

Marine Parks (Commercial Whale Watching Program) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 109

made under the

Marine Parks Act 2004

General Outline

Short title

Marine Parks (Commercial Whale Watching Program) Amendment Regulation 2018

Authorising law

Section 150 of the *Marine Parks Act 2004*.

Policy objectives and the reasons for them

The policy objectives of the *Marine Parks (Commercial Whale Watching Program) Amendment Regulation 2018* (amendment regulation) are to allow the Traditional Owners of the Point Lookout area, the Quandamooka People, commercial whale watching access to the Point Lookout area in Moreton Bay Marine Park.

The amendment will enhance whale watching business opportunities for the Quandamooka People, and will support the North Stradbroke Island community's transition from a mining-based economy to other income sources, which is supported under the North Stradbroke Island Economic Transition Strategy. It will also support Aboriginal business growth, and provide cultural education opportunities in Moreton Bay Marine Park.

Achievement of policy objectives

The change to the Moreton Bay Marine Park whale watching management arrangements is implemented by amendment of section 18 of the *Marine Parks Regulation 2017*. This section will allow granting of one whale watching authority for the Point Lookout area, if the applicant is the registered native title body corporate (currently the Quandamooka Yoolooburrabee Aboriginal Corporation), or a Traditional Owner for all or part of the Point Lookout area whom the registered native title body corporate considers an appropriate person to conduct the whale watching program, and whom the Chief Executive determines to meet other existing requirements of the *Marine Parks Regulation 2017*. If this Traditional Owner is an executive

officer of a corporation, the whale watching authority that includes access to the Point Lookout area may be granted to that corporation.

The amendment regulation includes provisions to ensure that the whale watching authority for the Point Lookout area may only be transferred in accordance with the same requirements as for granting of the authority. As with other marine park authorities, a proposed transfer requires approval of the Chief Executive.

The limitation to one authority will minimise disruption to the long-term humpback whale population monitoring program that occurs from the Point Lookout headland, and land-based tourism whale viewing opportunities.

The amendment regulation maintains the cap of three commercial whale watching authorities for Moreton Bay Marine Park. An authority for whale watching in the Point Lookout area may only be granted to a current commercial whale watching operator for Moreton Bay Marine Park, or to another person, subject to other provisions in the *Marine Parks Regulation 2017*, if there are less than three commercial whale watching authorities in effect for Moreton Bay Marine Park.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objective of the *Marine Parks Act 2004*, which is to provide for conservation of the marine environment. The “conservation”, of the marine environment, is defined in the *Marine Parks Act 2004* to mean “the protection and maintenance of the environment while allowing for its ecologically sustainable use”. This purpose is achieved in a number of ways, including declaration of marine parks and establishing zones, designated and protected areas in these parks; cooperative involvement of interested groups and persons, including members of Aboriginal communities; recognition of the cultural and social relationships between marine parks and other areas; and the application of the precautionary principle in decision-making processes.

Changes to the whale watching access arrangements in the Point Lookout area have been made in consideration of this objective and has included consideration of the conservation of whales, involvement of Traditional Owners in marine park activities (whale watching), consideration of any social impacts on land-based whale watching, and application of the precautionary principle by limiting the commercial access to one whale watching operator only.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with any other legislation.

Benefits and costs of implementation

The amendment regulation will not result in the need for additional government resources. Routine compliance of marine parks authorities (e.g. Commercial Activity Agreements) issued to commercial whale watching operators will continue as per current programs.

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

Targeted stakeholder consultation occurred between 12 and 26 March 2018 on the proposal to allow Quandamooka Yoolooburrabee Aboriginal Corporation whale watching access in the Point Lookout area. Consultation was conducted by letters emailed directly to the two other commercial whale watching companies in Moreton Bay Marine Park – Tangalooma Island Resort and Brisbane Whale Watching; Associate Professor Michael Noad, whale researcher at the University of Queensland; the International Fund for Animal Welfare; Redland City Council and the Department of Agriculture and Fisheries.

Four submissions were received on the proposed whale watching changes. All parties that responded (Associate Professor Michael Noad, Tangalooma Island Resort, Redland City Council and the Department of Agriculture and Fisheries) support the proposal. Brisbane Whale Watching did not comment on the proposal. No submissions opposed the changes. Some minor operational issues were raised during the consultation process, which have been addressed through further discussion with the relevant stakeholder.

The Office of Best Practice Regulation (OBPR) within the Queensland Productivity Commission was consulted regarding the requirement for further analysis or assessment in accordance with *The Queensland Government Guide to Better Regulation* (the Guidelines). OBPR advised that the proposal does not appear to result in significant adverse impacts and therefore no further assessment is required under the Guidelines.

No changes to the amendment regulation were required as a result of the consultation.