

Permit

Nature Conservation (Administration) Regulation and Recreation Areas Management Act 2006

Commercial Activity Permit

Permit number: TVP509226415

Valid from: 16-JUN-2015 to 15-JUN-2018

Parties to the Permit

| Role | Name | Address |
|------------------|--|---|
| Principal Holder | Kiana Sail and Dive Pty Ltd ACN 112 999 265 | Suite 1, Level 3 North Tower, 5 Railway Street CHATSWOOD NSW 2067 |
| Person In Charge | Mr Greg Lambert | Suite 1, Level 3 North Tower, 5 Railway Street CHATSWOOD NSW 2067 |

Permitted Location Activity Details

| Location(s) | Capacity | Activity(s) |
|--|--------------------|-------------|
| Estate: Whitsunday Islands NP Site: Hook Island Site: Ngaro Cultural Site | Max 18 people/day. | Guided Tour |
| Estate: Whitsunday Islands NP Site: Whitsunday Island Site: Dugong Beach day use area | Max 18 people/day. | Guided Tour |
| Estate: Whitsunday Islands Nat Park Site: Whitsunday Island Site: Dugong – Sawmill walking track (Cid Harbour track) | Max 18 people/day. | Guided Tour |
| Estate: Whitsunday Islands NP Site: Whitsunday Island Site: Sawmill Beach day use area | Max 18 people/day. | Guided Tour |

| | | |
|--|--------------------|-------------|
| Estate: Whitsunday Islands NP Site: Whitsunday Island Site: Solway Circuit walking track | Max 18 people/day. | Guided Tour |
| Estate: Whitsunday Islands NP Site: Whitsunday Island Site: Whitehaven Beach – Chance Bay walking track | Max 18 people/day. | Guided Tour |
| Estate: Whitsunday Islands NP Site: Whitsunday Island Site: South Whitehaven Beach day use area | Max 18 people/day. | Guided Tour |
| Estate: Whitsunday Islands NP Site: Whitsunday Island Site: Tongue Point | Max 18 people/day. | Guided Tour |

Conditions of Approval

General Permit Conditions

Agency Interest: General

COG38. INDEMNITY

The Principal Holder -
 (a) indemnifies; and
 (b) releases and discharges

the State of Queensland ("the State") from and against all actions, proceedings, claims, demands, costs, losses, damages and expenses which may be brought against or made upon the State, or which the State may pay, sustain or be put to by reason of, or in consequence of, or in connection with the occupation and use of the Estate(s) identified in the table(s) below ("the Estate") by the Principal Holder except to the extent of any negligent act of the State, its servants or agents.

The Principal Holder must notify the Department of National Parks, Sport and Racing (NPRSR) in writing of any death, injury, loss or damage immediately upon the Principal Holder becoming aware of such death, injury, loss or damage.

COG39. COMPLIANCE WITH LAWS AND NO WARRANTY

The Principal Holder shall at their expense during the term of this Permit comply with and observe all Acts of Parliament, local laws, regulations or rules for the time being in force which apply to the Estate and/or the Principal Holder's use of the Estate.

The State does not warrant that the Estate is free from defect or that it is safe or suitable for the use authorised under this permit. The Principal Holder uses the Estate entirely at its own risk and acknowledges that it has checked the area to ensure that it is suitable for the use authorised under this permit.

COG40. INSURANCE

For the term of this permit, the Principal Holder must take out and maintain the following insurances ("the insurances") requirements -

- (a) a public liability insurance policy for no less than \$20 million arising from any one event in respect of the death of, or injury to persons, or loss or damage to property; and
- (b) insurance under the Workers Compensation and Rehabilitation Act 2003 to cover workers, eligible persons, self employed contractors, directors, trustees and partners.

The Insurances must be effected with an insurer that is registered with the Australian Prudential Regulation Authority (APRA) and has an S & P rating of no less than A-.

The Insurances must cover all invitees, employees, contractors, agents, members or clients of the Principal Holder and name the State of Queensland as an interested party.

Before undertaking any activities on the Estate, the Principal Holder must have in place all the Insurances. In any circumstance where the Insurances are cancelled, altered or expire before the expiry date of this permit, the Principal Holder must cease all activities on the Estate until such time as alternative insurance policies that comply with the requirements of this permit have been obtained.

The Principal Holder must provide the Department of National Parks, Sport and Racing (NPSR) copies of certificates of currency for the Insurances, and the insurance policy documents, when requested by the NPSR for audit or compliance checks.

COG42. The Principal Holder must notify the permit issuing office, in writing within seven (7) days of:

- a) any changes to the nominee/permittee details; or
- b) the cessation of operation to which this permit relates.

COG85. The person in charge nominated by the corporation authorised under this permit is Greg Lambert of Suite 1 Level 3 North Tower, 5 Railway Street CHATSWOOD NSW 2067

Definitions

- 'Year' means 12 months from the commencement date of this authority and each anniversary thereafter. 'Year' limits mean the maximum number of clients that may participate in the approved activities within any year.
- 'Day' limits mean the maximum number of clients, guides and free of charge visitors that may access an approved visitor site on any calendar day.
- 'People at any one time' limits mean the maximum number of clients, guides and free of charge visitors that may access an approved visitor site at any one time.
- 'Group' limits mean the maximum number of clients, guides and free of charge visitors in any group.

Agency Interest: Biodiversity

COB787. The Principal Holder must conduct activities in accordance with a valid Marine Park permit when accessing island national parks.



- COB789. The Principal Holder must ensure activities are conducted within established walking tracks, camping areas and day use areas; where facilities are provided.
- COB786. The Principal Holder must brief participants in the program about the potential presence of, and dangers posed by, estuarine crocodiles prior to participants conducting activities under this permit.

Conditions for: Whitsunday National Park Whitehaven Beach - Chance Bay walking track
Agency Interest: Biodiversity

- COB798. Access to Whitehaven Beach - Chance Bay walking track is limited to 20 days per year, taken from the commencement date of this permit.



Signed

Elizabeth Turner
Delegate of the Chief Executive
Department of National Parks Sport and Racing



Date

Information Notice

Notice of Decision

This notice is issued by the administering authority to advise of a statutory decision on a permit application under environmental and/or conservation legislation.

To: Kiana Sail and Dive Pty Ltd
PO Box 637
CANNONVALE QLD 4802

Our reference: 336178

Dear Sir/Madam

Re: Decision made in relation to your application under environmental and or conservation legislation administered by the Department of National Parks, Sport and Racing (NPSR).

NPSR has assessed your application received on 18-May-2015 and wishes to advise you of the decision in regard to each application as specified below:

| Permit applied for | Permit Number | Decision |
|---|---------------|----------|
| Commercial Activity Permit (quarterly return) Nature Conservation Act 1992 | TVP509226415 | Granted |

PUBLIC LIABILITY INSURANCE: Please be advised that the Queensland Government's standard level required for public liability insurance is \$20 million. You are advised to obtain this level of insurance as soon as possible once a new permit is issued.

Please note the following:

- It is highly recommended that the Principal Holder check updated Park Alerts for possible park/track closures on the NPSR website, prior to commencing any activities on QPWS managed areas. Please refer to: http://www.npsr.qld.gov.au/parks_and_forests/park_alerts/index.php.
- For any future Commercial Activity Permit applications, please allow 40 business days processing time, to ensure that your proposed activity can take place.
- If vehicle or camping permits are required these must be booked on line at www.npsr.qld.gov.au prior to conducting above activity.
- For a list of camping, vehicle, entry and commercial fees go to www.npsr.qld.gov.au/services/index
- The principal holder does not have exclusive use of any part of the protected area or its visitor facilities.
- Activities must not interfere with nor impede the public's access within the protected area, or negatively impact upon their recreational pursuits.
- Crocodiles - Please be aware that crocodiles inhabit many QPWS managed areas. Your activity should always follow Crocodile Safety protocol. You can refer to further information at our Website: http://www.npsr.qld.gov.au/wildlife-ecosystems/wildlife/living_with_wildlife/crocodiles/index.html

For each permit applied for that has been granted, the conditions of approval are attached. Please note that for each approval, this Notice of Decision and the relevant attachments constitute the permit documentation. Please retain this documentation for your records.



The attached permit grants access to a large number and a wide range of island national parks within the Great Barrier Reef World Heritage Area, with specific conditions relating to some of those national parks, for example seasonal restrictions, group size limits and booking requirements. Please read these conditions carefully and familiarise yourself with the nature of the access permitted for each national park that you plan to visit.

Recognising the nature of your operation as a vessel-based marine tour operator, this access is granted in order to allow you flexibility while still limiting permitted access to a reasonable and realistic level. Please note that this should not be construed as conveying any future rights of access to areas which have not been significantly utilised during the life of this permit. A level of latent or unused access is inherent in this style of permit.

Please be advised that commercial activity permits are not transferable and cannot be assigned in whole or in part, or be otherwise encumbered or disposed of to any third party. If an application is received for a new commercial activity permit to continue this operation, the Department will assess the application and may apply latency rules based on historical use.

If during the life of your permit you propose to vary your operation from that authorised, or undertake any changes to your business structure, you must notify NPRSR at the address below and if necessary, apply for a variation to your permit. Also, you must advise of any change of address.

You, or your agents, must carry a copy of your current commercial activity permit whilst carrying out commercial activities on any QPWS managed area within Queensland. You may be asked by park staff conducting random checks to show your commercial activity permit to ensure commercial activities on QPWS managed areas are covered by a permit and that permit conditions are being observed.

Returns

As the holder of a commercial activity permit, you are required to submit a *Return of Operations* either 20 business days following the end of each month or calendar quarter i.e. 31 March, 30 June, 30 September, 31 December.

The *Return of Operations Form* can be found at <http://www.business.qld.gov.au/industry/tourism/parks-recreation-forests>. The form allows you to save a partially completed copy to your computer which may assist you in recording tours on a day to day/month to month basis. If submitting returns monthly just pick the quarter that your month falls into.

Please note that you are required to submit a *Return of Operations Form* even if no tours have been conducted.

Native Title

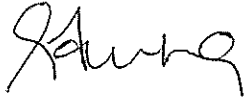
Should it be determined at some future date by any Court or Tribunal that native title exists over the subject land or waters, this licence may be terminated and the licensee (or any subsequent licensee) may be required to remove any works established under this licence at the licensee's (or any subsequent licensee's) own cost, expense and risk. In that event, no compensation for works, development costs or loss of income shall be payable to the licensee (or any subsequent licensee) by the State of Queensland

Cultural Heritage

If Cultural Heritage sites or items are located, advice should be sought from the Department of National Parks, Sport and Racing – Cultural Heritage Enquiries 1800 440 340.

If you require more information, please contact Colleen King, the Project Manager, on the following email permits.central@npsr.qld.gov.au.

Yours sincerely



Elizabeth Turner
Delegate
Department of National Parks, Sport and Racing
16-Jun-2015

Enquiries:

Assessment and Approvals - Rockhampton
PO Box 3130
RED HILL ROCKHAMPTON QLD 4701
Phone: (07) 4936 0524

Attachment – Information Notice

Attachment – Information Notice

When assessing an application for a protected area the Chief Executive must have regard to the following:

s25.1 *Nature Conservation (Administration) Regulation 2006*

- (a) the impact the activities that may be carried out under the authority may have on the conservation of the cultural or natural resources of a protected area or native wildlife;
- (b) The effect the grant of the authority will have on the fair and equitable access to nature, having regard to, in particular, the ecologically sustainable use of protected areas or wildlife;
- (c) Any contribution the applicant proposes to make to the conservation of nature;
- (d) Any relevant Australian or international code, instrument, protocol or standard or any relevant intergovernmental agreement;
- (e) The precautionary principle;
- (f) Public health and safety;
- (g) The public interest;
- (h) For an application for a relevant authority other than a camping permit—whether the applicant is a suitable person to hold the authority, having regard to the matters mentioned in schedule 2;
- (i) For an application for a relevant authority for a national park (Cape York Peninsula Aboriginal land) – the indigenous management agreement for the protected area;
- (j) Any recovery plan for wildlife to which the authority applies;
- (k) Any other matter stated in a management instrument as a matter the chief executive must have regard to when considering an application for the authority.

s25.2 *Nature Conservation (Administration) Regulation 2006*

Without limiting subsection (1), the chief executive may have regard to anything else the chief executive considers appropriate to achieve the object of the Act.

s34 and s40 *Nature Conservation (Protected Areas Management) Regulation 2006*

In considering an application for an Aboriginal tradition authority or Island custom authority for a cultural or natural resource of a protected area, the chief executive must have regard to—

- (a) any advice given by the corporation named in the application for the authority on the significance, under Aboriginal tradition, of the activity the subject of the application; and
- (b) whether there is a reasonable alternative to taking, keeping, using or interfering with the resource; and

- (c) the extent to which the activity will interfere with the public use of the protected area, or the part of a protected area, to which the authority applies.

s49 *Nature Conservation (Protected Areas Management) Regulation 2006*

- (a) The impact the activities that may be conducted under the authority may have on the character and amenity of the area and adjacent areas;
- (b) The likely cumulative effect of the proposed use and other uses on the area;
- (c) The orderly and proper management of the area.

s50 *Nature Conservation (Protected Areas Management) Regulation 2006*

The chief executive can not grant an activity permit for a protected area that is inconsistent with—

- (a) the management principles for the area; or
- (b) the interim or declared management intent, or management plan, for the area.

The *Nature Conservation (Administration) Regulation 2006* has review and appeal provisions available to you should you be dissatisfied with any condition imposed on your permit. In summary these include:

- If you wish to apply for an internal review of the decision an application must be made in writing within 20 business days after being given this notice.
- The application must be supported by sufficient information to decide the application.
- The application for internal review does not stay the decision made.
- The department must review the decision within 28 days of receiving the application and provide you with a decision within 14 days of making the review decision.
- If you are dissatisfied with the review decision then you are able to file a notice of appeal to the registrar of the Magistrates Court within 20 business days of receiving the review notice.

For further information you are directed to Part 4: Review and Appeal Provisions of the *Nature Conservation (Administration) Regulation 2006* that can be found at <http://www.legislation.qld.gov.au/OQPChome.htm>.