

# Marine Parks and Other Legislation Amendment Regulation 2024

Explanatory notes for SL 2024 No. 25

made under the

*Marine Parks Act 2004*

*Fisheries Act 1994*

*State Penalties Enforcement Act 1999*

## General Outline

### Short title

*Marine Parks and Other Legislation Amendment Regulation 2024*

### Authorising law

Section 120 of the *Fisheries Act 1994*

Sections 8 and 150 of the *Marine Parks Act 2004*

Section 165 of the *State Penalties Enforcement Act 1999*

### Policy objectives and the reasons for them

The key policy objective of the *Marine Parks and Other Legislation Amendment Regulation 2024* (Amendment Regulation) is to complement and support the *Marine Parks (Great Sandy) Zoning Plan 2024* by making amendments to the *Marine Parks Regulation 2017*, the *Marine Parks (Declaration) Regulation 2006*, the *Fisheries (General) Regulation 2019* and the *State Penalties Enforcement Regulation 2014*.

Together with the *Marine Parks (Great Sandy) Zoning Plan 2024*, which is subordinate legislation to the *Marine Parks Act 2004* (the Act), the Amendment Regulation assists in achieving the objects of the Act by providing for the conservation of the marine environment in the Great Sandy Marine Park and other State marine parks in Queensland. It also assists in achieving a key purpose of the *Fisheries Act 1994*, that being the use, conservation and enhancement of fish habitats, through revisions made to declared Fish Habitat Areas (FHA). The Department of Environment, Science and Innovation (the department) is responsible for the management of marine parks and FHAs.

The Amendment Regulation commences on 21 May 2024 to coincide with the commencement of the *Marine Parks (Great Sandy) Zoning Plan 2024*.

## ***Marine Parks Regulation 2017***

Amendments to the *Marine Parks Regulation 2017* (the Regulation) are required to complement the *Marine Parks (Great Sandy) Zoning Plan 2024*, and more generally to enhance the department's management capability in all Queensland State marine parks. Transitional provisions are needed to allow for the continuing effect, or otherwise, of various management arrangements that applied to the Great Sandy Marine Park immediately before the commencement of the *Marine Parks (Great Sandy) Zoning Plan 2024* on 21 May 2024. Other amendments to the Regulation are necessary to improve clarity of some definitions, remove redundancy, reduce unnecessary regulatory burden for the holders of permissions and commercial activity agreements and to enable the department to better respond to requests from First Nations peoples for the management of areas of cultural significance within each marine park. These objectives are described in further detail below:

### Providing notice of declarations made under the Regulation

When declaring a restricted access area, prescribed commercial activity or special activity the chief executive needs to inform the public prior to the action being taken. Following amendments to the *Financial Accountability Act 2009* in 2021, notification requirements have changed to provide for more cost-effective means of achieving the same outcome. It is desirable for the Regulation to reflect these changes for consistency and to avoid confusion.

### Return of permissions

The department has adopted an online system to manage permissions, with hardcopy versions no longer issued to permit holders. If a permission is lost and requires replacement or needs to be amended, suspended, cancelled or surrendered, this is done electronically rather than through the exchange of hardcopy permits. Provisions relating to the actions a permit holder and the chief executive must take in these circumstances became redundant when the online system was adopted.

### Term of a commercial activity agreement

A commercial activity agreement issued under the Regulation can be combined with a commercial activity agreement issued under the *Nature Conservation (Protected Areas Management) Regulation 2017* or the *Recreation Areas Management Act 2006*. The policy objective is to ensure that the maximum term for which the chief executive can enter into a commercial activity agreement, can match the maximum term of 15 years provided for by the *Nature Conservation (Protected Areas Management) Regulation 2017* and the *Recreation Areas Management Act 2006*. An inability to match the maximum term creates administrative and potential compliance issues if a combined commercial activity agreement is to be issued.

### Authorisation of access

The Regulation provides the ability for the chief executive to authorise entry into a restricted access area or allow a person to conduct a special activity, by granting either a permission or entering into a commercial activity agreement. The *Nature Conservation (Protected Areas Management) Regulation 2017* has a similar provision, however, it also provides the chief executive the ability to authorise access to a restricted access area or a person to conduct a special activity by written approval. The policy objective is to complement the provisions of the *Nature Conservation (Protected Areas Management) Regulation 2017* as in many locations, marine parks directly adjoin or overlap protected areas declared under the *Nature Conservation Act 1992* and for consistent management, it may be necessary to authorise entry

to a restricted access area that includes both a marine park and an adjoining or overlapping national park.

#### Declaration of a restricted access area

The reasons for establishing a restricted access area under the *Nature Conservation (Protected Areas Management) Regulation 2017* are more comprehensive than in the Regulation. In addition, in many locations, marine parks directly adjoin or overlap protected areas established under the *Nature Conservation Act 1992* and for consistent management, it may be necessary to extend a restricted access area across both a marine park and an adjoining or overlapping national park. The *Nature Conservation (Protected Areas Management) Regulation 2017* includes reasons for declaring a restricted access area based on the need to ensure orderly and proper management, protect infrastructure or equipment for a service and manage a significant Aboriginal area or Torres Strait Islander area that is consistent with tradition. Through the ‘*Gurra Gurra Framework 2020-2026*’, the department has demonstrated a commitment to working in genuine partnership with Queensland’s First Nations people and this extends to the management of marine parks, where the declaration of a restricted access area to manage significant Aboriginal or Torres Strait Islander areas may be beneficial for managing sea Country.

#### Transitional provisions

Various management arrangements or situations involving the authorisation of activities that applied to the Great Sandy Marine Park immediately before the commencement of the *Marine Parks (Great Sandy) Zoning Plan 2024* on 21 May 2024 require a legislative framework to allow them to continue, or cease to continue, to minimise disruption and administrative burden for the department and permit holders or to maintain ongoing protection of the marine environment. These are:

- a regulatory notice, restricted access area notice or special activity notice;
- a permission or commercial activity agreement that is either consistent or inconsistent with the *Marine Parks (Great Sandy) Zoning Plan 2024*;
- an application in progress for a permission or commercial activity agreement;
- a commercial activity agreement expression of interest process.

#### Dictionary

The definition of ‘marine resource’ contains a typographical error. Coral as a material in its own right was not intended to be listed as a type of material making up the seabed. The policy intent when the Regulation was prepared was to match the definition with ‘marine product’ used in the Commonwealth’s legislation to manage the Great Barrier Reef Marine Park, where coral is an adjective to describe a form of limestone, i.e. coral limestone.

#### ***Marine Parks (Declaration) Regulation 2006***

##### The area of Great Sandy Marine Park

A key purpose of the *Marine Parks (Declaration) Regulation 2006* is to declare and define the outer boundaries of Queensland’s state marine parks.

When the Great Sandy Marine Park was declared in 2006, the area of the park was described by reference to a statutory plan. The statutory plan is a low-resolution mapping product, largely based on a version of the coastline that showed navigable waterways rather than all tidal lands and waters. As such, when the outer boundary of the area of the marine park as shown on the statutory plan is compared to contemporary coastline mapping and imagery, it

does not incorporate the full extent and complexity of the tidal land and waters in various estuaries and waterways that were intended to be included within the marine park as per the original policy intent for declaration of the Great Sandy Marine Park.

Furthermore, the statutory plan is inaccurate, illogical and difficult to interpret at the scale required to support use of the marine park, management and enforcement activities. Many of the boundaries shown on the plan do not consistently align with easily identifiable and describable features, and the use of a fixed boundary drawn at a point in time does not accommodate the dynamic nature of the coast and waterways within many parts of the marine park which are constantly being reshaped by coastal processes. Continued use of this plan would compromise the intent of the marine park to conserve the marine environment up to the level of highest astronomical tide. As such a more contemporary method of describing the area of the marine park is required.

Continued use of the statutory plan would also compromise a key policy objective of the review of the *Marine Parks (Great Sandy) Zoning Plan 2017*, to work with the Butchulla Native Title Aboriginal Corporation, and respect their aspirations for the inclusion of the tidal portions of land parcels afforded exclusive native title rights in the Determination of the Butchulla People Land and Sea Claim #2, within the marine park.

#### Transitional provisions

In 2006 when the former Hervey Bay and Woongarra Marine Parks were repealed and the areas covered by these marine parks were incorporated into the Great Sandy Marine Park, transitional provisions relating to permissions and authorised activities were included in the Declaration Regulation. All except one (section 19) of these transitional provisions are redundant and no longer required.

A new transitional provision is required to give effect to any development approvals in place for tidal land located outside the marine park which on commencement of the Amendment Regulation will be included within the Great Sandy Marine Park. The policy intent is that the development approval will prevail regardless of the zone type assigned to the area under the *Marine Parks (Great Sandy) Zoning Plan 2024* and the associated entry or use provisions, to acknowledge that prior to 21 May 2024, the person obtained the relevant development approval required at the time for the development.

### ***Fisheries (General) Regulation 2019***

#### Fish Habitat Areas

FHAs are a form of marine protected area that are declared and managed under the provisions of the *Fisheries Act 1994*, with the objective of protecting key areas of inshore and coastal fish habitats along the Queensland coast from the impacts of coastal development. The department is responsible for declared FHAs and manages them in conjunction with its responsibilities for the management of the State's network of marine parks.

There are 11 declared FHAs that overlap parts of the Great Sandy Marine Park. These are Baffle Creek, Beelbi, Burrum, Elliott River, Kauri Creek, Kinkuna, Kolan River, Fraser Island, Maaroom, Susan River, and Tin Can Inlet FHAs. To support the implementation of measures to better address coastal management issues identified during the review of the *Marine Parks (Great Sandy) Zoning Plan 2017* and to improve management complementarity more broadly between declared FHAs and the marine park, two key

objectives of the zoning plan review, a number of changes to the declared FHAs that overlap the Great Sandy Marine Park are required.

### ***State Penalties Enforcement Regulation 2014***

#### Penalty Infringement Notice Offences

The State Penalties Enforcement Regulation 2014 (the SPE Regulation) is subordinate legislation to the *State Penalties Enforcement Act 1999*, enacted to create the State Penalties Enforcement Registry. Schedule 1 of the SPE Regulation prescribes penalty infringement notice (PIN) offences and fines for nominated laws, including the Act, the Regulation and the Moreton Bay and Great Sandy Marine Park Zoning Plans.

PIN offences are an alternative to prosecution through the court system. The prescription of penalty infringement notice penalty values for zoning plan offences meet the objects of the *State Penalties Enforcement Act 1999* by allowing a cost-effective method of enforcement and administrative efficiency.

Ensuring that maximum penalties for offences reflect the environmental consequences of non-compliance was a policy objective during the review of the *Marine Parks (Great Sandy) Zoning Plan 2017*. A detailed analysis of the penalties that apply to each offence outlined in that zoning plan and new offences prescribed in the *Marine Parks (Great Sandy) Zoning Plan 2024* was undertaken, along with an analysis of the corresponding PIN penalty values.

## **Achievement of policy objectives**

To achieve the range of policy objectives, the Amendment Regulation:

### **Amends the *Marine Parks Regulation 2017* in relation to:**

#### Providing notice of declarations made under the Regulation

When declaring a restricted access area, prescribed commercial activity or special activity the chief executive needs to inform the public prior to the action being taken. The change to sections 122, 126 and 130 of the Regulation reflects contemporary notification practices and ensures the notification process is consistent with the *Financial Accountability Act 2009*. The changes will require the chief executive to publish notices about these proposed actions on the department's website and will also provide the ability, if necessary, to publish the notices in other ways where it would be reasonably likely to come to the attention of a person who may be interested in making a submission about the proposed declaration, rather than publishing a notice in a newspaper. Publication in a newspaper will still be an option if deemed appropriate.

The definition of the term 'public notice' in Schedule 6 of the Regulation is retained to apply to those sections of the Regulation that require an applicant to provide public notice of an intended activity requiring an application for a permission or an agreement.

#### Return of permissions

As all activity relating to the amendment, suspension, cancellation, surrender or replacement of permissions is done electronically via the department's online system, the redundant provisions relating to the return of permissions to the chief executive have been removed.

#### Term of a commercial activity agreement

The change to section 74 to allow a commercial activity agreement to be issued for a maximum term of up to 15 years will match the provisions of the *Nature Conservation (Protected Areas Management) Regulation 2017* and the *Recreation Areas Management Act 2006* and alleviate the administrative and potential compliance issues if a combined commercial activity agreement is issued.

#### Authorisation of access

The inclusion of additional sections (123A and 131A) and changes to sections 124 and 132 of the Regulation will provide the chief executive with the option to issue a written approval for a person to enter a restricted access area or conduct a special activity, in addition to granting a permission or entering into a commercial activity agreement.

Before issuing written approval for entry into a restricted access area the chief executive will be required to consider whether entry to the area is necessary:

- for a purpose mentioned in the Regulation;
- to carry out activities related to the management of the area; or
- because of urgency, it would be impracticable for the person to be required to enter or use the area under a permission or commercial activity agreement.

For a special activity the chief executive will be required to consider whether:

- it is necessary or appropriate for a person to conduct a special activity declared under a special activity notice; and
- because of urgency, it would be impracticable for the person to be required to conduct the activity under a permission or commercial activity agreement.

#### Declaration of a restricted access area

The change to section 121 of the Regulation adapts the reasons for which a restricted access area can be declared under the *Nature Conservation (Protected Areas Management) Regulation 2017* to be suitable for marine parks and in doing so implements the specific recognition of the potential need to protect areas of significance to First Nations peoples in marine parks, and more generally improve management efficiency, especially in cases where management actions need to be consistent in a marine park and adjoining (or overlapping) national park.

#### Transitional provisions

Changes to Part 12 Division 1 of the Regulation provide new transitional provisions for matters in the Regulation that pertain to Great Sandy Marine Park, to allow for the continuing effect, or otherwise, of the following management arrangements or permitting situations that applied to the Great Sandy Marine Park immediately before the commencement of the *Marine Parks (Great Sandy) Zoning Plan 2024* on 21 May 2024:

- a regulatory notice, restricted access area notice or special activity notice;
- a permission or commercial activity agreement that is either consistent or inconsistent with the *Marine Parks (Great Sandy) Zoning Plan 2024*;
- an application in progress for a permission or commercial activity agreement; and
- a commercial activity agreement expression of interest process.

The new transitional provisions in the Regulation are in addition to transitional provisions in the *Marine Parks (Declaration) Regulation 2006* and the *Marine Parks (Great Sandy) Zoning Plan 2024*.

### Dictionary

The following terms in the Dictionary of the Regulation have been amended:

‘Marine resource’ – to indicate that coral limestone is a type of marine resource, rather than coral and limestone individually.

‘Unzoned marine park’ and ‘zoned marine park’ – to reflect a more contemporary drafting style.

### **Amends the *Marine Parks (Declaration) Regulation 2024* in relation to -**

#### The area of Great Sandy Marine Park

Significant amendments to Schedule 3 of the Declaration Regulation change the method used to describe the area (the outer boundary) of the Great Sandy Marine Park. The change replaces a reference to a statutory plan (MP1) with a ‘metes and bounds’ description, as used for the Moreton Bay and Great Barrier Reef Coast Marine Parks.

The ‘metes and bounds’ description achieves the policy objective of incorporating the full extent and complexity of the tidal land and waters in various estuaries and waterways that were intended to be included within the marine park as per the original intent for declaration of the Great Sandy Marine Park in 2006. Schedule 3 defines the outer boundary in most locations by referencing H.A.T. (highest astronomical tide), thereby accommodating the dynamic nature of the coastal environment. It also extends the offshore outer boundary of the marine park to align with a separate revision by the Commonwealth and State governments, of the extent of Queensland coastal waters. An expansion of the marine park boundary around Sandy Cape at the north-eastern end of K’gari and along the eastern boundary south to Double Island Point indicates the true extent of Queensland coastal waters in this area and further reflects the intent of the original declaration of the marine park which was to include tidal land and tidal waters, to the offshore limit of Queensland State (i.e. coastal) waters, between Double Island Point and Baffle Creek. The amendment to the marine park’s outer boundary adds approximately 400km<sup>2</sup> to the total area of the marine park, in comparison to the statutory plan.

However, the ‘metes and bounds’ description of the outer boundary also revokes several small areas from the Great Sandy Marine Park totalling 0.26km<sup>2</sup>. These revocations result from the adoption of clear and practical upstream boundaries to the marine park in the Mary River, Kolan River and Snapper Creek, and from the exclusion of the area under and within 30 metres of 12 existing public boating infrastructure (boat ramps, jetties and pontoons) from the Great Sandy Marine Park.

Overall, the change to Schedule 3 provides an accurate, logical and easy to interpret description of the outer boundary of Great Sandy Marine Park to better support use of the marine park, management and enforcement activities.

The latitudes and longitudes used in the ‘metes and bounds’ description of Great Sandy Marine Park in Schedule 3 use the Geocentric Datum of Australia 2020 (GDA2020). The use of this datum meets a Queensland Government policy objective to transition spatial information in use throughout Queensland from previously used datums to GDA2020, the current national geodetic datum adopted for Australia.

Schedule 3 makes reference to the boundaries of various declared FHA to assist in the description of the outer boundary of Great Sandy Marine Park. The location of these declared FHA boundaries is a reference to their position as at the commencement of the Amendment Regulation.

The change to Schedule 3 also supports the policy objective to honour the request of the Butchulla Native Title Aboriginal Corporation, for the marine park to include all tidal lands within parcels afforded exclusive native title rights in the Determination of the Butchulla People Land and Sea Claim #2.

#### Transitional provisions

The Amendment Regulation removes all (except one) of the transitional provisions included in the Declaration Regulation when the former Hervey Bay and Woongarra Marine Parks were repealed and the areas covered by these marine parks were incorporated into the Great Sandy Marine Park in 2006. This is implemented by omitting Part 5 and inserting a new Part 4. The key purpose of Part 4 is to preserve section 19 as it was before the commencement of the Amendment Regulation, despite its repeal by the omission of Part 5. This transitional provision relates to the continuing effect of any development approvals issued under the repealed *Integrated Planning Act 1997* and in effect on 1 August 2006, that authorised a person to enter or use an area within the Great Sandy Marine Park. The provision allows the person to continue to enter or use the marine park without a permission issued under the *Marine Parks Regulation 2017* until the development approval lapses.

A new transitional provision in Part 4 will give effect to any development approvals that are in place for land located outside the marine park which on commencement of the Amendment Regulation will be included within the Great Sandy Marine Park. The development approval will prevail regardless of the zone type assigned to the area under the *Marine Parks (Great Sandy) Zoning Plan 2024* and the associated entry or use provisions. This achieves a policy objective of acknowledging that prior to 21 May 2024, the person obtained the relevant development approvals required at that time and ensures that a person can continue to undertake works (for example the construction of a jetty or revetment wall) in compliance with the requirements of the *Planning Act 2016* or the repealed *Sustainable Planning Act 2009*.

#### **Amends the *Fisheries (General) Regulation 2019* in relation to –**

##### Fish Habitat Areas

Amendments to Schedule 3 of the *Fisheries (General) Regulation 2019* (and each corresponding FHA statutory plan shown on the department's website) implement the changes required to 11 declared FHAs to improve management consistency and complementarity between these declared FHAs and the Great Sandy Marine Park. The *Fisheries (General) Regulation 2019* is subordinate legislation to the *Fisheries Act 1994*, and provides for the use and management of Queensland's fisheries resources and fish habitats, in accordance with the objectives of the *Fisheries Act 1994*.

Boundaries and/or the management level in various parts of the 11 declared FHAs have been modified to deliver the following outcomes:

- more accurately identify the location and extent of existing exclusion areas around water inlet/discharge structures of two existing aquaculture facilities (Baffle Creek and Elliott River);
- facilitate the ability for local councils to better manage emerging issues in response to climate change e.g. through coastal protection /beach nourishment works, adjacent to a number of development nodes and high use public areas (various FHAs);
- improved alignment with the Great Sandy Marine Park outer boundary or individual zone boundaries in several locations (various FHAs);
- more accurately define or modify exclusion corridors for an existing water pipeline (Elliott River) and an electricity transmission line (Tin Can Inlet FHA);
- exclude an area adjacent to a road to allow for future road upgrades (Tin Can Inlet FHA);
- exclude an area adjacent to an existing excluded navigation channel to allow for its future upgrade (Maaroom FHA);
- exclude the area around several public jetties and boat ramp facilities to align with areas excluded from Great Sandy Marine Park, to simplify their ongoing maintenance (various FHAs) and allow for future upgrade, in particular at Poona (Maaroom FHA);
- address a buoy mooring management issue (Susan River FHA);
- Change the name of the Fraser Island FHA to K'gari FHA to reflect the legal name change of Fraser Island to K'gari that came into effect on 7 June 2023;
- more accurately reflect the limit of Queensland coastal waters at the northern end of K'gari (K'gari FHA); and
- more clearly identify which land parcels, or portions of land parcels, that are included or excluded from various FHAs.

**Amends the *State Penalties Enforcement Regulation 2014* in relation to -**

Penalty Infringement Notice Offences

Amendments to Schedule 1 of the *State Penalties Enforcement Regulation 2014* (SPE Regulation) prescribe a Penalty Infringement Notice (PIN) value for each of the 26 offences in the *Marine Parks (Great Sandy) Zoning Plan 2024* in accordance with the '*Guidelines for the prescription of penalty infringement notice offences under the State Penalties Enforcement Regulation 2014*'. Several offences have been carried over from the repealed *Marine Parks (Great Sandy) Zoning Plan 2017* and others are new, being the result of special management provisions being introduced for new designated areas established within the marine park or new management provisions to protect the natural and cultural resources of the marine park provided for in the zoning plan.

The amendments also remove the PIN value for those offences under the *Marine Parks Regulation 2017* that pertain to the return of a permission to the chief executive for permissions that are either amended, suspended or cancelled, as these are no longer required.

In combination with the maximum penalties contained in the *Marine Parks (Great Sandy) Zoning Plan 2024*, the corresponding PIN values in the SPE Regulation:

- ensures each PIN value is less than 10% of the maximum penalty prescribed for the offence in line with the Department of Justice and the Attorney-General's *Guidelines for*

*the prescription of penalty infringement notice offences under the State Penalties Enforcement Regulation 2014;*

- provides an indication to the courts and potential offenders of the serious nature of each offence and the consequences that the offences are likely to have on the long-term survival of several species, many of which are listed as threatened under State and/or Commonwealth legislation;
- ensures consistency of approach with the penalties applied to other offences involving threatened species administered by the department; and
- ensures consistency of approach with similar environmental offences in the Queensland Statute book.

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

The Amendment Regulation is consistent with the policy objectives of:

- The *Marine Parks Act 2004* to conserve the marine environment which is to be achieved by, among other things the declaration of marine parks, a co-ordinated and integrated approach with other environment conservation legislation and enforcing compliance with the Act.

Amendments to Schedule 3 of the Declaration Regulation, give effect to the Legislative Assembly's resolution of 11 October 2023 which requested the Governor-in-Council revoke by regulation, several small areas from the Great Sandy Marine Park. The revocations have been made in accordance with sections 9 and 10 of the *Marine Parks Act 2004*.

- The *Fisheries Act 1994* to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to apply and balance the principles of ecologically sustainable development.
- The *State Penalties Enforcement Act 1999* to maintain the integrity of fines as a viable sentencing or punitive option for offenders and reducing the cost to the State of enforcing fines and other money penalties. The Amendment Regulation is also consistent with section 165 of this Act which allows for a regulation to prescribe an offence to be an infringement notice offence and to provide for an infringement notice fine. Penalty infringement notice offences are an alternative to prosecution through the court system, providing an appropriate and proportionate response to the offending behaviour.

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

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

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

There are no alternative ways of achieving the policy objectives. It is essential the *Marine Parks and Other Legislation Amendment Regulation 2024* is made in order to support implementation of the *Marine Parks (Great Sandy) Zoning Plan 2024*, to achieve

conservation and management objectives of the marine environment in the Great Sandy Marine Park and to continue to support the management of 11 declared Fish Habitat Areas, whilst also removing redundant legislative provisions and improving the management of marine parks in Queensland more generally.

## **Benefits and costs of implementation**

### ***Amendments to the Marine Park Regulation 2017***

The amendments to the Regulation complement and support the provisions in the *Marine Parks (Great Sandy) Zoning Plan 2024* and will enhance the department's management capabilities and administration of all State marine parks including Great Sandy Marine Park. The inclusion of additional reasons for declaring a restricted access area will enable the department's ability to better respond to requests from First Nations peoples for the management of areas of cultural significance and protection of cultural resources, including, for instance, the Butchulla Peoples' areas of Exclusive Native Title in Great Sandy Marine Park. Each amendment to the Regulation has been assessed as minor and machinery in nature in accordance with *The Queensland Government Better Regulation Policy* and there are no costs associated with implementing these amendments.

### ***Amendments to the Marine Park (Declaration) Regulation 2006***

Amendments to the Declaration Regulation ensure that the outer boundary of the Great Sandy Marine Park is defined in such a way that the accuracy and public awareness of the extent of the marine park is improved. A written 'metes and bounds' description that defines the outer boundary in most locations as the location of H.A.T. (highest astronomical tide) addresses inaccuracies of the statutory plan, better accommodates the dynamic nature of coastal and estuarine environments and recognises and respects the native title rights and interests of First Nations peoples. The change brings the description of the marine park in line with the other two Queensland marine parks - the Moreton Bay and Great Barrier Reef Coast Marine Parks.

Users of the marine park will find the 'metes and bounds' description logical, consistent and relatively simple to locate on the ground and it will support the production of digital maps for use in products such as fishing and marine park "apps" and navigational software. This will promote user understanding of the extent of the park and support compliance with marine park management. The revised description of the outer boundary will better align with other publicly available mapping layers such as aerial imagery and cadastral / property boundaries and more easily integrate with the boundaries of other planning instruments e.g. local government planning schemes. Public boat ramps will continue to be excluded from the marine park, to maintain the reduced regulatory impost for managing agencies undertaking maintenance and upgrades of this infrastructure. The realignment of the outer boundary in the Kolan River and Snapper Creek avoids significant public infrastructure (a rail corridor, weir and sewage treatment plant) within or immediately adjacent to the marine park in its upstream extents in the waterways. In each of these waterways, and the Mary River, the boundary has moved downstream a short distance to link to definable features for ease of interpretation.

The retention of section 19, and inclusion of a new transitional provision relating to existing development approvals in place for areas that were outside the Great Sandy Marine Park prior

to 21 May 2024, provide certainty to the holders of these approvals to be able to commence or continue with works related projects, with no risk that the regulatory framework of the marine park would constrain the activity or impose additional conditions or costs.

### ***Amendments to the Fisheries (General) Regulation 2019***

Amendments to boundaries shown on the statutory maps and the written descriptions included in Schedule 3 of the *Fisheries (General) Regulation 2019* for each of the 11 declared FHAs in Great Sandy Marine Park ensures that marine park zone boundaries and declared FHA boundaries align where required to provide more consistent management across these marine protected areas. This outcome will provide greater certainty to proponents about likely outcomes of development applications under different assessment processes and consistent messaging to the business community about appropriate development in particular places within the marine park.

Changing the management level of parts of various FHAs allows for improved outcomes especially in relation to managing climate change impacts and the delivery of public infrastructure. This will provide broad community benefit by supporting necessary coastal development works by local councils, for example, works necessary to protect eroding foreshore areas, enhance coastal community assets and facilitate public and private access to Great Sandy Marine Park and the FHAs. There are no costs involved in implementing the amendments.

### ***Amendments to the State Penalties Enforcement Regulation 2014***

The PIN values prescribed in Schedule 1 of the SPE Regulation for offences in the *Marine Parks (Great Sandy) Zoning Plan 2024* ensure that an administrative penalty for each offence is an appropriate and proportionate response to the offending behaviour, and assists in the maintenance and integrity of fines as an option for offenders. Each PIN will act as an effective deterrent to possible offenders and reduce the number of offences prosecuted in court. Amendments to Schedule 1 of the SPE Regulation have been assessed as machinery in nature in accordance with *The Queensland Government Better Regulation Policy* and there are no costs associated with implementing these amendments. Costs are incurred by persons found to be in breach of zoning plan provisions.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with the fundamental legislative principles prescribed in section 4 of the *Legislative Standards Act 1992* that aim to ensure that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

## **Consultation**

### ***Amendments to the Marine Parks Regulation 2017***

In accordance with *The Queensland Government Better Regulation Policy* an Impact Analysis Statement was prepared for the proposed changes to the *Marine Parks Regulation 2017*. Each of the proposed amendments to the Marine Parks Regulation were assessed as minor and machinery in nature. The Office of Best Practice Regulation was notified that the

proposed changes represent the most viable option to address the issues described above, that they are minor and machinery nature and that no further regulatory impact analysis was required.

***Amendments to the Marine Parks (Declaration) Regulation 2006***

As part of the statutory review of the *Marine Parks (Great Sandy) Zoning Plan 2017*, a Consultation Regulatory Impact Statement (CRIS) was released for broad public consultation between 23 September and 23 October 2022. The CRIS provided an outline of the proposed change to the description of the marine park's outer boundary to be a 'metes and bounds' description.

No specific feedback was received from the community or stakeholders on the proposed description of the outer boundary of Great Sandy Marine Park. The Decision Regulatory Impact Statement (RIS) released in July 2023 confirmed that the outer boundary of the marine park would be described using 'metes and bounds'.

The transitional provisions related to development approvals in areas that were outside the Great Sandy Marine Park prior to 21 May 2024 are enabling provisions identified during the drafting process of the Amendment Regulation. No specific consultation was undertaken or required to be undertaken on this amendment.

***Amendments to the Fisheries (General) Regulation 2019***

Under the Administrative Arrangements Order (No. 2) 2023 the Minister for the Environment and the Great Barrier Reef and Minister for Science and Innovation is responsible for the *Fisheries Act 1994* (and hence subordinate legislation) to the extent that it relates to FHAs. The Department of Agriculture and Fisheries (DAF), and the Queensland Boating and Fisheries Patrol, provide development assessment and compliance services for FHAs on behalf of the Department of Environment, Science and Innovation under a Memorandum of Understanding.

The CRIS released as part of the review of the *Marine Parks (Great Sandy) Zoning Plan 2017*, described changes required to the declared FHAs within the marine park. The changes were strongly supported by the community and stakeholders and subsequently detailed in the Great Sandy Marine Park Zoning Plan Decision RIS.