



New South Wales

# Marine Estate Management (Management Rules) Amendment Regulation 2020

under the

Marine Estate Management Act 2014

[*The following enacting formula will be included if this Regulation is made—*]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Marine Estate Management Act 2014*.

Minister for Agriculture and Western New South Wales

## Explanatory note

The objects of this Regulation are as follows—

- (a) to rezone certain areas within the Batemans Marine Park from sanctuary zone to habitat protection zone,
- (b) to provide for the permitted and prohibited fishing activities in those areas,
- (c) to make amendments of a law revision nature.

This Regulation is made under the *Marine Estate Management Act 2014*, including sections 39, 40, 42 and 83 (the general regulation-making power).

Marine Estate Management (Management Rules) Amendment Regulation 2020 [NSW]

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## **Marine Estate Management (Management Rules) Amendment Regulation 2020**

under the

Marine Estate Management Act 2014

### **1 Name of Regulation**

This Regulation is the *Marine Estate Management (Management Rules) Amendment Regulation 2020*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Marine Estate Management (Management Rules) Regulation 1999

**[1] Clause 1.3 Definitions**

Insert in alphabetical order in clause 1.3(1)—

*drift line* has the same meaning as in clause 44 of the *Fisheries Management (General) Regulation 2019*.

*extensive aquaculture* has the same meaning as in the *Fisheries Management (Aquaculture) Regulation 2017*.

*hand held line* has the same meaning as in clause 43 of the *Fisheries Management (General) Regulation 2019*.

*intensive aquaculture* has the same meaning as in the *Fisheries Management (Aquaculture) Regulation 2017*.

*landing net* means a landing net as described in the *Fisheries Management (General) Regulation 2019*.

*scoop net* means a dip or scoop net (prawns) as described in the *Fisheries Management (General) Regulation 2019*.

**[2] Clause 1.3(1)**

Omit the definition of *set line*. Insert instead—

*set line* has the same meaning as in the *Estuary General Share Management Plan*, as set out in the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006*.

**[3] Clause 1.17 Limited fishing activities in habitat protection zone**

Omit clause 1.17(4) (excluding the note).

**[4] Clause 2.1 Definitions**

Omit “*Fisheries Management (General) Regulation 1995*” from clause 2.1(2).

Insert instead “*Fisheries Management (General) Regulation 2019*”.

**[5] Clause 2.1(2), note**

Omit the note.

**[6] Clauses 3.1(1), 5.1, 6.1(1) and 7.1(1)**

Omit the definitions of *extensive aquaculture* and *intensive aquaculture* wherever occurring.

**[7] Clauses 6.13, 6.17(1) and (3), 6.21, 6.28, 7.10 and 7.13(4)**

Omit “*Fisheries Management (Aquaculture) Regulation 2007*” wherever occurring.

Insert instead “*Fisheries Management (Aquaculture) Regulation 2017*”.

**[8] Part 4, Division 9, Tables A and C and clauses 5.8, note, 6.1(2), 6.10, note, 7.1(2) and 7.8, note**

Omit “*Fisheries Management (General) Regulation 2002*” wherever occurring.

Insert instead “*Fisheries Management (General) Regulation 2019*”.

**[9] Clause 5.1 Definitions**

Omit the definitions of *hand held line*, *landing net* and *scoop net*.

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**[10] Clause 6.1 Definitions**

Omit the definition of *hand held line*.

**[11] Clause 7.2 Description of sanctuary zones**

Omit the matter relating to Brou Lake South sanctuary zone, Clarks Bay–Freshwater Bay sanctuary zone, Forsters Bay sanctuary zone, Nangudga Lake sanctuary zone, Montague Island East sanctuary zone and Montague Island South sanctuary zone.

**[12] Clause 7.6 Description of habitat protection zones**

Insert in appropriate order—

**Brou Lake South habitat protection zone**

An area bounded as follows—

the whole of the tidal waters and tidal lands to the mean high water mark of Brou Lake and its creeks, bays and tributaries upstream of the line between—

- (a) the point on the mean high water mark nearest to 36°07.960'S, 150°06.714'E, on the western bank of Brou Lake, and
- (b) the point on the mean high water mark nearest to 36°07.969'S, 150°06.775'E, on the eastern bank of Brou Lake.

**Clarks Bay–Freshwater Bay habitat protection zone**

An area bounded as follows—

- (a) commencing on the northern shore of Clarks Bay at the point on the mean high water mark nearest to 36°12.674'S, 150°06.161'E,
- (b) then due south to 36°12.887'S, 150°06.161'E,
- (c) then generally south-west to 36°13.455'S, 150°05.530'E,
- (d) then due west to the point on the mean high water mark nearest to 36°13.455'S, 150°05.278'E,
- (e) then generally north-east along the mean high water mark to the point of commencement,

but not including the Black Bream Point habitat protection zone, the Clarks Bay habitat protection zone or the Freshwater Bay habitat protection zone as described in this Division.

**Forsters Bay habitat protection zone**

An area bounded as follows—

the whole of the tidal waters and tidal lands to the mean high water mark of Forsters Bay and its creeks, bays and tributaries upstream of the line between—

- (a) the point on the mean high water mark nearest to 36°13.578'S, 150°06.900'E, on the northern bank of Forsters Bay, and
- (b) the point on the mean high water mark nearest to 36°13.761'S, 150°06.809'E, on the southern bank of Forsters Bay.

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## **Nangudga Lake habitat protection zone**

The whole of the tidal waters and tidal lands to the mean high water mark of Nangudga Lake and its creeks, bays and tributaries upstream of a line between—

- (a) the point on the mean high water mark on the south-eastern shore of the entrance to Nangudga Lake nearest to 36°15.139'S, 150°08.673'E, and
- (b) the point on the mean high water mark on the north-western shore of the entrance to Nangudga Lake nearest to 36°15.139'S, 150°08.601'E.

## **Montague Island East habitat protection zone**

An area bounded as follows—

- (a) commencing on the eastern coast of Montague Island at the point on the mean high water mark nearest to 36°14.678'S, 150°13.846'E,
- (b) then due south for a distance of approximately 546 metres to the eastern-most point of Montague Island at the point on the mean high water mark nearest to 36°14.973'S, 150°13.846'E,
- (c) then generally north along the mean high water mark of the eastern coast of Montague Island to the point of commencement.

## **Montague Island South habitat protection zone**

An area bounded as follows—

- (a) commencing on the south-eastern coast of Montague Island at the point on the mean high water mark nearest to 36°15.243'S, 150°13.793'E,
- (b) then due east for a distance of approximately 1.6 kilometres to 36°15.243'S, 150°14.848'E,
- (c) then due south for a distance of approximately 1.7 kilometres to 36°16.143'S, 150°14.848'E,
- (d) then due west for a distance of approximately 1.9 kilometres to 36°16.143'S, 150°13.607'E (a point due south of the southern-most extremity of Montague Island),
- (e) then due north to the southern-most extremity of Montague Island at the point on the mean high water mark nearest to 36°15.558'S, 150°13.607'E,
- (f) then generally south-east then north along the mean high water mark of the southern coast of Montague Island to the point of commencement.

### **[13] Clause 7.6**

Omit “Clarks Bay–Freshwater Bay sanctuary zone or the Forsters Bay sanctuary zone as described in Division 2” from the matter relating to Wagonga Inlet habitat protection zone.

Insert instead “Clarks Bay–Freshwater Bay habitat protection zone or the Forsters Bay habitat protection zone as described in this Division”.

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**[14] Clause 7.6**

Omit “but not including the Nangudga Lake sanctuary zone or the Bullengella Lake sanctuary zone as described in Division 2” from the matter relating to Bullengella Beach–Loader Beach habitat protection zone.

Insert instead “but not including the Bullengella Lake sanctuary zone as described in Division 2 or the Nangudga Lake habitat protection zone as described in this Division”.

**[15] Clause 7.6**

Omit “, the Montague Island East sanctuary zone, the Montague Island South sanctuary zone, the Nangudga Lake sanctuary zone” from paragraph (g) of the matter relating to Montague Island habitat protection zone.

**[16] Clause 7.6**

Insert “the Montague Island East habitat protection zone, the Montague Island South habitat protection zone, the Nangudga Lake habitat protection zone,” after “the Bullengella Beach–Loader Beach habitat protection zone,” in paragraph (h) of the matter relating to Montague Island habitat protection zone.

**[17] Clause 7.9 Prohibited fishing activities**

Insert after clause 7.9 (5)—

- (6) Subject to subclause (7), a person must not, while in the Brou Lake South habitat protection zone, engage in a fishing activity specified in clause 1.17(1) or 7.8(2).
- (7) A person may, while in the Brou Lake South habitat protection zone, take fish of a kind that may lawfully be taken in the habitat protection zone for recreational purposes by use of the following, providing the person takes immediate steps following the taking of a fish to return it, with the least possible injury, to the waters from which it was taken—
  - (a) a hook and hand held line,
  - (b) a landing net.
- (8) A person must not, while in the Clarks Bay–Freshwater Bay habitat protection zone—
  - (a) engage in a fishing activity specified in clause 7.8(2), or
  - (b) take or attempt to take fish other than for recreational purposes.
- (9) A person must not, while in the Forsters Bay habitat protection zone—
  - (a) engage in a fishing activity specified in clause 7.8(2), or
  - (b) take or attempt to take fish other than for recreational purposes.
- (10) A person must not, while in the Nangudga Lake habitat protection zone, do any of the following—
  - (a) engage in a fishing activity specified in clause 7.8(2),
  - (b) take or attempt to take fish by hand,
  - (c) take or attempt to take fish other than for recreational purposes,
  - (d) take or attempt to take fish by use of a spear gun.
- (11) A person must not, while in the Montague Island East habitat protection zone, do any of the following—
  - (a) engage in a fishing activity specified in clause 7.8(2)(a), (b), (c) or (d),

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- (b) take or attempt to take fish by use of a fish trap,
- (c) take or attempt to take fish by use of an eel trap,
- (d) take or attempt to take fish other than for recreational purposes.

**Note.** The taking of fish in a habitat protection zone of the marine park is subject to the provisions of the *Fisheries Management Act 1994* and the regulations under that Act. Under clause 38 of the *Fisheries Management (General) Regulation 2019*, it is not lawful to use a recreational lobster trap in waters more than 10 metres deep (contour). Under clause 39 of that Regulation, it is not lawful to use a recreational crab trap in ocean waters.

- (12) A person must not, while in the Montague Island East habitat protection zone, take or attempt to take fish between 1 November and 30 April in any year (both dates inclusive) by use of the following methods—
  - (a) a fishing line rigged with bait,
  - (b) a wire trace line,
  - (c) any net (other than a landing net),
  - (d) any method carried out from a vessel at anchor.
- (13) A person must not, while in the Montague Island South habitat protection zone, do any of the following—
  - (a) engage in a fishing activity specified in clause 7.8(2)(a)(ii), (b), (c) or (d),
  - (b) take or attempt to take fish by use of a fish trap,
  - (c) take or attempt to take fish by use of an eel trap,
  - (d) take or attempt to take fish other than for recreational purposes.

**Note.** See the note to subclause (11).
- (14) A person must not, while in the Montague Island South habitat protection zone, take or attempt to take fish between 1 November and 30 April in any year (both dates inclusive) by use of the following methods—
  - (a) a fishing line rigged with bait,
  - (b) a wire trace line,
  - (c) any net (other than a landing net),
  - (d) any method carried out from a vessel at anchor.

**[18] Part 7, Division 10 Tables**

Insert in appropriate order in Table D—

Brou Lake South habitat protection zone  
Clarks Bay–Freshwater Bay habitat protection zone  
Forsters Bay habitat protection zone  
Nangudga Lake habitat protection zone