities or existing major hazard facilities 	<p>The project is required to comply with the assessment criteria outlined in this module if the proposed works require a development permit for a material change of use considered to involve a Major Hazard Facility, as defined in Schedule 15 of the Work Health and Safety Regulation 2011.</p>	<p>The project will comply with the code by not creating a new risk at any property outside its boundaries</p> <p>The Health and Safety and Hazard Emergency Management matters are addressed in Chapter B17, Hazard and Risk.</p>
Module 14: Maritime safety	<p>The purpose of the code is to ensure development:</p> <ul style="list-style-type: none"> (1) supports the viable operation of navigation aids (2) supports the safe operation of vessels in navigable channels (3) supports equitable access to navigable waterways. 	<p>The project is required to comply with the assessment criteria outlined in this module with particular reference to navigational aids and operation of vessels</p>	<p>Consistency with the assessment criteria outlined in the module is demonstrated in Chapter B17, Hazard and Risk and Chapter C4, Vessel Traffic Management Plan.</p>
Module 17: Public and active transport	<p>The purpose of the code is to ensure that development:</p> <ul style="list-style-type: none"> (1) supports the integration of land use with public transport (2) does not have a significant adverse impact on existing or future public transport (3) promotes and maximises the use of public transport (4) increases opportunities for people to access public transport (5) supports public passenger transport infrastructure 	<p>The project will need to show consistency with the assessment criteria outlined in this module.</p> <p>Specifically relating to providing sufficient access to existing public and active transport infrastructure.</p>	<p>The impacts on public and active transport are addressed in Chapter B14, Transport.</p>
Module 18: State transport infrastructure protection	<p>The purpose of the code is to ensure that buildings and structures located in, over or adjacent to existing or future state transport corridors or state transport infrastructure avoid or mitigate any adverse impacts on the operation and structural integrity of state transport infrastructure.</p>	<p>The project will need to ensure the assessment criteria in this module are appropriately addressed. Particularly in relation to the protection of existing and future state transport infrastructure.</p>	<p>The impacts on state transport infrastructure are addressed in Chapter B14, Transport.</p>

SDAP Name	Purpose and Outcomes	Relevance to the Project	Project Consistency
Module 19: State transport network functionality	The purpose of this code is to ensure that development does not adversely impact the safety, function and operational efficiency of the state-controlled road network or a future state-controlled road.	The project will need to ensure the assessment criteria in this module are appropriately addressed. Particularly in relation to the safety, function and operational efficiency of the state road network.	The impacts on the safety and operations of the surrounding state-controlled road networks are addressed in Chapter B14, Transport.

C.1.6.23 State Planning Policies (SPP)

The State Planning Policy (SPP) establishes the Queensland Government’s position in regard to planning matters of state significance. It provides a comprehensive set of principles which underpin Queensland’s planning system to guide land use planning and development assessment. The state interests addressed in the SPP are:

- Liveable communities and housing
- Economic growth
- Environment and heritage
- Hazards and safety
- Infrastructure.

Project relevance/consistency

The project is generally consistent with the outcomes sought by the SPP and in particular in its potential to promote economic growth. The project recognises that an understanding of the SPP will encourage an improved understanding of the state government’s policies and the core concepts underpinning the state interests when responding to requirements regarding state referral requirements under the relevant legislation.

C.1.6.24 Transport Operations (Marine Pollution) Regulation 2008

This regulation sets out to protect Queensland’s marine and coastal environment by managing and regulating deliberate and negligent discharges of ship-sourced pollutants into coastal waters.

Relevance to the project

The dredging contractor will be responsible for ensuring that the operation of its vessel in Queensland waters complies with requirements set out the Transport Operations (Marine Pollution) Regulation 2008.

Chapter B15, Waste Management and **Chapter B17, Hazard and Risk** outlines the project’s consistency with these provisions.

C.1.7 Approvals Required

This section identifies the likely approvals required for the construction and operation of the project based on the review of legislative framework provided, interpretation of publicly available materials and the information provided by Ports North specifically for the preparation of this Environmental Impact Statement (EIS). This section does not provide a legal opinion on the applicability of specific legislation and the triggering of associated approvals; it simply highlights key legislation relevant of the proposal. The advice is based on current planning approval requirements and may change in the lead up to project implementation.

C.1.7.1 Australian Government Approvals Identified

The approvals required for the project from the Australian Government relate to the potential impacts the project that may have on matters of national environmental significance. Where a Queensland bilateral agreement is not in place, the proponent will seek a coordinated assessment process as much as possible to ensure the project is referred, coordinated and assessed under both Commonwealth and State Acts at the same time.

The summary of suggested approvals required from the Australian Government includes:

- Approval of the relevant ‘Controlled Actions’ under the Environment Protection and Biodiversity Conservation Act 1999
- Marine Park Permit (for the capital dredging and sea dumping activities) under the Great Barrier Reef Marine Park Act 1971. Required to be obtained prior to undertaking development
- Sea Dumping Permit pursuant to Section 19 of the EPSC Act permitting a permittee to load for the purpose of dumping of seabed material derived from capital dredging. The Permit will be subject to conditions regarding the limits of volumes of material to be dumped and the timing of the disposals
- Native title clearance for proposed use of land where native title has not been extinguished requires notification under section 24KA of the Native Title Act.

C.1.7.2 State Approvals Identified

This section identifies the approvals required for the project from the Queensland Government. Whilst many of the State and Local government approvals relate to specific components of the project, the following State approvals are required for the whole of the project and are required prior to obtaining other State and Local government approvals and commencing any works:

- Approval under the *State Development and Public Works Organisation Act 1971 (SDPWO Act)*. The Coordinator General’s report on the evaluation of the EIS will also be assessed by the Australian Government due to the potential impacts on matters of National Environmental Significance and impact on the Great Barrier Reef Marine Park
- Approval under the *Aboriginal Cultural Heritage Act 2003*. A Cultural Heritage Management Plan (CHMP) approved by the Department of Environment and Heritage Protection. The Act states that where an EIS is required under a legislative framework then a Cultural Heritage Management Plan must be prepared to manage all aspects of cultural heritage for the construction and operation of the project

- State Marine Parks Permit. Compliance will include but not limited to guidelines set out in the *GBRMPA Dredging Policy, Environmental Protection Agency – Disposing of material in tidal water.*

C.1.7.3 Approvals by Project Component

Assuming Commonwealth and State approval of this EIS, the following approvals would be required for each project component.

Capital dredging

Capital dredging required for widening and deepening the outer and inner channel and swing basin will likely require the following approvals under Commonwealth and Queensland legislation before work may commence.

Table C.1.7.3a outlines the approvals required for capital dredging works associated with the project.

Table C.1.7.3a Potential approvals required for capital dredging

Activity	Legislation	Approval	Approving Authority
Dredging works	<i>Environmental Protection Act 1994</i>	Environmental Authority and Development Permit for Material Change of Use for an Environmentally Relevant Activity ERA16 Extractive and Screening Activities (Dredging)	DEHP
Removal of quarry materials from tidal waters	<i>Coastal Protection and Management Act 1995</i>	Allocation of Quarry Material or Dredge Management Plan (if other than marine disposal of dredge material is proposed)	Ports North / DEHP / DSDIP
Dredging works in tidal waters	<i>Coastal Protection and Management Act 1995</i>	Development Permit for Operational Works (that are tidal works for capital dredging)	DEHP / DSDIP
Works within the Trinity Inlet Fish Habitat Area	<i>Fisheries Act 1994</i>	Revocation or amendment of the existing Fish Habitat Area boundaries (refer to Section C.1.7.4)	Ports North / DAFF / DSDIP
Destruction of marine plants found within the dredge footprint area or at or adjacent to the material	<i>Fisheries Act 1994</i>	Development Permit for Operational Works (that is the removal, destruction or damage of	Ports North / DAFF / DSDIP

Activity	Legislation	Approval	Approving Authority
ground		a marine plant) – if marine plants are found in the dredge footprint or at or adjacent to the proposed dredge material ground	
Dredging to widen and lengthen the access channel within the General Use Zone of the Great Barrier Reef Coast Marine Park (State Marine Park)	<i>Marine Parks Act 2004</i> <i>Great Barrier Reef Marine Park Act 1971</i>	Marine Park Permit	GBRMPA

Disposal of dredge material

Disposal of dredge material required for the project will likely require the following approvals under Commonwealth and Queensland legislation before work may commence.

Table C.1.7.3b identifies the approvals required for disposal of dredge material associated with the project.

Table C.1.7.3b Potential approvals required for disposal of dredge material

Activity	Legislation	Approval	Approving Authority
Disposal of dredge material from capital dredging within the GBRMP	<i>Great Barrier Reef Marine Park Act 1971</i>	Marine Park Permit (integrated with Sea Dumping Permit)	GBRMPA
Dumping of dredge material at sea within the GBRMP (if disposal is within the GBRMP)	<i>Environmental Protection (Sea Dumping) Act 1981</i>	Sea Dumping Permit (integrated with Marine Park Permit)	GBRMPA
Disposal of dredge material in tidal water (as defined under the Coastal Protection and Management Act 1995) where it is within the Port of Cairns and Trinity Inlet area	<i>Coastal Protection and Management Act 1995</i>	Development Permit for Operational Works (that that is within a coastal management district)	Ports North / DAFF / DSDIP

Upgrades to existing wharf and land based infrastructure

The installation of additional piles within the existing wharf footprint area and the installation of fenders and bollards are considered “tidal works” as defined in the *Coastal Act* and are defined as assessable development in accordance with Schedule 3 of the SP Reg.

Given that the tidal works are completely located in Port North’s strategic port land tidal area, Port North will be the assessment manager for the tidal works in accordance with Schedule 6 of the SP Reg. DSDIP will be the co-ordinating agency, who would coordinate EHP’s and MSQ’s referral agency response for the tidal works application, which will be assessed through the IDAS.

Cairns Wharf Complex is listed on the Queensland Heritage Register (QHR 601790) and therefore approval for development within a heritage-listed place under the Heritage Act will be required for the proposed wharf upgrades (in accordance with Schedule 3 of the SP Reg). This approval is planned to be integrated with the application for tidal works and therefore Port North will be the assessment manager and EHP (through SARA) the concurrence agency under the IDAS in regard to the purposes of the Heritage Act.

Further, on the basis that the site is listed on the EMR/CLR, any removal and disposal of contaminated soils associated with the land based component of the wharf upgrades will require approval under the EP Act. As with the heritage requirements, if contaminated soils are to be disturbed as part of the wharf upgrades, this will likely be integrated with the other aspects of development for which application is being made and therefore Port North will be the assessment manager and DSDIP (with DEHP as a technical agency through SARA) will be a concurrence agency under the IDAS in regard to the purposes of the EP Act.

In the event that Ports North determines that new major mooring points need to be installed on the landward side of the wharves for additional tying-up for larger cruise ships, development of such facilities will trigger the need for approvals under the Heritage Act and the Building Act.

Table C.1.7.3c identifies the potential approvals required for the upgrades to existing wharf and land based infrastructure associated with the project.

Table C.1.7.3c Potential approvals required for the upgrades to existing wharf and land based infrastructure

Activity	Legislation	Approval	Approving Authority
Installation of additional piles within the existing wharf footprint areas and installation of fenders and bollards	<i>Coastal Protection and Management Act 1995</i>	Development Permit for Operational Works (that are tidal works for capital dredging)	Ports North / DSDIP
Development within the Cairns Wharf Complex (Queensland heritage place) (integrated with tidal works application)	<i>Queensland Heritage Act 1992</i>	Development Permit for works on a Queensland Heritage Place	Ports North / DEHP / DSDIP

Activity	Legislation	Approval	Approving Authority
Removal and disposal of contaminated soils associated with the wharf upgrades	<i>Environmental Protection Act 1994</i>	Disposal permit to treat or dispose of contaminated soil from land recorded in the environmental management register (EMR) or contaminated land register (CLR) under section 424 of the Environmental Protection Act 1994 (EP Act).	Ports North / DEHP
Chemical storage for the proposed 7,500 ton heavy fuel oil storage tank Where relevant storage of dangerous goods thresholds are exceeded	<i>Environmental Protection Act 1994</i> <i>Work Health and Safety Act 20011</i>	Environmental Authority and Development Permit for Material Change of Use for an Environmentally Relevant Activity (ERA 8 – Chemical Storage) <i>Permit for storage/use of dangerous goods</i>	DEHP
Building work declared as assessable under Chapter 2 of the <i>Building Act 1975</i>	<i>Building Act 1975;</i>	Development Permit for Building Work	Private Certifier
Plumbing work	<i>Plumbing and Drainage Act 2002.</i>	Compliance Certificate for Regulated Plumbing Works	Ports North / Cairns Regional Council
Sewerage Upgrade Works and storage facilities	<i>Plumbing and Drainage Act 2002.</i>	Compliance Certificate for Regulated Plumbing Works	Ports North / Cairns Regional Council
Fire Fighting Service Upgrades	<i>Plumbing and Drainage Act 2002.</i>	Compliance Certificate for Regulated Plumbing Works	Ports North / Cairns Regional Council

Support Infrastructure Upgrades

Potentially, approvals that may be triggered for these infrastructure upgrades subject to the determination of detailed design and siting arrangements include:

- Development Permit for Material Change of Use for an Environmentally Relevant Activity (ERA 8 – Chemical Storage) under the EP Act for the proposed 3,000 7,500 ton Heavy Fuel Oil storage tank
- Development Permit for Building Work declared as assessable under Chapter 2 of the *Building Act 1975*
- Compliance Certificate for Regulated Plumbing Works under the *Plumbing and Drainage Act 2002*.

C.1.7.4 Revocation of Portion of Trinity Inlet Fish Habitat Area

The proposed widening of the approach channel is likely to encroach into the declared Trinity Inlet FHA and existing policy developed under the *Fisheries Act 1994* does not support dredging within a declared FHA.

FHA's are declared by Regulation under Section 120 of the *Fisheries Act 1994*. Declaration of an FHA requires amendment of the *Fisheries Regulation 2008* and the approval of State Cabinet and the Governor-in-Council. Therefore, where a proposal which encroaches within a declared FHA is accepted by the Queensland Government, there is a need for a legislative process to amend or revoke the declared FHA.

The Department of National Parks, Recreation, Sport and Racing provides a framework for the selection, assessment, declaration and review of declared FHA's in their operational policy *Marine Resource Management: Fish Habitat Area selection, assessment, declaration and review*. The policy states that declared FHA amendments may be proposed to accommodate additional infrastructure need. An initial assessment of the proposal is undertaken to prepare Terms of Reference for a 'Revocation Assessment Study'. The proponent (in this case, Ports North) carries the study and submits it to DAFF.

It is noted that approval in principle has been received from the Department of National Parks DNPRSR for an exchange in FHA.