



Queensland

Marine Parks Amendment Regulation (No. 1) 2011

Subordinate Legislation 2011 No. 289

made under the

Marine Parks Act 2004

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1 Short title

This regulation may be cited as the *Marine Parks Amendment Regulation (No. 1) 2011*.

2 Regulation amended

This regulation amends the *Marine Parks Regulation 2006*.

3 Replacement of ss 10 and 11

Sections 10 and 11—

omit, insert—

‘10 Matters chief executive must consider

‘In considering an application for a permission for a marine park or a part of a marine park, the chief executive must have regard to all of the following—

- (a) the potential impact of the conduct proposed to be permitted under the permission (the *proposed conduct*) on the environment and on the cultural resources of the marine park or the part;
- (b) options for monitoring, managing and mitigating the potential impact of the proposed conduct on the environment and on the cultural resources of the marine park or the part;
- (c) if the proposed conduct will take place in an area to which a zoning plan applies—the objectives of the area as set out in the zoning plan;
- (d) any written submissions received about the application in response to the public notice of the application given under section 15;
- (e) any other matters relevant to the orderly and proper management of the marine park.

‘11 Other matters chief executive may consider

- ‘(1) In considering an application for a permission for a marine park or a part of a marine park, the chief executive may also have regard to the following—
- (a) the effect that the grant of the permission will have on public appreciation, understanding, and enjoyment of the marine park;
 - (b) the potential impact of the conduct proposed to be permitted under the permission (the *proposed conduct*) on other conduct in the relevant area or nearby areas, or in the marine park, that is being undertaken, is planned, is in progress, or is reasonably foreseeable at the time of the chief executive’s consideration of the application, whether or not related to or a consequence of the proposed conduct;
 - (c) any policy or guideline issued by the chief executive about the management of the marine park or the performance of the chief executive’s functions under the Act;
 - (d) if the application for the permission relates to an undeveloped project the cost of which will be large—the capacity of the applicant to satisfactorily develop and manage the project;
 - (e) if the proposed conduct also requires an approval or a permission under a law of the State or a law of the Commonwealth or another State—whether the approval or permission has been, or is likely to be, granted and, if granted, the terms and conditions of it being granted;
 - (f) any relevant intergovernmental, Australian or international agreement, code, instrument, protocol or standard;
 - (g) any relevant law of the State or of the Commonwealth, or a relevant instrument;
 - (h) any relevant recovery plan, wildlife conservation plan, threat abatement plan or approved conservation advice under the *Environment Protection and Biodiversity*

Conservation Act 1999 (Cwlth), or any conservation plan under the *Nature Conservation Act 1992*;

- (i) whether the applicant for the permission is a suitable person to hold the permission, having regard to—
 - (i) the applicant’s history in relation to environment matters; and
 - (ii) if the applicant is a body corporate—the history of its executive officers in relation to environment matters; and
 - (iii) if the applicant is a company that is a subsidiary of another company (the *parent body*)—the history of the parent body and its executive officers in relation to environment matters; and
 - (iv) whether the applicant owes any amount payable under the Act;
- (j) the likely cumulative effect of the applicant’s proposed use and other uses on a marine park;
- (k) any other matters relevant to achieving the purpose of the Act.

‘(2) In this section—

relevant instrument, for a marine park or a part of a marine park, means—

- (a) a management plan applying to the marine park or part; or
- (b) a management plan under the *Nature Conservation Act 1992* applying to a protected area under that Act that is within or adjacent to the marine park or part; or
- (c) a management plan under the *Recreation Areas Management Act 2006* applying to a recreation area under that Act that is within or adjacent to the marine park or part; or
- (d) a management plan under the Commonwealth Act applying to an area of the Commonwealth marine park that is within or adjacent to the marine park or part; or

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- (e) a coastal plan under the *Coastal Protection and Management Act 1995* applying to the coastal zone under that Act that is within or adjacent to the marine park or part; or
- (f) any other instrument made under an Act that the chief executive considers to be relevant.

Example of an instrument for paragraph (f)—

an instrument about the management of the environment’.

4 Amendment of s 83 (Accreditation of external authority)

Section 83—

insert—

‘(2) The notice must state—

- (a) the external authority is accredited as a corresponding authority for the marine park or part; and
- (b) the corresponding authority is an authority for the purposes of the Act.’.

5 Insertion of new ss 84A–84D

After section 84—

insert—

‘84A Notice of accreditation to be available on website

‘The chief executive must make a copy of the gazette notice accrediting an external authority as a corresponding authority available for inspection by the public, free of charge, on the department’s website.

‘84B Amendment of accreditation of external authority

‘(1) The chief executive may, by gazette notice, amend an accreditation of an external authority as a corresponding authority for a marine park, or a part of a marine park, to change—

-
- (a) the part of the marine park to which the accreditation applies; or
 - (b) the purpose for entry or use of the marine park or part.
- ‘(2) However, the chief executive may amend the accreditation only if the chief executive reasonably believes the amendment is necessary—
- (a) in the interests of managing the marine park; or
 - (b) because the arrangements applying to the entry or use of the marine park or part under the external authority are not adequate, or are not being adequately implemented or followed.
- ‘(3) The notice must state the part of the marine park for which the external authority will be accredited as a corresponding authority after the amendment.

‘84C Cancellation of accreditation of external authority

- ‘(1) The chief executive may, by gazette notice, cancel an accreditation of an external authority as a corresponding authority for a marine park, or a part of a marine park, if—
- (a) the purpose for which the entry or use of the marine park or part is authorised by the external authority becomes a prohibited purpose for the marine park or part; or
 - (b) the chief executive is satisfied—
 - (i) the accreditation of the external authority is no longer desirable in the interests of managing the marine park or part; or
 - (ii) the arrangements applying to the entry or use of the marine park or part under the external authority are no longer adequate, or are not being adequately implemented or followed.
- ‘(2) The notice must state the external authority is no longer accredited as a corresponding authority for the marine park or part.

‘84D Review of accreditation of external authority

- ‘(1) This section applies if—
- (a) the chief executive has accredited, under this division, an external authority as a corresponding authority for a marine park, or a part of a marine park; and
 - (b) a new zoning plan applying to the marine park is made.
- ‘(2) The chief executive must, within 12 months after the new zoning plan is made, review the accreditation to assess whether, having regard to the matters mentioned in section 84, the external authority should still be accredited as a corresponding authority for the marine park or part.
- ‘(3) After reviewing the accreditation, the chief executive must do 1 of the following—
- (a) leave the accreditation unchanged;
 - (b) replace the accreditation with a new accreditation;
 - (c) amend the accreditation;
 - (d) cancel the accreditation.’.

6 Amendment of s 85 (Accreditation of external instrument)

Section 85(1), after ‘conducted’—

insert—

‘by a person in a marine park’.

7 Amendment of s 86 (Limitation on accreditation of external instrument)

- (1) Section 86(1)(b)—

omit, insert—

‘(b) for a zoned marine park, is satisfied the accreditation is consistent with the zoning plan for the park.’.

- (2) Section 86(2)—

omit.

8 Replacement of s 87 (Notice of accreditation and accredited instrument must be available)

Section 87—

omit, insert—

‘87 Notice of accreditation and accredited instrument to be available on website

‘The chief executive must make a copy of the gazette notice accrediting an external instrument and of the accredited instrument available for inspection by the public, free of charge, on the department’s website.’.

9 Amendment of s 88 (Amendment of accreditation of external instrument)

Section 88(2)(b), ‘enforced’—

omit, insert—

‘followed’.

10 Amendment of s 89 (Cancellation of accreditation of external instrument)

Section 89(1)(b), ‘enforced’—

omit, insert—

‘followed’.

11 Amendment of s 90 (Review of accreditation of external instrument)

(1) Section 90(1)(b)—

omit, insert—

‘(b) a new zoning plan applying to the marine park is made.’.

(2) Section 90(2), ‘commencement of the relevant provision’—

omit, insert—

‘new zoning plan is made’.

[s 12]

(3) Section 90—

insert—

‘(3) After reviewing the accreditation, the chief executive must do 1 of the following—

- (a) leave the accreditation unchanged;
- (b) replace the accreditation with a new accreditation;
- (c) amend the accreditation;
- (d) cancel the accreditation.’.

12 Amendment of pt 5, div 3 (Accreditation of educational or research institution)

Part 5, division 3, before section 91—

insert—

Note—

See the *Marine Parks (Moreton Bay) Zoning Plan 2008* for additional provisions about the amendment, suspension and cancellation of the accreditation of an educational or research institution for the Moreton Bay Marine Park or a part of it.’.

13 Amendment of s 91 (Accreditation of educational or research institution)

(1) Section 91(2)—

omit.

(2) Section 91(3) and (4)—

renumber as section 91(2) and (3).

14 Insertion of new ss 91A and 91B

After section 91—

insert—

‘91A Limitation on accreditation of educational or research institution

‘The chief executive may accredit an educational institution or research institution for a marine park, or a part of a marine park, only if the chief executive is satisfied the institution—

- (a) has adopted appropriate environmental practices and standards, including, for example, providing instructions for, and training, its personnel for the activities the institution intends to carry out in the marine park or part; and
- (b) has an ongoing commitment to improve the environmental practices and standards.

‘91B Notice of accreditation to be available on website

‘The chief executive must make a copy of the gazette notice accrediting an educational institution or research institution available for inspection by the public, free of charge, on the department’s website.’.

15 Insertion of new s 92A

After section 92—

insert—

‘92A Review of accreditation of educational or research institution

- ‘(1) This section applies if—
 - (a) the chief executive has accredited, under this division, an educational institution or a research institution for a marine park, or a part of a marine park; and
 - (b) a new zoning plan applying to the marine park is made.
- ‘(2) The chief executive must, within 12 months after the new zoning plan is made, review the accreditation to assess whether, having regard to the matters mentioned in section 91A, the educational institution or research institution should still be an accredited educational institution or accredited research institution for the marine park or part.

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- ‘(3) After reviewing the accreditation, the chief executive must do 1 of the following—
- (a) leave the accreditation unchanged;
 - (b) replace the accreditation with a new accreditation;
 - (c) amend the accreditation;
 - (d) cancel the accreditation.’

16 Amendment of s 93 (Accreditation of harvest fishery)

- (1) Section 93(2)—
omit.
- (2) Section 93(3)—
renumber as section 93(2).

17 Insertion of new ss 93A–93C

After section 93—
insert—

‘93A Limitation on accreditation of harvest fishery

‘The chief executive may accredit a harvest fishery for a marine park, or a part of a marine park, only if the chief executive is satisfied the accreditation of the fishery is desirable in the interests of managing the marine park or part, having regard to—

- (a) the management arrangements for the fishery under the *Fisheries Act 1994*; and
- (b) any other relevant matters.

‘93B Notice of accreditation to be available on website

‘The chief executive must make a copy of the gazette notice accrediting a harvest fishery for a marine park, or a part of a marine park, available for inspection by the public, free of charge, on the department’s website.

‘93C Amendment of accreditation of harvest fishery

- ‘(1) The chief executive may, by gazette notice, amend an accreditation of a harvest fishery for a marine park, or a part of a marine park, to change the part of the marine park to which the accreditation applies.
- ‘(2) However, the chief executive may amend the accreditation only if the chief executive reasonably believes the amendment is necessary—
- (a) in the interests of managing the marine park; or
 - (b) because the management arrangements that apply for the fishery under the *Fisheries Act 1994* and that apply to the activities carried out under the accreditation are not adequate, or are not being adequately implemented or followed.
- ‘(3) The notice must state the part of the marine park for which the harvest fishery will be an accredited fishery after the amendment.’.

18 Insertion of new s 94A and new pt 5, div 5

After section 94—

insert—

‘94A Review of accreditation of harvest fishery

- ‘(1) This section applies if—
- (a) the chief executive has accredited, under this division, a harvest fishery for a marine park, or a part of a marine park; and
 - (b) a new zoning plan applying to the marine park is made.
- ‘(2) The chief executive must, within 12 months after the new zoning plan is made, review the accreditation to assess whether, having regard to the matters mentioned in section 93A, the harvest fishery should still be an accredited harvest fishery for the marine park or part.
- ‘(3) After reviewing the accreditation, the chief executive must do 1 of the following—

- (a) leave the accreditation unchanged;
- (b) replace the accreditation with a new accreditation;
- (c) amend the accreditation;
- (d) cancel the accreditation.

‘Division 5 Accreditation of authorisation process or management arrangement for an activity

‘94B Accreditation of authorisation process or management arrangement

- ‘(1) The chief executive may, by gazette notice, accredit an authorisation process or management arrangement for an activity in a marine park or a part of a marine park on conditions decided by the chief executive under subsection (2).
- ‘(2) The chief executive may impose on an accreditation of an authorisation process or management arrangement for an activity in a marine park or a part of a marine park—
 - (a) conditions on which the process or arrangement is accredited; and

Examples of conditions for paragraph (a)—

- the conduct of a particular activity may be authorised under the process or arrangement only if it avoids or minimises adverse impacts on particular habitat in a marine park
 - the conduct of an activity in a particular part of a zoned marine park must not be authorised under the process or arrangement if the conduct of the activity is inconsistent with the objectives for the part under a zoning plan
- (b) conditions on the conduct of the activity in the marine park or part by a person under the process or arrangement.

Examples of conditions for paragraph (b)—

- a particular structure must not be erected or installed in a particular part of a marine park

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- if a particular activity is authorised to be conducted in a marine park under the process or arrangement, the activity may be conducted in only a particular part of the marine park or only in particular circumstances
- ‘(3) The notice mentioned in subsection (1) must state—
- (a) the authorisation process or management arrangement has been accredited for the activity in the marine park or the part of a marine park; and
 - (b) the conditions imposed by the chief executive under subsection (2); and
 - (c) that a person may, without an authority, enter or use the marine park or part for the activity if the person—
 - (i) is authorised to conduct the activity under the process or arrangement; and
 - (ii) complies with the conditions imposed by the chief executive on the conduct of the activity under the process or arrangement; and
 - (d) that the accreditation does not authorise the person to carry out prohibited purposes in the marine park or part.

‘94C Limitations on accreditation of authorisation process or management arrangement

- ‘(1) The chief executive may accredit an authorisation process or management arrangement for an activity in a marine park, or a part of a marine park, only if the chief executive is satisfied the accreditation of the process or arrangement is desirable in the interests of managing the marine park or part.
- ‘(2) Also, the chief executive can not accredit an authorisation process or management arrangement for an activity, in a marine park or a part of a marine park, for which a permission can not be granted.

‘94D Notice of accreditation and authorisation process or management arrangement to be available on website

‘The chief executive must make a copy of the following available for inspection by the public, free of charge, on the department’s website—

- (a) the gazette notice accrediting an authorisation process or management arrangement for an activity;
- (b) either—
 - (i) the law setting out the authorisation process for the activity; or
 - (ii) the management arrangement for the activity.

‘94E Amendment of accreditation of authorisation process or management arrangement

‘(1) The chief executive may, by gazette notice, amend an accreditation of an authorisation process or management arrangement for an activity in a marine park, or a part of a marine park, to change—

- (a) the part of the marine park to which the accreditation applies; or
- (b) the conditions to which the accreditation is subject.

‘(2) However, the chief executive may amend the accreditation only if the chief executive reasonably believes the amendment is necessary—

- (a) in the interests of managing the marine park; or
- (b) because—
 - (i) the conditions to which the accreditation is subject are not adequate, or are not being adequately implemented or followed; or
 - (ii) the authorisation process or management arrangement applying to an activity in the marine park or part under the accreditation is not adequate, or is not being adequately implemented or followed.

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- ‘(3) The notice must state the part of the marine park for which the authorisation process or management arrangement for the activity will be accredited after the amendment.

‘94F Cancellation of accreditation of authorisation process or management arrangement

- ‘(1) The chief executive may, by gazette notice, cancel an accreditation of an authorisation process or management arrangement for an activity in a marine park or a part of a marine park if the chief executive is satisfied—
- (a) the accreditation is no longer desirable in the interests of managing the marine park or part; or
 - (b) the authorisation process or management arrangement applying to an activity in the marine park or part under the accreditation is not adequate, or is not being adequately implemented or followed.
- ‘(2) The notice must state the authorisation process or management arrangement for the activity in the marine park or part is no longer accredited.

‘94G Review of accreditation of authorisation process or management arrangement

- ‘(1) This section applies if—
- (a) the chief executive has accredited, under this division, an authorisation process or management arrangement for an activity in a marine park, or a part of a marine park; and
 - (b) a new zoning plan applying to the marine park is made.
- ‘(2) The chief executive must, within 12 months after the new zoning plan is made, review the accreditation to assess whether, having regard to the matters mentioned in section 94C, the authorisation process or management arrangement should still be accredited for the activity in the marine park or part.

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- ‘(3) After reviewing the accreditation, the chief executive must do 1 of the following—
- (a) leave the accreditation unchanged;
 - (b) replace the accreditation with a new accreditation;
 - (c) amend the accreditation;
 - (d) cancel the accreditation.’.

19 Amendment of s 110 (Purposes for which authority required)

Section 110—

insert—

- ‘(4) Also, a person does not require an authority to enter or use a zoned marine park to conduct an activity if—
- (a) the person is authorised to conduct the activity under an accredited authorisation process or accredited management arrangement; and
 - (b) the person complies with the conditions imposed by the chief executive on the conduct of the activity under the process or arrangement.’.

20 Amendment of s 114 (Purpose for which authority required)

Section 114—

insert—

- ‘(4) Also, a person does not require an authority to enter or use an unzoned marine park to conduct a major impact activity if—
- (a) the person is authorised to conduct the activity under an accredited authorisation process or accredited management arrangement; and
 - (b) the person complies with the conditions imposed by the chief executive on the conduct of the activity under the process or arrangement.’.

21 Amendment of sch 6 (Dictionary)

(1) Schedule 6—

insert—

‘accredited authorisation process means an authorisation process accredited under part 5, division 5.

accredited harvest fishery means a harvest fishery accredited under part 5, division 4.

accredited management arrangement means a management arrangement accredited under part 5, division 5.

authorisation process means a process set out in a law of the State, or a law of the Commonwealth or another State, under which actions are authorised.

management arrangement includes—

- (a) a management plan; and
- (b) a regime; and
- (c) a policy.

non-government entity means an entity that is not a State or Commonwealth department or agency.’.

(2) Schedule 6, definition ***external instrument***, paragraph (b), ‘for a’—

insert—

‘by, or for, a’.

(3) Schedule 6, definition ***external instrument***, paragraph (c)—

omit, insert—

‘(c) another instrument made or prepared by, or for, a non-government entity that describes how an activity is to be conducted; or

(d) a part of an instrument mentioned in paragraph (a), (b) or (c).’.

ENDNOTES

- 1 Made by the Governor in Council on 8 December 2011.
- 2 Notified in the gazette on 9 December 2011.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Environment and Resource Management.

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