



Queensland

# Marine Parks Amendment Regulation (No. 1) 2011

## Explanatory Notes for SL 2011 No. 289

made under the

*Marine Parks Act 2004*

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## General outline

### Short title

*Marine Parks Amendment Regulation (No. 1) 2011.*

### Authorising law

Sections 5 and 150(1) of the *Marine Parks Act 2004*.

### Policy objectives and the reasons for them

*Accreditation of management arrangements and authorisation processes*

The objective is to give effect to section 5(2)(e) of the *Marine Parks Act 2004* ('the Act') which requires that the conservation of the marine environment be achieved through (amongst other things) a coordinated and integrated approach with other agencies and the community and using other environment conservation legislation where appropriate.

Accreditation is one of the key mechanisms under the Act for achieving the above objectives. Part 5 of the *Marine Parks Regulation 2006* ('the Regulation') empowers the chief executive to accredit a corresponding

authority or a departmental instrument, an educational or research institution or a harvest fishery providing the activity covered by the accreditation is not prohibited under the relevant marine park zoning plan and the accreditation is desirable in the interests of managing the marine park. The effect of the accreditation is that a person operating under an accredited instrument and in accordance with the instrument of accreditation will not require a permission to enter or use the marine park or part under the Act.

Recent reform of State legislation has increased the capacity for management arrangements delivered by other agencies or the community or authorisation processes under other Acts to assist in the advancement of the object of the Act. The current accreditation powers under Part 5 of the Regulation do not adequately apply to these circumstances.

Existing accreditation processes also need to be revised to ensure greater public access to accreditation decisions and provide an ability to review, amend or cancel accreditations where the instrument being accredited no longer provides an adequate degree of protection for the marine park or is no longer consistent with the zoning plan for the marine park.

### *Uniform management of State and Commonwealth marine parks*

The objective is to give effect section 5(3) of the Act which states that in conserving marine parks, the State is to maintain, as far as practicable, legislation in line with the Commonwealth *Great Barrier Reef Marine Park Act 1975*.

Queensland is the only Australian State to have a Commonwealth marine park (that is, the Great Barrier Reef Marine Park) directly adjoining its coast. This relationship is significant given that presently more than 85% of the total area of Queensland marine parks lies within or adjacent to the Commonwealth marine park. In the Great Barrier Reef Region, complementary State and Commonwealth legal, administrative and management arrangements have been introduced to deliver a jointly managed permit system to overcome jurisdictional uncertainties. Similar State laws also apply outside the Great Barrier Reef to provide consistent State-wide management of marine parks.

In June 2009, the Prime Minister and Premier of Queensland agreed to continue this unique legal and administrative relationship for the protection and management of State and Commonwealth marine parks ('the *Great Barrier Reef Intergovernmental Agreement*').

The recent review of the *Great Barrier Reef Marine Park Act 1975* resulted in the amendment of decision-making criteria for marine park permissions. Similar amendments are needed to State marine park legislation in order to maintain equivalent management standards and joint management capacity.

### **Achievement of policy objectives**

#### *Accreditation of management arrangements and authorisation processes*

The amendments extend the circumstances for which accreditation may be given to management arrangements and authorisation processes. The amendments will assist in minimising unnecessary restrictions on the community and simplify current legislation and management arrangements applying to the conservation, use and management of marine parks. The level of protection given to particular areas under marine park zoning plans however will not be lowered by the proposed amendments.

The amendments also apply consistent standards for public access to decisions and the review, amendment and cancellation of accreditation decisions.

#### *Uniform management of State and Commonwealth marine parks*

The amendments bring the criteria taken into consideration when deciding applications for marine park permissions into line with similar criteria under Commonwealth marine park legislation. The amendments reinstate the capacity for joint State and Commonwealth management of marine park permissions in the Great Barrier Reef.

### **Consistency with policy objectives of authorising law**

The amendments are consistent with the main objective of the *Marine Parks Act 2004*, that is, the protection and maintenance of the marine environment while allowing for its ecologically sustainable use.

### **Inconsistency with policy objectives of other legislation**

The amendments are consistent with the policy objectives of other legislation and provides for the use of other laws to achieve the conservation of the marine environment.

## **Alternative ways of achieving policy objectives**

### *Accreditation of management arrangements and authorisation processes*

Accreditations generally have the effect of removing the need to hold a marine park permission for particular activities where marine park standards have been adequately met. An alternative to the proposed amendments would be to amend existing marine park zoning plans to remove the requirement to hold marine park permits for those activities. This option, however, usually results in the permanent removal of the legal capacity of the Chief Executive to influence critical decisions affecting the conservation of the environment of a marine park. Similarly, this option does not easily allow the Chief Executive to reinstate existing zoning plan arrangements where management arrangements and authorisation processes are amended in a manner that no longer provides an adequate degree of protection for the marine park or is no longer consistent with the relevant marine park zoning plan.

### *Uniform management of State and Commonwealth marine parks*

The amendment provides the necessary framework to reinstate the ability for the State to jointly administer the marine park permit system with the Commonwealth. There are no other viable alternatives that would achieve this policy objective.

## **Benefits and costs of implementation**

### *Accreditation of management arrangements and authorisation processes*

Marine parks provide conservation and ecosystem services which have direct economic value and positive benefits to society. There are ongoing costs associated with the management of the marine park permit system undertaken by the Department of Environment and Resource Management. The key benefit of implementing an accreditation process is to reduce management costs associated with marine park permissions. This can be achieved without lowering the level of protection given to marine parks or introducing additional costs to business, Government and the community.

### *Uniform management of State and Commonwealth marine parks*

The reinstatement of a complementary State and Commonwealth permit system will enable a single permission to be issued for the State and Commonwealth marine parks of the Great Barrier Reef. This will enable

users of the reef to conduct their business with certainty and in a clear and consistent legal framework, despite significant jurisdictional uncertainty.

### **Consistency with fundamental legislative principles**

The amendments are consistent with fundamental legislative principles.

### **Consultation**

Consultation has been undertaken with the Department of Employment, Economic Development and Innovation, the Department of Local Government and Planning, the Department of the Premier and Cabinet, and the Queensland Office for Regulatory Efficiency. All parties agreed with the proposals put forward to them.

The Queensland Office for Regulatory Efficiency advised that a Regulatory Assessment Statement is not required under Part 5 of the *Statutory Instruments Act 1992*.

### **Reasons for non-inclusion of information**

This explanatory note includes all the information required by section 24 of the *Legislative Standards Act 1992*.

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#### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Environment and Resource Management.