

Marine Parks (Declaration) and Another Regulation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 178

made under the

Fisheries Act 1994

Marine Parks Act 2004

General Outline

Short title

Marine Parks (Declaration) and Another Regulation Amendment Regulation (No. 1) 2015.

Authorising law

Section 223 of the *Fisheries Act 1994*

Sections 9 and 150 of the *Marine Parks Act 2004*

Policy objectives and the reasons for them

The objective of the *Marine Parks (Declaration) and Another Regulation Amendment Regulation (No. 1) 2015* is to revoke a 2.2 hectare area from the Great Sandy Marine Park and the same 2.2 hectare area from the Burrum declared Fish Habitat Area (FHA).

The revocation of this area from the marine park and declared FHA is required to allow for the construction of a public boat ramp facility at Burrum Heads.

Achievement of policy objectives

To achieve its objectives, the amendment regulation will amend Schedule 3 of the *Marine Parks (Declaration) Regulation 2006* to revoke an area of 2.2 hectares from the Great Sandy Marine Park and amend Schedule 3 of the *Fisheries Regulation 2008* to exclude the same 2.2 hectare area from the Burrum declared FHA, to allow for the construction of a public boat ramp facility.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objectives of the *Fisheries Act 1994* and the *Marine Parks Act 2004*.

The main purpose of the *Marine Parks Act 2004* is to provide for conservation of the marine environment. Section 5(2) of the Act identifies a range of elements and objectives that are to be incorporated into a comprehensive and integrated strategy to deliver this main purpose.

The provision of public boat ramp facilities to provide public access to the marine park aligns with the objectives listed in Section 5(2)(f) and (g) of the *Marine Parks Act 2004*. Public boat ramp facilities provide opportunity for public appreciation and enjoyment of the marine environment and are important for facilitating economic and social relationships between marine parks and surrounding areas. As such, recognising and providing for public boat ramp facilities is a consideration for the marine park strategy and is consistent with the objectives of the *Marine Parks Act 2004*.

Public boat ramp facilities can often be designed and located so as to cause minimal impact to the marine park and therefore can be permitted within the boundary of the marine park. However, the specific location requirements for the proposed Burrum Heads public boat ramp facility require a level of permanent impact to part of the Great Sandy Marine Park that cannot be approved. Revocation of part of the marine park is required for construction of the facility to proceed.

Section 9 of the *Marine Parks Act 2004* states that a regulation may revoke the declaration of all or part of the marine park, if the Legislative Assembly has passed a resolution requesting the revocation. A Resolution requesting the revocation of the 2.2 hectare area from the Great Sandy Marine Park for the proposed boat ramp facility was agreed by the Legislative Assembly on 15 October 2015.

Section 150(1) of the *Marine Parks Act 2004* states that the Governor in Council may make a regulation under the Act.

The main purpose of the *Fisheries Act 1994* is, “to provide for the use, conservation and enhancement of the community’s fisheries resources and fish habitats in a way that seeks to-

- (a) apply and balance the principles of ecologically sustainable development; and
- (b) promote ecologically sustainable development”.

Public boat ramps are key facilities for enabling the community to use fisheries resources and fish habitats. Therefore, the development of a public boat ramp is consistent with the main purpose of the *Fisheries Act 1994*. Minimal impact public boat ramps can be approved within any declared FHA. Like the marine park, the proposed Burrum Heads public boat ramp facility requires a level of permanent impact to the declared FHA that cannot be approved. Therefore, revocation of part of the FHA is required for construction of the facility to proceed.

Section 223 of the *Fisheries Act 1994* states that the Governor in Council may make regulations under the Act.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation. It removes the marine park and declared FHA management from the revocation area but does not affect the application of other State laws to this area.

Alternative ways of achieving policy objectives

Alternative design and location options for the proposed Burrum Heads boat ramp facility were investigated with the aim of reducing its impacts to a level that could be approved within both the marine park and declared FHA, without the need for the proposed revocations. To achieve this, a boat ramp site needed to be identified that was suitable for construction of the boat ramp, that had a sufficiently large adjacent area for development of a car-trailer park and that required no reclamation within the marine park and declared FHA. No suitable sites that met these criteria were identified.

A further alternative to revoking part of the Great Sandy Marine Park was to downgrade its zoning within the area of the proposed boat ramp facility, to a zone within which the reclamation for the car-trailer park could theoretically be approved. This marine park zoning downgrade option was not progressed for the following reasons:

- a zoning downgrade would still require an amendment to subordinate legislation (i.e. amendment to the Marine Park (Great Sandy) Zoning Plan 2006);
- it would create inconsistency with the approach that is applied to the 30 existing public boat ramps that adjoin the Great Sandy Marine Park, whereby all of these existing public boat ramps are specifically excluded from the marine park;
- it would result in a large area of reclaimed car-trailer park (dry land) being developed within the marine park boundary; and
- it would be inconsistent with the approach adopted in relation to the declared FHA, where revocation is the only available option, as reclamation is prohibited in all FHA management levels.

Benefits and costs of implementation

The amendments will allow for the construction of a safe and contemporary public boat ramp facility with sufficient car-trailer parking to service the community's requirements. The amendments will enable this facility to be constructed in a location that will optimise its functionality and minimise its future maintenance requirements (e.g. access dredging).

While the amendment will result in the removal of a 2.2 hectare area from the Great Sandy Marine Park and the Burrum declared FHA, the marine habitats and values of this area are not unique and are well represented in other parts of the marine

park and declared FHA. The public boat ramp facility will also provide improved access for the public to use and experience these marine protected areas.

The amendment regulation will not result in the need for additional resources and no appreciable costs to interests from a social, economic or environmental perspective have been identified.

Consistency with fundamental legislative principles

The amendment regulation is consistent with the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

A long history of stakeholder lobbying for improved public boat ramp facilities in Burrum Heads and consultation regarding various boat ramp proposals has occurred since the early 1990s. Focused consultation leading to the amendment regulation commenced in 2012 and was primarily undertaken by the boat ramp proponents, the Department of Transport and Main Roads and the Fraser Coast Regional Council (the Council).

Central to the public consultation was a public meeting convened by the Council and the Department of Transport and Main Roads in February 2014 to present and discuss the proposed boat ramp concept plan, alternatives considered and its requirement for revocation of part of the marine park and declared FHA. The meeting was attended by approximately 300 people from the local community and written submissions on the boat ramp proposal were invited.

The public consultation identified strong support for the boat ramp proposal and minimal concern regarding the required marine park and declared FHA revocations. A number of minor improvements to the final design of the boat ramp facility were implemented as an outcome of the public consultation.

As the key State agencies that will be responsible for the assessment of tenure and development applications of the boat ramp facility following the revocation from the marine park and declared FHA, consultation with the Department of Environment and Heritage Protection, the Department of Agriculture and Fisheries and the Department of Natural Resources and Mines was undertaken. Queensland Treasury was also consulted.

Section 9 of the *Marine Parks Act 2004* requires that an amendment regulation to revoke the declaration of all or part of a marine park may only be made if the Legislative Assembly has passed a resolution requesting the revocation. A motion requesting the revocation of the subject area from the Great Sandy Marine Park was passed by the Legislative Assembly on 15 October 2015. Revocation of part of a declared FHA does not require a motion from the Legislative Assembly.

A notice of the proposed revocation was published in The Courier-Mail and the Fraser Coast Chronicle on 19 September 2015 but did not generate any concern with the proposal.

The Office of Best Practice Regulation (OBPR) within the Queensland Competition Authority was consulted regarding the obligations for a Regulatory Impact Statement (RIS). OBPR advised that a RIS is not required.

All parties agreed with the proposal.

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