

# Marine Parks Amendment Act 2000 No 113

[2000-113]



New South Wales

## Status Information

### Currency of version

Repealed version for 20 December 2000 to 28 November 2002 (accessed 27 November 2024 at 8:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2002 No 112*, Sch 3 with effect from 29.11.2002.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Marine Parks Amendment Act 2000 No 113



New South Wales

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# Marine Parks Amendment Act 2000 No 113



New South Wales

An Act to amend the *Marine Parks Act 1997* with respect to the declaration of marine parks and the carrying out of activities within marine parks; to amend the *Native Title (New South Wales) Act 1994* consequentially; and for other purposes.

## 1 Name of Act

This Act is the *Marine Parks Amendment Act 2000*.

## 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

## 3 Amendment of *Marine Parks Act 1997* No 64

The *Marine Parks Act 1997* is amended as set out in Schedule 1.

## 4 Amendment of *Native Title (New South Wales) Act 1994* No 45

The *Native Title (New South Wales) Act 1994* is amended as set out in Schedule 2.

## Schedule 1 Amendment of *Marine Parks Act 1997*

(Section 3)

### [1] Section 4 Definitions

Insert in alphabetical order:

**Commonwealth Native Title Act** means the *Native Title Act 1993* of the Commonwealth.

**native title holder** has the same meaning as it has in the Commonwealth Native Title Act.

**owner** has the same meaning as in the *Local Government Act 1993*, and includes a native title holder.

**registered native title body corporate** has the same meaning as it has in the

Commonwealth Native Title Act.

**registered native title claimant** has the same meaning as it has in the Commonwealth Native Title Act.

**[2] Section 4**

Omit the definition of **marine park ranger**. Insert instead:

**marine park closure**—see section 20A (2).

**marine park ranger**—see section 35A (1).

**[3] Section 4 (2)**

Insert at the end of section 4:

(2) Notes in the text of this Act do not form part of this Act.

**[4] Section 6 Declaration of marine parks**

Omit section 6 (3) and (4). Insert instead:

(3) A proclamation must not be made under this section:

- (a) in respect of an area of Crown lands above mean high water mark without the consent of the Minister administering the *Crown Lands Act 1989*, and
- (b) in respect of any area of land above mean high water mark (whether or not Crown lands) without the consent of the owner of the land.

(4) A declaration under this section in relation to an area is not affected by:

- (a) an existing interest in respect of land in the area, or
- (b) a change of ownership of land in the area.

(5) Subject to this Act, a provision of this Act or the regulations has effect in relation to an area of a marine park despite any such existing interest or change of ownership, unless the provision otherwise specifies.

**[5] Section 9 Variation of area of marine park**

Insert after “, but may only vary a marine park to remove an area if the relevant Ministers certify in writing that the area is no longer required to be part of the marine park for the purpose of attaining the objects of this Act” after “marine park” in section 9 (1).

**[6] Section 9 (3)**

Insert after section 9 (2):

- (3) The provisions of section 6 (2)–(5) apply to a variation of an area under this section that adds an area to a marine park in the same way as those provisions apply to the declaration of an area as a marine park.

**[7] Section 14A**

Insert after section 14:

**14A Consent of owners**

If an owner of land whose consent is required under section 6 or 9 to the making of a proclamation declaring an area to be a marine park or adding an area to a marine park cannot, after diligent inquiry, be found or identified, the proclamation may be made without the consent of that owner.

**[8] Part 3, Division 1, heading**

Insert before section 15:

Division 1 **Regulations for the management, protection and conservation of marine parks**

**[9] Section 16 Regulations relating to zoning plans for marine parks**

Insert “or such further period as the relevant Ministers allow” after “notice” in section 16 (5) (a).

**[10] Section 16 (5)**

Insert at the end of section 16 (5) (b):

, and

- (c) any submissions made by a person who is the holder of an existing interest within the marine park within the period specified for that purpose in the notice or such further period as the relevant Ministers allow.

**[11] Section 17A**

Insert after section 17:

## **17A Offences against management regulations**

A person is guilty of an offence if the person contravenes a provision of the regulations referred to in this Division, being a contravention that is designated by the regulations as a serious offence.

Maximum penalty: In the case of a corporation, 1,000 penalty units or, in any other case, 500 penalty units.

### **[12] Part 3, Division 2, heading**

Insert before section 18:

Division 2 **Development and activities within marine parks**

### **[13] Section 19**

Omit the section. Insert instead:

## **19 Development within marine park—application of EPA Act**

- (1) Before determining a development application under Part 4 of the *Environmental Planning and Assessment Act 1979* for the carrying out of development within a marine park, a consent authority must:
  - (a) take into consideration:
    - (i) the objects of this Act specified in section 3, and
    - (ii) if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and
    - (iii) the permissible uses of the area concerned under the regulations, and
  - (b) if the consent authority intends to grant consent to the carrying out of the development, obtain the concurrence of the relevant Ministers to the granting of the consent.
- (2) A Minister who is a determining authority must not carry out, or grant approval to carry out, an activity (within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979*) within a marine park unless the Minister has:
  - (a) taken into consideration:
    - (i) the objects of this Act specified in section 3, and
    - (ii) if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area

- concerned is situated as specified in the zoning plan, and
- (iii) the permissible uses of the area concerned under the regulations, and
- (b) in the case of an activity for which an environmental impact statement is required to be prepared under Division 3 of that Part, consulted with the relevant Ministers on the carrying out of the activity or the granting of approval.
- (3) A determining authority (not being a Minister) must not carry out, or grant approval to carry out, an activity (within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979*) unless the determining authority has:
- (a) taken into consideration:
    - (i) the objects of this Act specified in section 3, and
    - (ii) if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and
    - (iii) the permissible uses of the area concerned under the regulations, and
  - (b) in the case of an activity for which an environmental impact statement is required to be prepared under Division 3 of that Part, obtained the concurrence of the relevant Ministers to the carrying out of the activity or the granting of approval.
- (4) In deciding whether or not concurrence should be granted under this section, the relevant Ministers must take into consideration:
- (a) the objects of this Act specified in section 3, and
  - (b) if a zoning plan for the marine park is set out in the regulations as referred to in section 16, the objects of the area concerned specified in the zoning plan, and
  - (c) the permissible uses of the area concerned under the regulations.
- (5) The provisions of section 79B (8)–(11) of the *Environmental Planning and Assessment Act 1979*, and the regulations under that Act, apply to and in respect of a requirement under this section to obtain the concurrence of the relevant Ministers in the same way as they apply to a requirement to obtain concurrence imposed on a consent authority by an environmental planning instrument under that Act.
- (6) For the purposes of applying those provisions, a reference in those provisions to

the matters stated pursuant to section 30 (3) of the *Environmental Planning and Assessment Act 1979* (however expressed) is to be read as a reference to the objects of this Act specified in section 3 and the permissible uses of the area concerned under the regulations.

**[14] Part 3**

Insert after section 20:

## **Division 3 Marine park closures**

### **20A Prohibition of activities in marine parks**

- (1) The relevant Ministers may from time to time, by notification, prohibit the carrying out of any specified activity (including the taking of fish) in a marine park or part of a marine park.
- (2) Any such prohibition is called a ***marine park closure***.
- (3) A marine park closure:
  - (a) may apply absolutely or subject to conditions, and
  - (b) must specify the activities that are prohibited and the area to which it applies, and
  - (c) may only apply to the marine park specified in the notification, and
  - (d) has effect despite any provision of the regulations.

### **20B Publication of notification of marine park closure**

- (1) The notification of a marine park closure is to be published:
  - (a) in the Gazette, and
  - (b) in a newspaper circulating, or by radio or television broadcast, in the area adjacent to the marine park to which the closure applies, and
  - (c) by causing a copy of the notification to be exhibited in a prominent place or places adjacent to the marine park to which the closure applies.
- (2) However, if the relevant Ministers consider that the marine park closure is required urgently, they may publish the notification in accordance with subsection (1) (b) or (c) so long as they publish the notification in the Gazette as soon as practicable.



## **20C General provisions relating to marine park closures**

- (1) A marine park closure takes effect on the first publication of the notification or on a later date specified in the notification.
- (2) A marine park closure remains in force, subject to this Act, for the period (not exceeding 5 years) specified in the notification, but may be remade (with or without modification) by a further notification in accordance with this Division.

## **20D Amendment or revocation of closures**

The relevant Ministers may from time to time amend or revoke a marine park closure by a further notification published in accordance with this Division.

## **20E General provisions relating to closures**

Sections 42, 43 and 45 of the *Interpretation Act 1987* apply to notifications of marine park closures in the same way as they apply to statutory rules within the meaning of that Act.

### **Note—**

The above provisions of the *Interpretation Act 1987* relate to standard provisions authorising the adoption of other publications by reference, the making of differential closures, the amendment or repeal of closures and judicial notice and presumptions as to validity for closures.

## **20F Regulations relating to closures**

The regulations may make provision for or with respect to giving effect to marine park closures or to any other matter relating to marine park closures.

## **20G Offence provisions**

- (1) A person who carries out any activity in contravention of a marine park closure is guilty of an offence.

Maximum penalty: In the case of a corporation, 1,000 penalty units or, in any other case, 200 penalty units or imprisonment for 6 months, or both.

- (2) A person who is in possession of any animal, plant, rock, sand or other thing that has been taken in contravention of a marine park closure is guilty of an offence.

Maximum penalty: In the case of a corporation, 500 penalty units or, in any other case, 100 penalty units or imprisonment for 3 months, or both.

- (3) It is a defence to a prosecution for an offence under subsection (2) if the person charged satisfies the court that the person did not know and could not reasonably have known that the animal, plant, rock, sand or other thing had been taken in contravention of a provision of or made under this Act.

## **Division 4 Miscellaneous**

### **20H Removal of wrecked vessels and other property from marine parks**

(1) In this section, ***unused property*** means:

- (a) any sunken or wrecked vessel, or
- (b) any abandoned property, or
- (c) anything unlawfully erected or placed.

(2) The Authority may, by notice in writing, direct the owner of or person responsible for any unused property in a marine park to remove the property within such time as is specified in the notice. Any such owner or person who fails, without reasonable excuse, to comply with the direction is guilty of an offence.

Maximum penalty: In the case of a corporation, 500 penalty units or, in any other case, 100 penalty units or imprisonment for 3 months, or both.

- (3) The Authority may remove, or authorise the removal of, any unused property in such manner as the Authority thinks fit (whether or not the Authority has issued a direction for its removal under this section). The unused property may be removed by its destruction if it is reasonable to do so in the circumstances.
- (4) The Authority may, subject to and in accordance with the regulations, dispose of anything removed under this section.
- (5) The Authority may recover as a debt in a court of competent jurisdiction the reasonable costs and expenses incurred by the Authority in the exercise of the Authority's powers under this section from the owner of or person responsible for the unused property.
- (6) Except in the case of an emergency, the Authority must not give a direction for the removal of any unused property, or remove or authorise the removal of any unused property, that the Authority is of the opinion is likely to have significant cultural or ecological value unless the Authority:
- (a) has made an assessment of that cultural or ecological value, and
  - (b) has forwarded a copy of that assessment to the relevant advisory committee at least 4 weeks before giving the direction or removing or authorising the removal of the unused property.

### **[15] Section 25 Adoption of operational plan for marine park**

Insert "or such further period as the relevant Ministers allow" after "subsection (4)" in

section 25 (6) (a).

**[16] Section 25 (6)**

Insert at the end of section 25 (6) (b):

and

- (c) any comments made by persons who are the holders of existing interests within the marine park within the period specified for that purpose in the notice referred to in subsection (4) or such further period as the relevant Ministers allow,

**[17] Section 25 (8)**

Insert after section 25 (7):

- (8) The relevant Ministers are to ensure that an operational plan for a marine park is adopted as soon as practicable and, in any event, within 12 months after the making of the first regulation that sets out a zoning plan for the marine park (as referred to in section 16). However, the operational plan is not invalid merely because it was adopted after that 12-month period.

**[18] Sections 26A-26C**

Insert after section 26:

**26A Annual review of operational plan for marine park**

- (1) The advisory committee for a marine park may review the operational plan for the marine park every 12 months to determine whether or not the plan is effective and is being satisfactorily implemented.
- (2) The advisory committee must forward a report on the outcome of the review to the relevant Ministers, the Authority and the Advisory Council as soon as practicable after its completion.
- (3) The report is to include any recommendations of the advisory committee as to how the operational plan could be made more effective or could be better implemented.

**26B Review of operational plan for marine park**

- (1) The Authority is to commence to conduct a review of the operational plan for each marine park before the expiration of the period of 5 years after the adoption of the operational plan.

- (2) If the Authority considers that significant changes have been made to the zoning plan for a marine park (as referred to in section 16), the Authority is to commence to conduct a review of the operational plan for the marine park as soon as practicable after the making of the regulation containing those changes.
- (3) The Authority is to cause public notice to be given of a proposed review under this section.
- (4) The notice is:
  - (a) to invite submissions to be made within the period specified in the notice (being a period of not less than 3 months after the date of the notice), and
  - (b) to specify the address to which such submissions are to be forwarded.
- (5) In conducting the review, the Authority is to consider any submissions made within the period specified for that purpose in the notice or such further period as the Authority allows.
- (6) The Authority must forward a report on the outcome of the review to the relevant Ministers, the Advisory Council and the relevant advisory committee within 3 months after the expiration of the period allowed under this section for the making of submissions in respect of the review.

#### **26C Preparation of new operational plan for marine park following review**

- (1) On the completion of a review under section 26B of an operational plan for a marine park, the Authority is to cause a new operational plan to be prepared for the marine park.
- (2) The provisions of this Part (section 23 excepted) apply to an operational plan required to be prepared under this section in the same way as those provisions apply to an operational plan required to be prepared under section 23.
- (3) However, an operational plan for a marine park required to be prepared under this section must be referred to the Advisory Council and the advisory committee for the marine park within 3 months after the report is forwarded as referred to in section 26B (6).
- (4) An operational plan for a marine park required to be prepared under this section is not invalid merely because the relevant report is forwarded after the 3-month period referred to in section 26B (6) or the operational plan is referred to the Advisory Council or the advisory committee for the marine park after the 3-month period referred to in subsection (3).
- (5) On the adoption of an operational plan for a marine park required to be prepared under this section the previous operational plan for the marine park is

revoked.

**[19] Section 29 Establishment of Marine Parks Authority**

Insert after section 29 (2):

(2A) The Authority is subject to the control and direction of the relevant Ministers in the exercise of its functions.

**[20] Section 32 Establishment of Marine Parks Advisory Council**

Omit “at least one being an expert in marine conservation” from section 32 (2) (b).

Insert instead “one being an expert in marine conservation and one being nominated by a peak group or body generally recognised for its interest in conservation, as provided for in the regulations”.

**[21] Section 32 (3)**

Omit “subsection (2) (a)”.

Insert instead “the position referred to in subsection (2) (a) and the position for which a person is required to be nominated in accordance with subsection (2) (b)”.

**[22] Section 35 Marine parks advisory committees**

Omit “Authority” in section 35 (1). Insert instead “relevant Ministers”.

**[23] Section 35 (2)**

Insert “, marine science” after “marine conservation”.

**[24] Section 35 (3)**

Omit “Authority is” from section 35 (3).

Insert instead “relevant Ministers are”.

**[25] Section 35 (4) and (4A)**

Omit section 35 (4). Insert instead:

(4) An advisory committee has such functions as are conferred on it by or under this or any other Act.

(4A) The principal function of an advisory committee is to advise the relevant Ministers and the Authority on the management of each marine park for which the advisory committee was established and, in particular, on the following matters:

- (a) the appropriate classification of areas within the marine park for the purposes of proposed zoning plans (as referred to in section 16) and associated provisions to be included in the regulations,
- (b) the provisions of an operational plan for the marine park,
- (c) the conservation of marine biological diversity within the marine park,
- (d) the ecologically sustainable use of the marine park and whether any particular use of the marine park is not ecologically sustainable,
- (e) the use and enjoyment of the marine park by members of the public.

**[26] Section 35A**

Insert before section 36:

**35A Marine park rangers**

- (1) For the purposes of this Act, a **marine park ranger** means:
  - (a) a person appointed as a marine park ranger in accordance with this section, or
  - (b) a police officer.
- (2) The relevant Ministers may appoint any of the following persons as a marine park ranger for the purposes of this Act:
  - (a) an officer of the National Parks and Wildlife Service referred to in section 6 of the *National Parks and Wildlife Act 1974*,
  - (b) a fisheries officer within the meaning of the *Fisheries Management Act 1994*,
  - (c) an officer or employee of a government Department or a public or local authority.
- (3) The relevant Ministers are not to appoint as a marine park ranger a person who is:
  - (a) an officer or employee of a local council without first obtaining the consent of the general manager of the council to the appointment, or
  - (b) an officer or employee of any other public or local authority without first obtaining the consent of the employer of the person to the appointment.

**[27] Section 39 Proceedings for offences**

Omit "\$10,000" from section 39 (2). Insert instead "\$20,000".

**[28] Section 42 Marine Parks Fund**

Insert at the end of section 42 (1) (b):

, and

(c) any gift or bequest of money made for payment into the Fund.

**[29] Section 43A**

Insert after section 43:

**43A Delegations**

- (1) The relevant Ministers may delegate a function conferred by or under this Act on the relevant Ministers (other than the power of delegation conferred by this subsection) to the Authority.
- (2) The Authority may delegate the exercise of any of its functions (other than this power of delegation) to any person, except as provided by subsection (3).
- (3) The Authority may delegate any of the functions delegated to it under this section by the relevant Ministers, but only to the extent authorised by the relevant Ministers.

**[30] Sections 44A-44C**

Insert after section 44:

**44A Service of documents generally**

A document that is authorised or required by this Act or the regulations to be served on any person may be served by:

- (a) in the case of a natural person:
  - (i) delivering it to the person personally, or
  - (ii) sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or
  - (iii) sending it by facsimile transmission to the facsimile number of the person, or
- (b) in the case of a body corporate:

- (i) leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or
- (ii) sending it by facsimile transmission to the facsimile number of the body corporate.

#### **44B Service of documents on native title holders**

- (1) If a document is authorised or required by this Act or the regulations to be served on a person who is a native title holder in relation to an area, service of the document is taken to be effected in accordance with section 44A if the document is served on a registered native title body corporate in relation to the area.
- (2) If no approved determination of native title (within the meaning of the Commonwealth Native Title Act) exists in relation to the area concerned, a document authorised or required by this Act or the regulations to be served on a person who is a native title holder who cannot be identified may be served on any such person by serving it, in a manner authorised by section 44A on:
  - (a) any representative Aboriginal/Torres Strait Islander bodies for an area that includes the area concerned, and
  - (b) any registered native title claimants in relation to the area concerned.

#### **44C Meaning of “diligent inquiry”**

- (1) For the purposes of section 14A, a **diligent inquiry** to identify a person is the taking of the following actions:
  - (a) the searching of the following registers:
    - (i) the Register kept under the *Real Property Act 1900*, and
    - (ii) the General Register of Deeds kept under the *Conveyancing Act 1919*, and
    - (iii) the National Native Title Register kept under the Commonwealth Native Title Act,
  - (b) placing, on a board or other structure in a conspicuous place on the land concerned, a notice:
    - (i) stating that it is intended to declare the land as part of a marine park, and
    - (ii) inviting the owner of the land to contact the Authority at a specified



address,

- (c) publishing a notice referred to in paragraph (b) in a newspaper circulating in the vicinity of the land concerned and in a newspaper circulating generally in New South Wales.
- (2) For the purposes of section 14A, a person who is a native title holder is taken to have been unable, after diligent inquiry, to be found or identified if:
- (a) notice of the proposed proclamation is served by the relevant Ministers in accordance with section 44B, and
  - (b) at the expiration of the period of 4 months commencing on service of the notice, the person is neither a registered native title claimant nor a registered native title body corporate in relation to the land concerned.

**[31] Section 45 Native title rights and interests**

Omit the section.

**[32] Schedule 3 Savings, transitional and other provisions**

Insert before clause 1 of Schedule 3:

Part 1 **Preliminary**

**[33] Schedule 3, clause 1 (1)**

Insert at the end of clause 1 (1):

*Marine Parks Amendment Act 2000*

**[34] Schedule 3**

Insert before clause 2:

Part 2 **Provisions consequent on enactment of this Act**

**[35] Schedule 3, clause 2**

Omit the clause. Insert instead:

**2 Regulations relating to aquatic reserves**

- (1) If an aquatic reserve under the *Fisheries Management Act 1994* is revoked by a declaration of a marine park under this Act, the provisions of the regulations under Division 2 of Part 7 of that Act relating to the aquatic reserve (as in force on the declaration of the marine park) continue to have effect in relation to the marine park and are taken to be regulations under this Act and may be amended or repealed accordingly.

- (2) Despite subclause (1), on the commencement of this clause, provisions the same as the provisions of Parts 1 and 9 of the *Fisheries Management (Aquatic Reserves) Regulation 1995* (as in force immediately before 1 September 2000) are taken to form a regulation that may be cited as the *Marine Parks (Solitary Islands) Regulation 2000*.
- (3) The *Marine Parks (Solitary Islands) Regulation 2000* is taken to be a regulation made under this Act and may be amended or repealed accordingly.
- (4) Part 2 of the *Subordinate Legislation Act 1989* does not apply to a regulation taken to have been made under this Act by the operation of this clause.
- (5) For the purposes of section 10 of the *Subordinate Legislation Act 1989*:
  - (a) a regulation taken to have been made under this Act by the operation of subclause (1) is taken to have been published on the revocation of the relevant declaration referred to in that subclause, and
  - (b) the regulation referred to in subclause (3) is taken to have been published on the date of commencement of this clause.
- (6) Sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to a regulation taken to have been made by the operation of this clause.
- (7) In any regulation taken to have been made under this Act by the operation of this clause:
  - (a) a reference to the relevant aquatic reserve is taken to be a reference to a marine park, and
  - (b) a reference to the Director of NSW Fisheries is taken to be a reference to the Authority.
- (8) A defence under section 36 or 37 of the *Fisheries Management Act 1994* applies to an offence against a regulation referred to in subclause (4).

**[36] Schedule 3, Part 3**

Insert after clause 2:

## **Part 3 Provisions consequent on enactment of Marine Parks Amendment Act 2000**

### **3 Declaration of certain marine parks**

- (1) The declarations of the Jervis Bay Marine Park and the Solitary Islands Marine Park published in the Gazette on 2 January 1998 and Lord Howe Island Marine

Park published in the Gazette on 26 February 1999:

- (a) are taken to have been validly proclaimed in accordance with the provisions of Part 2 as in force at the time each of those proclamations was made, and
- (b) are revoked on the commencement of this clause.

(2) On the commencement of this clause:

- (a) the areas described in Part 1 of Schedule 4 are declared to be a marine park to be known as “Jervis Bay Marine Park”, and
- (b) the areas described in Part 2 of Schedule 4 are declared to be a marine park to be known as “Solitary Islands Marine Park”, and
- (c) the areas described in Part 3 of Schedule 4 are declared to be a marine park to be known as “Lord Howe Island Marine Park”.

(3) The declaration of an area to be a marine park by the operation of subclause (2) is taken to be a declaration made in accordance with section 6 and may be revoked or varied in accordance with this Act.

(4) In Schedule 4:

**Lord Howe Island** has the same meaning as **Island** in section 3 (1) of the [Lord Howe Island Act 1953](#).

**tidal lands** means any area of land that is covered from time to time by tidal waters, and that is above the lowest astronomical tide level.

**tidal limit** means to the limit of tidal influence at mean high water mark.

**tidal waters** means any area of waters of the sea or subject to tidal influence.

(5) Latitudes and longitudes referred to in Schedule 4 are latitudes and longitudes determined by reference to the Australian Geodetic Datum 1966 (AGD66).

#### 4 Advisory committees

(1) An advisory committee established by the Authority under section 35 and in existence immediately before the commencement of Schedule 1 [15] to the [Marine Parks Amendment Act 2000](#) is taken on that commencement to have been established under that section by the relevant Ministers.

(2) A person holding office as chairperson of an advisory committee under section 35 immediately before the commencement of Schedule 1 [17] to the [Marine Parks Amendment Act 2000](#) is taken on that commencement to have been appointed as chairperson by the relevant Ministers.

## 5 Marine park rangers

A person who, immediately before the commencement of section 35A, was authorised under paragraph (a) or (b) of the definition of **marine park ranger** in section 4 (as in force immediately before the commencement of Schedule 1 [2] to the *Marine Parks Amendment Act 2000*) to be a marine park ranger is taken to have been appointed by the relevant Ministers as a marine park ranger under section 35A.

### [37] Schedule 4

Insert after Schedule 3:

## Schedule 4 Declaration of marine parks

(Schedule 3, clause 3)

### Part 1 Jervis Bay Marine Park

All Crown lands beneath tidal and coastal waters including Jervis Bay and its tidal tributaries to mean high water mark, within the area set out below, together with the waters within that area but not including any area within Booderee National Park as proclaimed under the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth:

- (a) commencing at a point at mean high water mark at the most northerly point of Kinghorn Point reef on Warrain Beach (34°57'54"S, 150°46'42"E),
- (b) then due east to a position at 34°57'54"S, 150°47'12"E being 500 metres seaward of the territorial sea baseline (declared under section 7 of the *Seas and Submerged Lands Act 1973* of the Commonwealth in the Commonwealth of Australia Gazette S29 of 9 February 1983) at the most northerly point of Kinghorn Point reef on Warrain Beach,
- (c) then generally in a south-easterly direction to a position at 34°59'36"S, 150°50'30"E being 1500 metres due north of the most northerly point at Little Beecroft Head,
- (d) then generally in a south-easterly direction to a position at 35°00'54"S, 150°52'00"E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Beecroft Head,
- (e) then generally in a southerly direction to a position at 35°04'36"S, 150°51'00"E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Crocodile Head,
- (f) then generally in a south-westerly direction to a position at 35°06'36"S, 150°48'18"E being a point 1500 metres due south of the most southerly point at the territorial

sea baseline of Point Perpendicular,

- (g) then generally in a southerly direction to a position at 35°10'18"S, 150°46'18"E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Cape St George,
- (h) then generally in a south-westerly direction to a position at 35°12'54"S, 150°41'42"E being a point 1500 metres due south of the most southerly point at the territorial sea baseline of St Georges Head,
- (i) then generally in a south-westerly direction to a position at 35°11'6"S, 150°35'42"E being a point at mean high water mark of the most southerly point of Bherwerre Beach,
- (j) then generally north along the coast at mean high water mark of Bherwerre Beach, Bherwerre Peninsula and all its tidal tributaries, Bowen Island, Jervis Bay and all its tidal tributaries, Beecroft Peninsula and all its tidal tributaries, Currarong Beach, and Kinghorn Point reef, to the point of commencement described in paragraph (a) above.

## **Part 2 Solitary Islands Marine Park**

All Crown lands beneath tidal and coastal waters to mean high water mark, within the area set out below, together with the waters within that area:

- (a) commencing at a point at mean high water mark at the most easterly point of Plover Island (29°40'24"S, 153°19'49"E),
- (b) then along a line drawn along latitude 29°40'24"S, to a point 3 nautical miles due east of the territorial sea baseline (declared under section 7 of the [Seas and Submerged Lands Act 1973](#) of the Commonwealth in the Commonwealth of Australia Gazette S29 of 9 February 1983),
- (c) then generally in a southerly direction, including all coastal waters within 3 nautical miles of the territorial sea baseline of the coast, and within 3 nautical miles of the territorial sea baseline of North West Rock, North Solitary Island, North Rock, North West Solitary Island, South West Solitary Island, South Solitary Island and Split Solitary Island, to a point 3 nautical miles due east of the territorial sea baseline at the eastern most point of Muttonbird Island,
- (d) then along a line drawn along latitude 30°18'25"S, to a point at mean high water mark of the eastern most point of Muttonbird Island (30°18'25"S, 153°9'12"E),
- (e) then generally in a northerly direction along the coast at mean high water mark, including all rivers, estuaries, bays, lagoons and inlets upstream to their tidal limit, and tidal lands, including Plover Island, to the point of commencement described in paragraph (a) above.

## **Part 3 Lord Howe Island Marine Park**

All Crown lands beneath tidal and coastal waters surrounding Lord Howe Island to mean high water mark, together with those waters.

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

(Section 4)

### **[1] Section 104A Saving of native title rights and interests with respect to national parks and other reservations or dedications or declarations**

Insert the following paragraph (appropriately lettered) at the end of section 104A (1):

- ( ) a proclamation under the [Marine Parks Act 1997](#) that declares an area of land or waters to be a marine park or part of a marine park (including a provision of an Act that is taken to operate as such a proclamation).

### **[2] Section 104A (3)**

Insert “, the [Marine Parks Act 1997](#)” after “the [Wilderness Act 1987](#)”.