



Queensland

# Marine Parks (Great Sandy) Zoning Plan 2006

## Explanatory Notes for SL 2006 No. 229

made under the

*Marine Parks Act 2004*

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## General Outline

### Short title

The short title of the subordinate legislation is the *Marine Parks (Great Sandy) Zoning Plan 2006* (Great Sandy MP zoning plan).

### Authorising legislation

Section 21 of the *Marine Parks Act 2004* ('the Act'), enables the Governor in Council to give effect to a zoning plan (i.e. subordinate legislation) prepared by the Minister.

A zoning plan for a marine park—

- must state the name, objects and purpose for entry and use of zones or designated areas;
- must define each zone or area by means of a map or an appropriate description;
- may provide for reclamation of tidal land; and
- may provide for offences of up to 165 penalty units.

Section 5 of the Act provides that the purpose of the Act be achieved by zoning plans that may include zones and designated areas. The Schedule of

the Act defines designated areas as an area established, by regulation or zoning plan, for special management.

### **Background and reasons for the zoning plan**

The declaration and zoning of the Great Sandy Marine Park (Great Sandy MP) will deliver on a number of 1998 and 2001 election commitments relating to marine parks.

In 1990, in response to concerns raised by conservation groups and the community, a Commission of Inquiry into the conservation, management and use of the Great Sandy region was conducted and resulted in the preparation of the Great Sandy Region Management Plan by the Queensland Government. This management plan recommended the declaration of the marine park as a key action item to provide for the protection of the region's environmental values and resources.

The Great Sandy region is an area of outstanding environmental significance containing areas and resources recognised internationally for their biodiversity significance but which currently have limited environmental protection. These values and resources include the Fraser Island World Heritage Area, critical habitat for humpback whale migration, major nesting sites for endangered marine turtles, Ramsar wetland including the Great Sandy Strait, habitat for rare and endangered species, relatively pristine estuaries such as the Burrum River, ancient colonies of rare marine snails and fringing coral reefs.

The region is also subject to high population growth, and increasing tourism and recreational use leading to greater demands on the region's marine resources and resulting in increased conflicts between competing uses. The declaration and zoning of the Great Sandy MP will provide a basis for managing these demands and conflicts ensuring that the region's environmental resources continue to be available for use by future generations.

### **Policy objectives of the proposed zoning plan**

The primary objective of the proposed Great Sandy MP zoning plan is to protect and maintain the marine environment of the marine park while allowing for its ecologically sustainable use.

## **How policy objectives of the zoning plan will be achieved**

The Great Sandy MP zoning plan was prepared through a strategy involving the following—

- identifying the cultural, economic, environmental and social values of the proposed marine park;
- consulting with public authorities and other interested groups and persons;
- recognising the cultural, economic, environmental and social relationships between the proposed marine park and other areas (including land and water) within or adjacent to the park; and
- recognising Australia's international responsibilities and intergovernmental agreements and instruments.

The plan establishes a system of zoning involving five zones, that is, general use, habitat protection, conservation park, buffer and marine national park zones. The latter three zones establish a network of highly protected areas that—

- protects and maintains the natural integrity and values (e.g. internationally recognized wetlands and threatened species) of such areas in a relatively natural state generally free from extractive activities; and
- subject to the above being achieved, provides for a range of opportunities for the ecologically sustainable use of and access to the area.

Compatible with the objectives of each zone in Schedule 1 of the *Marine Parks Regulation 2006* ('the Regulation'), activities that may be undertaken with or without a permit are outlined. All activities undertaken under a permit issued under the Regulation must be consistent with the objectives of the zone, unless specifically authorised under in a designated area or as a non-conforming use.

The Great Sandy MP zoning plan also provides a range of 'designated areas' where specific management measures apply, such as go-slow areas for the protection of turtles and dugong, the Hervey Bay whale-watching area for the protection of whales and the continuation of important commercial fisheries in the Great Sandy Strait.

## **Consistency of the zoning plan with other legislation**

The objectives of the Great Sandy MP zoning plan are also to be achieved in conjunction with other management tools such as community programs (e.g. Seagrass Watch) as well as regulations, plans, and permits under other legislation such as the following—

- *Native Title (Queensland) Act 1993*;
- *Fisheries Act 1994*;
- *Integrated Planning Act 1997*;
- *State Development and Public Works Organisation Act 1971*;
- *Coastal Protection and Management Act 1995*;
- *Environmental Protection Act 1994*;
- *Nature Conservation Act 1992*;
- *Transport Operations (Marine Safety) Act 1994*; and
- *Transport Operations (Marine Pollution) Act 1995*.

## **Alternatives**

The attached Regulatory Impact Statement contains consideration of alternative ways of achieving the policy objectives and why those adopted were chosen.

## **Costs and Benefits**

The attached Regulatory Impact Statement contains examination of the benefits and costs of declaring a marine park in regard to the various stakeholders.

## **Fundamental legislative principles**

The Great Sandy MP zoning plan has been drafted with due regard to the fundamental legislative principles outlined in section 4 of *the Legislative Standards Act 1992*.

## **National Competition Policy**

The move to a performance-based rather than prescriptive legislative scheme is intended to be consistent with the aims of the National Competition Policy. The general intent is to conserve the marine environment while easing prescriptive burdens on industry in an effort to improve their viability and competitiveness.

## **Consultation**

A discussion paper – Proposal to develop and declare the Great Sandy MP (Northern Section) – was released on 11 May 2002 for public comment at the same time as the public notice declaring an ‘area of interest’ for declaration as a Queensland marine park.

The non-statutory Great Sandy MP Working Group has met ten times since its establishment in May 2002. The Working Group has broad local government, community and industry representation.

Immediately following the Minister’s announcement of the proposal on 20 January 2005, the Strategy for the declaration and zoning of the Great Sandy MP – Northern Section and the Regulatory Impact Statement and draft Public Benefits Test were available on the EPA website. Public notices were placed in a number of newspapers. General articles and media statements were released during various stages of the public consultation period. Information sessions were held at four locations, Gympie, Hervey Bay, Maryborough and Bundaberg and were open to the public for any interested persons to attend and were co-ordinated by officers of the EPA. Around 1,350 people attended information sessions. A total of 1,091 submissions were received on the Great Sandy MP. A further 100 letters have recently been received regarding the Great Sandy MP.

## **Notes on Provisions**

### **Part 1 Preliminary**

#### **Division 1 Preliminary**

Division 1 provides that the short title of the Great Sandy MP zoning plan and the date that the zoning plan commences. This plan applies to the Great Sandy MP.

#### **Division 2 Interpretation**

Division 2 provides for the interpretation of the zoning plan. Additional aids for interpretation of the Great Sandy MP zoning plan through providing details on references to latitudes and longitudes are also provided.

### **Part 2 Zones**

#### **Division 1 Preliminary**

Division 1 provides a list of the provisions with respect to zones under Part 2, Parts 3 (Designated areas), 4 (Additional purposes for entry or use) and 7 (Restrictions applying to activities carried out in the marine park) of the zoning plan.

#### **Division 2 General use zone**

Division 2 provides the use and entry provisions for general use zones.

**Division 3                    Habitat protection zone**

Division 3 provides the use and entry provisions for habitat protection zones.

**Division 4                    Conservation park zone**

Division 4 provides the use and entry provisions for conservation park zones.

**Division 5                    Buffer zone**

Division 5 provides the use and entry provisions for buffer zones.

**Division 6                    Marine national park zone**

Division 6 provides the use and entry provisions for marine national park zones.

**Part 3                         Designated areas****Division 1                    Preliminary**

Division 1 provides areas of the Great Sandy MP set aside for special management.

## **Division 2                      Restrictions applying to particular designated areas**

Division 2 outlines restrictions applying at all times to certain designated areas, including the grey nurse shark, the Mon Repos, the shorebird roosting and feeding, the turtle monitoring, the turtle protection and the whale management areas. These areas provide for the protection of wildlife of special conservation significance. Permits issued in relation to such areas must be consistent with their management objectives.

## **Division 3                      Fish trap areas**

Division 3 provides the objective and special management provisions for fish trap areas.

## **Division 4                      Go slow areas**

Division 4 provides the objective and special management provisions for go slow areas. These areas protect turtles and dugongs from injury or death caused by the operation of vessels. The special management provisions, however, do not apply to navigation channels placed in the Great Sandy MP under the *Transport Operations (Marine Safety) Act 1994* and transit lanes.

## **Division 5                      Great Sandy area**

Division 5 provides the objective and special management provisions for the Great Sandy Strait area. This will allow line fisheries, yabby fisheries and commercial netting to continue in most areas of the conservation park zone located in the Great Sandy Strait. Commercial crabbing is continued as a non-conforming use under clause 84 of the Great Sandy MP zoning plan in the entire conservation park zone located in the Great Sandy Strait.



## **Division 6                    Grey nurse shark area**

Division 6 provides the objective and special management provisions for the grey nurse shark area. The management of these areas is consistent with the management of similar areas under the zoning plan for Moreton Bay Marine Park.

## **Division 7                    Mon Repos area**

Division 7 provides the objective and special management provisions for the Mon Repos area which operate from 15 October each year to 30 April the following year. This area provides for the protection of turtles (in particular loggerhead turtles which are an endangered species under the *Nature Conservation Act 1992*) and their habitats and minimise harm or distress caused directly or indirectly to turtles by human activity or domestic animals. The loggerhead turtle nesting area at Mon Repos is the largest mainland turtle rookery in the western Pacific.

## **Division 8                    Shorebird roosting and feeding areas**

Division 8 provides the objective and special management provisions for the shorebird roosting and feeding area. These areas provide for the protection of shorebirds, in particular migratory shorebirds, and their habitat and minimise harm or distress caused directly or indirectly to shorebirds by human activity or domestic animals. The shorebird roosting and feeding area located in the Great Sandy Strait is one of the three most important summer stopover areas in Australia for trans-equatorial migratory wading birds.

## **Division 9                    Turtle monitoring area**

Division 9 provides the objective for the turtle monitoring area. This area will be managed in accordance with Division 2 (Restrictions applying to particular designated areas).

## **Division 10**                    **Turtle protection area**

Division 10 provides the objective and special management provisions for the turtle protection area. Trawling is prohibited in this area between 1 November each year to 31 January the following year.

## **Division 11**                    **Whale management area**

Division 11 provides the objective and special management provisions for the whale management area. This area was previously provided in the zoning plan for Hervey Bay Marine Park, however, the special management provisions have been updated to reflect the management of whales under the *Nature Conservation (Whale and Dolphin) Conservation Plan 1997*. Limits on the number of commercial whale watching permits that can be granted in this area are established under the *Marine Parks Regulation 1990*.

The whale and dolphin conservation plan will be due for review prior to 2007, and will include a review of the management of whales under this Great Sandy MP zoning plan and the marine park regulations.

## **Part 4**                            **Additional purposes for entry or use**

Part 4 contains provisions that outline the purposes for which a person may use or enter an area within a zone without a permission with or without notification. These purposes are related to emergencies, undertaking functions under the Act, maintaining navigational aids and navigation channels, defense activities and other similar functions.

Part 4 also provides for existing non-conforming uses to be continued in specific locations subject to conditions. These relate to aquarium fish, shell grit, coral and crab fisheries, spoil disposal and conducting aquaculture operations and developmental fisheries.

In addition, part 4 provides for the taking of protected species under certain circumstances.

## **Part 5 Provisions about accreditation**

### **Division 1 Traditional use of marine resources agreement**

Division 1 provides for the accreditation of a traditional use of marine resources agreement. This Division outlines the application process including what the chief executive must consider and conditions imposed on the agreement and associated changes to an accreditation.

### **Division 2 Authorisations under accredited traditional use of marine resources agreement**

Division 2 provides for the giving and effecting of authorizations under accredited traditional marine resource use agreements.

## **Part 6 Requirements for particular applications for permissions**

This part specifies the matters to which the chief executive must have regard in considering an application any permission as well as the traditional use of marine resources.

## **Part 7 Restrictions applying to activities carried out in Marine Park**

Part 7 outlines restrictions applying to certain activities in the Marine Park, for example, bait netting, fishing or collecting and crabbing.

## **Schedule 1      Zones**

Schedule 1 contains the zoning map for the marine park.

## **Schedule 2      Designated areas**

Schedule 2 contains the designated areas map for the marine park.

## **Schedule 3      Non-conforming uses**

Schedule 3 specifies the area of the marine park, type of non-conforming use and conditions that apply for non-conforming uses of the marine park.

## **Schedule 4      Species restricted for taking or possessing**

Schedule 4 provides a list of the species that are restricted for taking or possessing in the marine park.

## **Schedule 5      Dictionary**

Schedule 5 is the dictionary where relevant terms are defined.

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### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Environmental Protection Agency.

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