

Fisheries (Trinity Inlet Declared Fish Habitat Area) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 211

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries (Trinity Inlet Declared Fish Habitat Area) Amendment Regulation 2018

Authorising law

Sections 120 and 223 of the *Fisheries Act 1994*.

Policy objectives and the reasons for them

The objective of the *Fisheries (Trinity Inlet Declared Fish Habitat Area) Amendment Regulation 2018* (amendment regulation) is to facilitate the Cairns Shipping Development Project (CSDP) by amending the existing exclusion around the Port of Cairns navigation channel in the Trinity Inlet declared Fish Habitat Area (FHA) to allow capital and maintenance dredging of a new navigation channel alignment.

The legislative amendments result from the Coordinator-General's report for the CSDP, which assessed an Environmental Impact Statement (EIS) under the *State Development Public Works Organisation Act 1971*. The Coordinator-General's report recommended that the CSDP proceed with conditions, and that the proponent had provided sufficient information to assess potential changes required to the Trinity Inlet declared FHA. In order for the Department of Environment and Science (the department) to meet the Coordinator-General's report findings, the *Fisheries Regulation 2008* must be amended to allow dredging to occur.

Achievement of policy objectives

To achieve the objectives, the amendment regulation will amend Trinity Inlet declared FHA plan FHA-003 (revision 2) listed in schedule 3 of the *Fisheries Regulation 2008*.

The amendment to the *Fisheries Regulation 2008* will amend the current exclusion from the Trinity Inlet declared FHA around the Port of Cairns navigation channel to allow capital and maintenance dredging of a new navigation channel alignment. These changes will be reflected in a revised Trinity Inlet declared FHA plan (FHA-003 revision 3), which will identify the new navigation channel exclusion area. The changes will allow the developer to lodge applications to undertake dredging of the new navigation channel alignment for the CSDP.

When the FHA was declared in 1998, an exclusion of 100 metres either side of the marked navigation channel was made to cater for future planned expansion of the navigation channel to allow for access by larger vessels. While this exclusion largely caters for the proposed CSDP navigation channel expansion, approximately 7.98 hectares of the channel expansion overlaps with the existing FHA. The amendments to the declared FHA plan will exclude this area from the declared FHA, while adding an equivalent area from the current exclusion area to the declared FHA. There will be no net loss of area from the declared FHA as a result of these amendments to facilitate the new navigation channel alignment.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of the *Fisheries Act 1994* which 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 developments, and
- b) promote ecologically sustainable development.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The amendment regulation does not require additional resources or incur any direct additional costs to the department or other departments. However, there may be associated costs for state agencies and local government in the assessment of future works applications for the CSDP, following the amendments to the shipping channel exclusion area in the declared FHA. No appreciable costs to the community's interests from a social, economic or environmental perspective have been identified. The Coordinator-General's report for CSDP states a number of conditions to manage social and environmental impacts, and the report identifies significant economic and social benefits that will be provided by the CSDP.

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

Community and stakeholder consultation was undertaken by the proponent as part of the EIS process for the CSDP under the *State Development Public Works Organisation Act 1971*. The consultation process involved business and industry groups, port users and tenants, special interest and Indigenous groups, and the general public. Between October 2012 and September 2014, and between March 2016 and May 2017, meetings, briefings, workshops and telephone surveys were carried out with stakeholders and the community. No specific consultation was carried out in relation to the proposed amendments to the declared FHA.

The Coordinator-General found that adequate community engagement had been carried out by the CSDP proponent. A condition was imposed requiring the proponent to prepare a community and stakeholder engagement plan for ongoing engagement activities, to be reviewed and endorsed by the Coordinator-General before commencement of construction.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation within the Queensland Productivity Commission was not consulted in relation to the regulatory proposal. The department applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category G – Regulatory proposals that are of a machinery nature).