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# Public consultation draft

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New South Wales

## Marine Parks Regulation 2009

under the

Marine Parks Act 1997

[*The following enacting formula will be included if the Regulation is made:*]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Marine Parks Act 1997*.

Minister for Climate Change and the Environment

Minister for Primary Industries

### Explanatory note

The *Marine Parks Amendment Act 2008* provided that regulations containing only provisions relating to zoning plans for marine parks are exempt from section 10 of the *Subordinate Legislation Act 1989* which provides for the staged repeal of statutory rules.

The object of this Regulation is, as a consequence of that amendment, to separate the provisions of the *Marine Parks Regulation 1999* into 2 instruments. The first, the *Marine Parks (Zoning Plans) Regulation 1999*, will contain the zoning plans for all marine parks and related provisions and the second, the *Marine Parks Regulation 2009*, will contain all other matters prescribed under the *Marine Parks Act 1997*. Only the latter of these instruments will be subject to the staged repeal process under the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the giving of consent by the Minister for Climate Change and the Environment and the Minister for Primary Industries (the **relevant Ministers**) in relation to activities within marine parks,
- (b) the functions of marine park rangers and the Marine Parks Authority,
- (c) the Marine Parks Advisory Council and marine parks advisory committees,
- (d) the seizure of things in marine parks,

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Marine Parks Regulation 2009

Explanatory note

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- (e) the offences under the Act and Regulations for which penalty notices (“on-the-spot” fines) may be issued and the amounts of the penalty payable under such notices,
- (f) the avoidance of double jeopardy,
- (g) an exemption with respect to Australian Defence Force activities,
- (h) consequential amendments to the *Marine Parks Regulation 1999* including renaming that instrument as the *Marine Parks (Zoning Plans) Regulation 1999*, restructuring and renumbering that instrument, permitting the relevant Ministers to consent to fishing in a habitat protection zone where this is carried out for traditional use purposes and designating certain offences as forfeiture offences,
- (i) savings and formal matters.

This Regulation is made under the *Marine Parks Act 1997*, including Divisions 1 and 1A of Part 3 and sections 32 (2) (b) and 48 (the general regulation-making power).

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Marine Parks Regulation 2009

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Marine Parks Regulation 2009

Clause 1

Preliminary

Part 1

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## Marine Parks Regulation 2009

under the

Marine Parks Act 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Marine Parks Regulation 2009*.

#### 2 Commencement

This Regulation takes effect at the end of 31 August 2009 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the provisions of the *Marine Parks Regulation 1999* other than provisions that relate to zoning plans for marine parks. That Regulation will continue to contain such provisions and is renamed by Schedule 2 to this Regulation as the *Marine Parks (Zoning Plans) Regulation 1999*.

#### 3 Definitions

(1) In this Regulation:

*permit* means a permit under Part 2.

*the Act* means the *Marine Parks Act 1997*.

*the relevant Ministers* and *zoning plan* have the same meanings as in the *Marine Parks (Zoning Plans) Regulation 1999*.

(2) If a provision of this Regulation requires or authorises the relevant Ministers to take any action or decide any matter, the provision is taken only to require or authorise the relevant Ministers to take the action jointly or decide the matter jointly.

(3) Notes included in this Regulation do not form part of this Regulation.

#### 4 Regulation applies subject to other legislation

(1) This Regulation has effect subject to section 22 of the Act.

**Note.** Section 22 of the Act provides that any requirements made by or under Part 3 of the Act are in addition to any requirement in any other Act or statutory instrument, such as requirements under the *Fisheries Management Act 1994* and the *National Parks and Wildlife Act 1974*.

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Clause 4            Marine Parks Regulation 2009

Part 1              Preliminary

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- (2) Nothing in this Regulation is to be construed as authorising the harming of any particular species of plant or fish, or the harming of any plants or fish by a particular method, in contravention of the *Fisheries Management Act 1994*, the *National Parks and Wildlife Act 1974* or statutory instruments made under those Acts.
- (3) In addition, nothing in this Regulation is to be construed as authorising the carrying out of any activity in contravention of a marine park closure under section 20A of the Act.

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Marine Parks Regulation 2009

Clause 5

Consent of relevant Ministers

Part 2

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## Part 2 Consent of relevant Ministers

### 5 Consent for activities

If this Regulation or the *Marine Parks (Zoning Plans) Regulation 1999* requires the consent of the relevant Ministers before an activity may be carried out, the consent is to be in accordance with this Part.

### 6 Applications for consent

An application for the consent of the relevant Ministers to the carrying out of an activity in a marine park must be made in the form approved by the relevant Ministers.

**Note.** Section 307A of the *Crimes Act 1900* makes it an offence to make a false or misleading statement in, or a misleading omission from, an application for a permit.

### 7 Relevant Ministers may ask for further information

- (1) The relevant Ministers may make a written request to any person who has made an application for consent to carry out any activity, asking for further information to assist the Ministers in considering the application.
- (2) The relevant Ministers do not have to consider an application if any request for further information is not complied with within the time specified by the relevant Ministers in the request.

### 8 Must have regard to assessment criteria

- (1) The relevant Ministers must have regard to the assessment criteria in deciding whether or not to give consent to the carrying out of any activity in a marine park.
- (2) This clause does not apply to applications for consent to carry out activities (including educational or research activities) that the relevant Ministers consider will have minimal impact on the biodiversity, enjoyment or use of the marine park.
- (3) This clause does not limit the factors that the relevant Ministers may have regard to when considering an application for consent to carry out an activity.

### 9 Assessment criteria

For the purposes of this Part and section 18 (6) of the Act, the following matters are the *assessment criteria* in deciding whether or not to give consent to the carrying out of any activity in a marine park:

- (a) the objects of the Act (as specified in section 3 of the Act),

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Clause 10 Marine Parks Regulation 2009

Part 2 Consent of relevant Ministers

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- (b) the objects of the zone in which the activity is proposed to be carried out,
- (c) the activities that are permissible in the zone in which the activity is proposed to be carried out (as specified in the relevant zoning plan),
- (d) any operational plan for the marine park adopted by the relevant Ministers pursuant to section 25 (4) of the Act,
- (e) any threatened species or other protected flora or fauna under the *Fisheries Management Act 1994*, the *National Parks and Wildlife Act 1974* or the *Threatened Species Conservation Act 1995* that may be affected by the proposed activity,
- (f) the form of transport to be used to gain access to the zone in which the activity is proposed to be carried out or on or from which the activity is proposed to be carried out, having regard to the adequacy of facilities for parking, mooring and landing vehicles, vessels and aircraft, and for loading and unloading them,
- (g) the type of equipment to be used in connection with the proposed activity,
- (h) the arrangements that have been made for the making good of any damage to the marine park that arises from the proposed activity,
- (i) such other requirements as the relevant Ministers consider appropriate to the proposed activity.

## **10 Consent must be refused in certain circumstances**

- (1) The relevant Ministers must not give consent to the carrying out of any activity in a marine park that, in the opinion of the relevant Ministers, is inconsistent with the objects of the Act.
- (2) Except in emergencies, the relevant Ministers must not give consent to the carrying out of any activity in a zone of a marine park that, in the opinion of the relevant Ministers, is inconsistent with the objects of the zone.
- (3) The relevant Ministers must not give consent to the carrying out of any activity contrary to the provisions of any determination in force under clause 20.

## **11 Consent may be refused in certain other circumstances**

- (1) The relevant Ministers may refuse to give consent to the carrying out of any activity in a marine park if:
  - (a) the application for consent was not made in the approved form, or

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Marine Parks Regulation 2009

Clause 12

Consent of relevant Ministers

Part 2

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- (b) the applicant has failed to respond to a request for further information made under clause 7 or has responded in a way that the relevant Ministers consider is unsatisfactory, or
  - (c) the applicant has been convicted of an offence under the Act or this Regulation, or under similar legislation of another jurisdiction, in the 12 months before the application was made, or
  - (d) the applicant has been issued with 2 or more penalty notices for offences under the Act or this Regulation in the 12 months before the application was made, being penalty notices that were not later dismissed by a court, or
  - (e) the proposed activity is inconsistent with the assessment criteria (to the extent that those criteria are applicable to the application).
- (2) This clause does not limit the factors that the relevant Ministers may take into account when considering an application for consent under this Part.

**12 Consent to be given in form of permit**

The consent of the relevant Ministers to the carrying out of an activity in a marine park is to be given in the form of a written permit.

**13 Permit may be granted subject to conditions**

- (1) A permit is subject to any conditions that are specified in the permit.
- (2) The holder of a permit who contravenes any condition of the permit is guilty of an offence.  
Maximum penalty: 100 penalty units.

**14 Permit may authorise others**

- (1) A permit may authorise specified persons, or a specified class of persons, in addition to the person to whom the permit is granted to carry out the activities to which the permit relates.
- (2) In any such case, the specified persons, or specified class of persons, are taken to be holders of the permit for the purposes of this Regulation and the zoning plan to which the permit relates.

**15 Term of permit**

Unless sooner suspended or cancelled, a permit remains in force for such period as is specified in the permit.

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Clause 16 Marine Parks Regulation 2009

Part 2 Consent of relevant Ministers

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## **16 Cancellation of permit**

- (1) A permit under this Part may be cancelled by the relevant Ministers for any of the following reasons by notice in writing to the holder of the permit:
- (a) the holder has not complied with a condition of the permit,
  - (b) due to circumstances that were not foreseen, and were not reasonably foreseeable at the time the permit was granted, the activity to which the permit relates has resulted in damage, degradation or disruption to the physical environment or to the living resources of the marine park,
  - (c) due to circumstances that were not foreseen, and were not reasonably foreseeable at the time the permit was granted, there is a likely or imminent threat that the activity to which the permit relates will result in damage, degradation or disruption to the physical environment, to the living resources of the marine park or to the appreciation, understanding and enjoyment of the marine park by other persons,
  - (d) the holder has made a statement or an omission in, or in connection with, the holder's application for the permit that was, in the opinion of the relevant Ministers, false or misleading,
  - (e) the holder has been convicted of an offence under the Act or this Regulation,
  - (f) the relevant Ministers have included in a notice suspending a permit a warning that the permit will be cancelled if the action specified in the notice is not taken within the time specified in the notice and that action has not been taken within that time,
  - (g) the carrying out of the activity to which the permit relates did not commence within the period of 120 days dating from the date of the grant of the permit,
  - (h) any other reason that the relevant Ministers consider appropriate having regard to the objects of the Act.
- (2) The cancellation of a permit takes effect on the date specified in the notice of the cancellation (being a date occurring on or after the date on which the notice is given).

## **17 Suspension of permit**

- (1) A permit granted under this Part may be suspended by the relevant Ministers for any of the reasons specified in clause 16 (1) (a)–(c) or (h) by notice in writing to the holder of the permit.

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Marine Parks Regulation 2009

Clause 18

Consent of relevant Ministers

Part 2

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- (2) The relevant Ministers may include in the notice suspending a permit a warning that the permit will be cancelled if the action specified in the notice is not taken within the time specified in the notice.
- (3) The suspension of a permit takes effect on the date specified in the notice of the suspension (being a date occurring on or after the date on which the notice is given).
- (4) While a suspension is in force, the holder of the permit is taken not to have the consent of the relevant Ministers to carry out the activity to which the permit relates.
- (5) The relevant Ministers may, at any time, revoke a suspension of a permit.

## **18 Variation of permit**

The relevant Ministers may, by notice in writing to the holder of a permit, vary the conditions of the permit, or add conditions to a permit granted without conditions, for any of the reasons specified in clause 16 (1) (a)–(d) or (h).

## **19 Surrender of permit**

A permit under this Part may be surrendered at any time by the holder of the permit giving notice in writing to the relevant Ministers.

## **20 Restriction of number of permits that may be issued**

- (1) The relevant Ministers may from time to time determine, in relation to a marine park or a zone within a marine park:
  - (a) the maximum number of permits that may be in force at any one time in relation to the marine park or zone, either generally or in relation to specified activities or classes of activities, and
  - (b) for each activity in respect of which a maximum number has been determined, the priority to be given to different classes of applicant in the consideration of any application for a permit.
- (2) In making a determination under this clause, the relevant Ministers must have regard to the following:
  - (a) any existing use within the marine park or zone as at the time the marine park or zone came into existence,
  - (b) the environmental, cultural or social impact of any such use,
  - (c) whether or not any such use is consistent with the assessment criteria.

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Clause 21 Marine Parks Regulation 2009

Part 3 Functions of rangers and Authority

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## Part 3 Functions of rangers and Authority

### 21 Removal of persons from marine park

- (1) A marine park ranger may direct a person to leave a marine park or any part of a marine park if, in the opinion of the marine park ranger, the person:
  - (a) is causing inconvenience to any other person in the marine park, or
  - (b) has committed an offence against the Act, this Regulation or the *Marine Parks (Zoning Plans) Regulation 1999* or is likely to commit such an offence.
- (2) A person must not fail to comply with such a direction.  
Maximum penalty: 100 penalty units.
- (3) A marine park ranger may remove from a marine park, or any part of a marine park, any person who fails to comply with a direction under this clause and any vehicle, vessel, animal or other property in the possession of the person.

### 22 Removal of property from marine park

- (1) A marine park ranger may direct the person responsible for any property to remove the property from a marine park or any part of a marine park if, in the opinion of the marine park ranger, the property:
  - (a) is causing inconvenience to any other person in the marine park, or
  - (b) is causing a significant impact on species or habitats, or
  - (c) is likely to create an environmental hazard.
- (2) A person must not fail to comply with such a direction.  
Maximum penalty: 100 penalty units.
- (3) A marine park ranger may remove (or may arrange for another person to remove) from a marine park, or any part of a marine park, any property that is not removed by the person responsible for the property in accordance with a direction under this clause.
- (4) In this clause:  
*person responsible*, in respect of property in a marine park, means:
  - (a) the person who caused the property to be in the marine park, or
  - (b) if the person referred to in paragraph (a) is unknown or is unable to remove the property—the person who has control of the property, or

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Marine Parks Regulation 2009

Clause 23

Functions of rangers and Authority

Part 3

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- (c) if the persons referred to in paragraphs (a) and (b) are unknown or are unable to remove the property—the owner of the property.

*property* includes a vehicle, vessel or mooring.

## 23 Removal of heavily fouled vessels from marine park

- (1) A marine park ranger may direct the master of a vessel to remove the vessel from the marine park if the ranger reasonably believes that the vessel's hull or machinery is so heavily fouled by marine organisms as to pose a significant risk of the introduction of exotic animals or plants into the marine park.
- (2) A master of a vessel must not fail to comply with such a direction.  
Maximum penalty: 100 penalty units.

## 24 Information regarding aquaculture or commercial fishing

- (1) The Authority may give a written notice to any one or more of the following:
- (a) the holder of an aquaculture permit who carries out aquaculture in a marine park,
  - (b) a commercial fisher who carries out commercial fishing in a marine park,
  - (c) a fishing employer whose nominated fisher carries out commercial fishing in a marine park,

directing the person to provide the Authority, within such reasonable time as may be specified in the notice, with such information in relation to that aquaculture or commercial fishing as may be specified in the notice.

- (2) A person must not fail to comply with the requirements of a notice served on the person under this clause.  
Maximum penalty: 100 penalty units.

**Note.** Section 307B of the *Crimes Act 1900* makes it an offence (maximum penalty, imprisonment for 2 years, or a fine of \$22,000, or both) to give false or misleading information to the Authority in relation to a notice under this clause.

- (3) In this clause:  
*aquaculture*, *aquaculture permit* and *commercial fisher* have the same meanings as in the *Fisheries Management Act 1994*.

*commercial fishing* means any activity involving the taking of any fish for purposes of sale.

*fishing employer* and *nominated fisher* have the same meanings as in section 122 of the *Fisheries Management Act 1994*.

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## Public consultation draft

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Clause 25 Marine Parks Regulation 2009

Part 3 Functions of rangers and Authority

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### **25 Things done by ranger or under direction of Authority**

A person does not commit an offence under this Regulation or the *Marine Parks (Zoning Plans) Regulation 1999* for anything done:

- (a) by a marine park ranger in the exercise of his or her functions as a marine park ranger, or
- (b) under the direction of the Authority.

### **26 Delegation of Authority's functions**

The Authority may delegate the exercise of any of its functions under this Regulation or the *Marine Parks (Zoning Plans) Regulation 1999* (other than this power of delegation) to any of the following persons:

- (a) a member of the Authority,
- (b) a marine park ranger,
- (c) a public servant,
- (d) a person of a class approved by the relevant Ministers.

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Marine Parks Regulation 2009

Clause 27

Miscellaneous

Part 4

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## Part 4 Miscellaneous

### 27 Advisory Council members—marine conservation interests

- (1) For the purposes of section 32 (2) (b) of the Act, the Nature Conservation Council of NSW (the *NCC*) is the peak group or body to represent the interests of marine conservation.
- (2) If a vacancy arises in the office of the member of the Advisory Council appointed on the nomination of the NCC (the *NCC member*), the relevant Ministers must call on the NCC to nominate (within such period as the relevant Ministers may specify) at least 2 candidates from whom a new NCC member is to be appointed.
- (3) The relevant Ministers are to appoint as the new NCC member whichever of the candidates nominated by the NCC the relevant Ministers consider most suitable for appointment as the NCC member.
- (4) If the NCC:
  - (a) fails to nominate candidates when called on to do so by the relevant Ministers, or
  - (b) fails to nominate a candidate who the relevant Ministers consider suitable for appointment as the NCC member,the relevant Ministers may call on some other group or body to nominate at least 2 candidates (an *alternative peak group*) and, in that event, the alternative peak group is taken to be the peak group or body to represent the interests of marine conservation for the purposes of section 32 (2) (b) of the Act.
- (5) Subclauses (2)–(4) apply in relation to an alternative peak group in the same way as they apply in relation to the NCC.

### 28 Advisory committee members terms of office

For the purposes of section 35 (6) of the Act, clause 2 (2) of Schedule 2 to the Act does not apply to a person who has been appointed as a member of an advisory committee to represent certain interests if, in the opinion of the relevant Ministers, no other person is available to adequately represent those interests.

### 29 Seizure of things in marine parks

For the purposes of section 36 (3) of the Act, the application of section 265 of the *Fisheries Management Act 1994* is modified so that a reference to a forfeiture offence in that section is to be read as a reference to a contravention of any of the following provisions:

- (a) section 20G (1) or (2) of the Act,

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Clause 30 Marine Parks Regulation 2009

Part 4 Miscellaneous

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- (b) a provision of this Regulation or the *Marine Parks (Zoning Plans) Regulation 1999*, the contravention of which is designated as:
  - (i) a serious offence for the purposes of section 17A of the Act, or
  - (ii) a forfeiture offence.

### **30 Penalty notice offences**

For the purposes of section 38 of the Act:

- (a) each offence created by a provision of the Act or a Regulation under the Act specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

### **31 Double jeopardy**

A person cannot be convicted of both an offence under this Regulation or the *Marine Parks (Zoning Plans) Regulation 1999* and an offence under the *Fisheries Management Act 1994* (or the regulations under that Act) in respect of the same act or omission.

### **32 Exemption for Australian Defence Force activities**

- (1) This Regulation and the *Marine Parks (Zoning Plans) Regulation 1999* do not apply to or in respect of any activity carried out by or under the direction of the Commonwealth Department of Defence (including any arm of the Australian Defence Force).
- (2) This clause does not prevent the Authority from entering into an arrangement with the Commonwealth with respect to the activities of the Australian Defence Force in marine parks.

### **33 Saving**

Any act, matter or thing that, immediately before the repeal of a provision of the *Marine Parks Regulation 1999* by this Regulation, had effect under that provision continues to have effect under this Regulation.

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Marine Parks Regulation 2009

Penalty notice offences

Schedule 1

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## Schedule 1 Penalty notice offences

(Clause 30)

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
<b>Offences under the Act</b>	
Section 17A	\$500
Section 20G (1)	\$500
Section 20G (2)	\$500
Section 20H (2)	\$500
<b>Offences under this Regulation</b>	
Clause 13 (2)	\$500
Clause 21 (2)	\$200
Clause 22 (2)	\$500
Clause 23 (2)	\$200
Clause 24 (2)	\$200
<b>Offences under the Marine Parks (Zoning Plans) Regulation 1999</b>	
Clause 8A (1)	\$500
Clause 9 (1)	\$500
Clause 9A	\$500
Clause 11 (1) (a)	\$500
Clause 11 (1) (b)	\$500
Clause 11 (1) (c)	\$500
Clause 12 (2) (a)	\$500
Clause 12 (2) (b)	\$500
Clause 15 (1) (a)	\$500
Clause 15 (1) (b)	\$500
Clause 15 (1) (c)	\$500
Clause 16 (2)	\$500
Clause 18A (1) (a)	\$500
Clause 18A (1) (b)	\$500

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## Marine Parks Regulation 2009

### Schedule 1 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 18A (1) (c)	\$500
Clause 18B (1)	\$500
Clause 19 (1)	\$500
Clause 19 (1A)	\$500
Clause 19 (2)	\$500
Clause 19 (2A)	\$500
Clause 20 (1) (a)	\$300
Clause 20 (1) (b)	\$300
Clause 20 (1) (c)	\$300
Clause 20 (1) (d)	\$300
Clause 20 (1) (e)	\$300
Clause 20 (2)	\$300
Clause 20 (3)	\$300
Clause 20B	\$200
Clause 21 (1) (a)	\$300
Clause 21 (1) (b)	\$500
Clause 21 (1) (c)	\$500
Clause 22 (1) (a)	\$300
Clause 22 (1) (b)	\$300
Clause 22 (1A)	\$220
Clause 23 (1)	\$300
Clause 24 (1) (a)	\$500
Clause 24 (1) (b)	\$500
Clause 24A (a)	\$300
Clause 24A (b)	\$300
Clause 24A (c)	\$300
Clause 24A (d)	\$300
Clause 26 (1) (a)	\$200
Clause 26 (1) (b)	\$200

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Marine Parks Regulation 2009

Penalty notice offences

Schedule 1

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<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 26 (1) (c)	\$200
Clause 26 (1) (d)	\$200
Clause 27 (2)	\$500
Clause 27A (1)	\$500
Clause 27B	\$500
Clause 28 (1) (a)	\$200
Clause 28 (1) (b)	\$200
Clause 28 (1) (c)	\$500
Clause 29	\$500
Clause 30 (1)	\$200

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Marine Parks Regulation 2009

Schedule 2      Amendment of Marine Parks Regulation 1999

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## **Schedule 2      Amendment of Marine Parks Regulation 1999**

**[1]    The whole Regulation (except Schedules 1 and 2)**

Omit all Part and Division headings.

**[2]    Part 1, Division 1, headings**

Insert before clause 1:

### **Part 1    General provisions relating to zoning plans**

#### **Division 1      Preliminary**

**[3]    Clause 1 Name of Regulation**

Insert “(Zoning Plans)” after “Marine Parks”.

**[4]    Clause 3 Definitions**

Omit “Part 3A” from the definition of *permit* in clause 3 (1).

Insert instead “Part 2 of the *Marine Parks Regulation 2009*”.

**[5]    Clause 3 (1), definition of “zoning plan” and (2)**

Omit “Schedule 1” wherever occurring. Insert instead “Parts 2–7”.

**[6]    Clause 3 (3)**

Insert after clause 3 (2):

(3) Notes included in this Regulation do not form part of this Regulation.

**[7]    Part 1, Division 2, heading**

Omit clause 4. Insert instead:

#### **Division 2      Marine park zones**

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Marine Parks Regulation 2009

Amendment of Marine Parks Regulation 1999

Schedule 2

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**[8] Part 1, Division 2, Subdivision 1 and Subdivision 2, heading**

Omit clause 5. Insert instead:

**Subdivision 1 Zoning plans and zone objects**

**5 Zoning plans**

- (1) The following Parts set out the zoning plans for each of the following marine parks:
  - (a) Part 2—Solitary Islands Marine Park,
  - (b) Part 3—Jervis Bay Marine Park,
  - (c) Part 4—Lord Howe Island Marine Park,
  - (d) Part 5—Cape Byron Marine Park,
  - (e) Part 6—Port Stephens—Great Lakes Marine Park,
  - (f) Part 7—Batemans Marine Park.
- (2) A zoning plan for a marine park may include any number of sanctuary, habitat protection, general use and special purpose zones.

**5A Objects of sanctuary zone**

The objects of the sanctuary zone are:

- (a) to provide the highest level of protection for biological diversity, habitat, ecological processes, natural features and cultural features (both Aboriginal and non-Aboriginal) in the zone, and
- (b) where consistent with paragraph (a), to provide opportunities for the following activities in the zone:
  - (i) recreational, educational and other activities that do not involve harming any animal or plant or causing any damage to or interference with natural or cultural features or any habitat,
  - (ii) scientific research.

**5B Objects of habitat protection zone**

The objects of the habitat protection zone are:

- (a) to provide a high level of protection for biological diversity, habitat, ecological processes, natural features and cultural features (both Aboriginal and non-Aboriginal) in the zone, and

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- (b) where consistent with paragraph (a), to provide opportunities for recreational and commercial activities (including fishing), scientific research, educational activities and other activities, so long as they are ecologically sustainable and do not have a significant impact on any fish populations or on any other animals, plants or habitats.

## **5C    Objects of general use zone**

The objects of the general use zone are:

- (a) to provide protection for biological diversity, habitat, ecological processes, natural features and cultural features (both Aboriginal and non-Aboriginal) in the zone, and
- (b) where consistent with paragraph (a), to provide opportunities for recreational and commercial activities (including fishing), scientific research, educational activities and other activities so long as they are ecologically sustainable.

## **5D    Objects of special purpose zone**

The objects of the special purpose zone are:

- (a) to provide for the management of biological diversity, habitat, ecological processes and natural and cultural features in the zone, where phenomena, sites or items in the zone warrant special management, and
- (b) to cater for special facilities and features in the zone such as slipways, breakwaters, berthing facilities and shipwrecks, and
- (c) such objects as may be set out in the zoning plan for a marine park.

## **Subdivision 2    Sanctuary zone**

### **[9]    Clauses 6, 10, 14 and 18**

Omit the clauses.

### **[10]    Part 1, Division 2, Subdivision 3, heading**

Insert after clause 9A:

## **Subdivision 3    Habitat protection zone**

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- [11] Clause 11 Protection of animals, plants and habitat in habitat protection zone**  
Omit “and has a negligible impact on other animals, plants and habitat” from clause 11 (2) (b).  
Insert instead “or on any other animals, plants or habitats”.
- [12] Clause 11 (3)**  
Insert after clause 11 (2):  
(3) A contravention of subclause (1) is designated as a forfeiture offence.  
**Note.** See section 36 of the Act and clause 29 of the *Marine Parks Regulation 2009*.
- [13] Clause 12 Limited fishing activities in habitat protection zone**  
Insert “, traditional use” after “public health” in clause 12 (3AA).
- [14] Part 1, Division 2, Subdivision 4, heading**  
Insert after clause 13:  
**Subdivision 4 General use zone**
- [15] Clause 15 Protection of animals, plants and habitat in general use zone**  
Insert after clause 15 (2):  
(3) A contravention of subclause (1) is designated as a forfeiture offence.  
**Note.** See section 36 of the Act and clause 29 of the *Marine Parks Regulation 2009*.
- [16] Part 1, Division 2, Subdivision 5, heading**  
Insert after clause 17:  
**Subdivision 5 Special purpose zone**
- [17] Clause 18A Protection of animals, plants and habitat in general use zone**  
Insert after clause 18A (2):  
(3) A contravention of subclause (1) is designated as a forfeiture offence.  
**Note.** See section 36 of the Act and clause 29 of the *Marine Parks Regulation 2009*.

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

Insert after clause 18C:

**Division 3 Regulation of activities**

**[19] Clause 19 Possession of animals or plants or of equipment used to take animals or plants**

Insert after clause 19 (3):

(3A) A contravention of subclause (1)–(2A) is designated as a forfeiture offence.

**Note.** See section 36 of the Act and clause 29 of the *Marine Parks Regulation 2009*.

**[20] Clauses 20A and 25**

Omit the clauses.

**[21] Part 1, Division 4, heading**

Insert after clause 30:

**Division 4 Miscellaneous**

**[22] Note before clause 31 and clauses 31–32M, 33–38 and 38B–40**

Omit the note and the clauses.

**[23] Schedule 1 Zoning plans for marine parks**

Insert “**Zoning Plan**” after “**Park**” in the heading to Part 5.

**[24] Schedule 1**

Transfer Parts 1–6 from the Schedule to after Part 1 of the Regulation and renumber them as Parts 2–7, respectively.

**[25] Schedules 1 and 2**

Omit the Schedules.

**[26] The whole Regulation (as amended by this Regulation)**

Renumber each clause so that the clause has 2 numbers separated by a decimal point, with the first number being the number of the Part in which the clause appears and the second number being the appropriate consecutive number according to the position of the clause in the Part, and amend any cross-reference in the Regulation to a renumbered clause (including in any notes) by renumbering the cross-reference accordingly.

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Schedule 3

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## **Schedule 3      Amendment of Marine Parks Regulation 2009**

### **Schedule 1 Penalty notice offences**

Immediately following the renumbering of the *Marine Parks (Zoning Plans) Regulation 1999* by Schedule 2 [26] to this Regulation, renumber the cross-references to offences under the *Marine Parks (Zoning Plans) Regulation 1999* in Column 1 of Schedule 1 to this Regulation accordingly.