

[Act 2000 No 113]



New South Wales

## Marine Parks Amendment Bill 2000

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.\*

#### Overview of Bill

The object of this Bill is to amend the *Marine Parks Act 1997*:

- (a) to remove the requirement to obtain the consent of owners or occupiers of areas below mean high water mark to the declaration of those areas as marine parks, and
- (b) to declare again the existing marine parks with modifications to the areas which they cover, and
- (c) to require the concurrence of the Ministers administering that Act (the **relevant Ministers**) to the carrying out of certain development and activities within marine parks, and
- (d) to include provisions enabling activities to be prohibited within marine parks by means of a published notice, and
- (e) to enable the removal of wrecked vessels and other obstructions from marine

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\* Amended in committee—see table at end of volume.

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- parks, and
- (f) to increase the penalties for offences under that Act, and
  - (g) to makes changes to the way in which advisory committees are established under that Act and to specify in more detail the functions of those committees, and
  - (h) to make other amendments relating to the administration of that Act.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Marine Parks Act 1997* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Native Title (New South Wales) Act 1994* set out in Schedule 2.

## Schedule 1 Amendment of Marine Parks Act 1997

### Consent of owners and occupiers not required below mean high water mark

**Schedule 1 [4]** and **[6]** remove the obligation to obtain the consent of the owner or occupier of land submerged by tidal waters before declaring a marine park. Where the consent of such a person is required (above mean high water mark), special provision is made with respect to the notification of and the consent of owners and occupiers in line with similar provision applying in connection with the issue of mining authorities (**Schedule 1 [1]** and **[23]**).

**Schedule 1 [8]** and **[13]** require the relevant Ministers to consider comments and submissions made by holders of existing interests within marine parks before promoting regulations classifying areas within marine parks for different uses and before adopting operational plans for marine parks.

**Schedule 1 [24]** makes a consequential amendment to remove the existing provisions in the Act dealing with native title. Those provisions will now be unnecessary because of the amendment to the *Native Title (New South Wales) Act 1994* contained in Schedule 2 which preserves native title rights and interests.

### **Declaration of marine parks**

**Schedule 1 [29] and [30]** contain provisions revoking the current declarations of the Jervis Bay Marine Park, Solitary Islands Marine Park and Lord Howe Island Marine Park and declaring those parks again with modifications to the areas which they cover. The areas have now been described without exempting areas below mean high water mark for which the consent of the owners and occupiers has not been obtained. Also, the area described for the Jervis Bay Marine Park specifically excludes any area within the Booderee National Park which was established under the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth.

**Schedule 1 [5]** extends the provisions that apply to the declaration of marine parks to any additions made to marine parks.

### **Development and activities within marine parks**

**Schedule 1 [11]** replaces the existing provisions dealing with the requirement to consult with the Marine Parks Authority when determining a development application under Part 4 of the *Environmental Planning and Assessment Act 1979* for development in a marine park or giving approval to, or carrying out, an activity within the meaning of Part 5 of that Act in a marine park. The new provisions require the concurrence of the relevant Ministers to be obtained to the granting of consent to the development application or to such an activity for which an environmental impact statement is required to be prepared under Division 3 of Part 5 of that Act, except where an activity is proposed to be approved or carried out by a Minister, in which case, consultation only is required.

### **Marine park closures**

**Schedule 1 [12]** (proposed Division 3 of Part 3) enables the relevant Ministers to publish notifications in the Gazette prohibiting specified activities from being carried out in a marine park or part of a marine park. These prohibitions are referred to as *marine park closures* and may remain in force for no longer than 5 years.

**Schedule 1 [3], [7] and [10]** make consequential amendments.

### **Removal of obstructions**

**Schedule 1 [12]** (proposed Division 4 of Part 3) enables the Marine Parks Authority to direct the removal from a marine park of any sunken or wrecked vessel, abandoned property or anything unlawfully erected or placed in the marine park.

### **Penalties for offences**

**Schedule 1 [9]** makes it an offence (carrying a penalty of 500 penalty units in the case of an individual and 1,000 penalty units in the case of a corporation) to contravene a provision of the management regulations for a marine park if the regulations designate the contravention as a serious offence.

**Schedule 1 [20]** increases from \$10,000 to \$20,000 the maximum penalty that may be imposed by a Local Court for an offence under the Act.

### **Marine parks advisory committees**

**Schedule 1 [15]** provides that marine parks advisory committees are to be established by the relevant Ministers rather than the Marine Parks Authority.

**Schedule 1 [16]** requires those committees to be established so as to include a member to represent the interests of marine science.

**Schedule 1 [18]** sets out more detailed functions of those committees, including advising the relevant Ministers and the Marine Parks Authority on zoning and operational plans for marine parks, the conservation of marine biological diversity within marine parks, the ecologically sustainable use of marine parks and the use and enjoyment of marine parks by members of the public.

**Schedule 1 [17]** contains a consequential amendment.

### **Provisions relating to administration**

**Schedule 1 [14]** provides that the Marine Parks Authority is subject to the control and direction of the relevant Ministers.

**Schedule 1 [19]** extends the classes of persons who can be appointed as marine park rangers to officers or employees of government Departments or public or local authorities. **Schedule 1 [2]** makes a consequential amendment.

**Schedule 1 [21]** enables gifts or bequests of money for marine parks to be paid into the Marine Parks Fund.

**Schedule 1 [22]** provides a delegation power in relation to functions exercised by the relevant Ministers or the Marine Parks Authority.

**Schedule 1 [28]** applies certain provisions of regulations originally made under the *Fisheries Management Act 1994* for the management of aquatic reserves to marine parks that were formally aquatic reserves. Those provisions are to be treated as if they were regulations under the *Marine Parks Act 1997*.

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**Schedule 1 [25]–[27]** and **[29]** contain provisions of a savings and transitional nature.

## **Schedule 2   Amendment of Native Title (New South Wales) Act 1994**

The amendments preserve native title rights and interests in respect of areas declared to be a marine park under the *Marine Parks Act 1997*.