

# Summary of consultation and submissions Proposed Marine Parks Regulation 2009

16 July 2009



## 1 Introduction

This document provides a summary of consultation and submissions on the proposed Marine Parks Regulation 2009.

The object of the proposed Regulation is to:

- remake those provisions of the Marine Parks Regulation 1999 that remain relevant to the management of marine parks, together with new provisions, as the Marine Parks Regulation 2009
- directly amend the Marine Parks Regulation 1999 so that it contains only provisions relating to zoning plans for marine parks and rename it the Marine Parks (Zoning Plans) Regulation 1999.

## 2 Summary of consultation

The proposed Marine Parks Regulation 2009 and Regulatory Impact Statement was on public exhibition for 28 calendar days from 15 May 2009 to 12 June 2009.

An information package was released on the Marine Parks Authority website (see <http://www.mpa.nsw.gov.au/regulation>) on 15 May 2009 to explain the proposed Regulation and how to make a submission. Contact details for people wanting to obtain further information were provided and printed copies were available through the Environment line on 131 555.

Stakeholders were notified by public notices in the Government Gazette and a total of 12 daily newspapers and local newspapers circulating in areas adjacent to each marine park. Direct notices were e-mailed to approximately 70 peak stakeholder groups on 15 May 2009 and reminder notices were sent on 27 May 2009. Follow-up telephone calls were made to many of these stakeholder groups on 10 June 2009. When contacted many groups expressed the opinion that the proposed Regulation was not of concern to them and they would not be making a submission.

Preliminary consultation on the proposed Regulation was undertaken with the Marine Parks Advisory Council on 4 December 2008 and 24 March 2009, and on amendments to the Marine Parks Act, a key driver of changes to the Marine Parks Regulation 1999, on 8 August 2008.

In addition to the Marine Parks Advisory Council, a presentation on the proposed Regulation was provided to the advisory committees for Solitary Islands and Cape Byron marine parks and two members and the Executive Officer of the DPI Advisory Council on Recreational Fishing.

At 12 June 2009, the webpage with the proposed Marine Parks Regulation 2009 had been viewed about 560 times and the proposed Regulation itself had been downloaded from the Authority's website more than 1800 times.

A total of 26 submissions were received and considered to finalise decision-making on the proposed Regulation. Agreements to accept late submissions were made with several groups, including groups representing recreational fishing, science, local government, Department of Lands and the Roads and Traffic Authority.

## Summary of submissions

A total of 26 submissions were received on the proposed Regulation (Table 1).

### 2.1 *Key issues raised and suggested response*

The issues raised with the proposed Regulation and the suggested responses to these issues are summarised in Table 2. The key issues raised were:

- that economic impacts, in addition to environmental, cultural and social impacts, should be added as a matter requiring consideration by the Ministers in any determination to restrict the number of permits issued (clause 20(2)(b))
- the power for removal of a person or property from a marine park for causing an 'inconvenience' was too broad and should be further defined (clauses 21 and 22), noting that no specific issues were raised from operation of these clauses over the past 10 years
- various comments were received on the Nature Conservation Council as the nominated peak body under the proposed Regulation to represent conservation interests (clause 27)
- several comments were received on matters concerning zoning plans. For example, fish species that can be taken in Habitat Protection Zones and General Use Zones of marine parks should be consistent with species that can be taken under fisheries management arrangements. These comments should be dealt with as part of zoning plan reviews. Similar issues to the example above have been raised in community consultation on zoning plan reviews for Solitary Island and Jervis Bay marine parks
- a small number of submissions commented on environmental planning and assessment matters such as development approvals and permits. Some of these submissions seemed to misunderstand aspects of the interaction between the *Marine Parks Act 1997* and the *Environmental Planning and Assessment Act 1979*, including some confusion between consent for activities under the Marine Parks Act and approval of activities under Part 5 of the Environmental Planning and Assessment Act.

### 2.2 *Changes to the proposed Regulation*

The following changes are proposed to finalise the Marine Parks Regulation 2009:

- Clause 9 – paragraph 9(d) refers to “any operational plan for the marine park adopted by the relevant Ministers pursuant to section 25 (4) of the Act”. Amendments to the Marine Parks Act mean that the power to adopt operational plans now lies with the Authority, so this reference should be amended accordingly
- Clause 20 – following submissions on this issue, paragraph 20(2)(b) should be expanded to refer to economic impacts, in addition to environmental, cultural and social impacts, as a matter requiring consideration
- Clauses 21 and 22 – these clauses give marine parks rangers the power to remove, respectively, persons or property from the marine park where the person or property is (among other things) “causing inconvenience to any other person in the marine park”. A number of submissions were received about these clauses, concerned that the word “inconvenience” was broad and subjective. The term “inconvenience” should be replaced with something that gives a clearer indication of when the power will be used. The causing inconvenience test in paragraphs 21(1)(a) and 22(1)(a) should be replaced with a test of interfering with or likely to interfere with operations of the Authority or public use or enjoyment of the marine park
- Clause 25 – clause 25(b) should be amended such that it is clear that a person does not commit an offence for anything done under the direction of a marine park ranger. It is understood that this would usually be the case anyway but would depend on whether the direction related to a power of the Authority that had been delegated to a ranger. There has

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been some confusion caused by the slightly unusual wording of clause 25(a) (“a person does not commit an offence... for anything done by a marine park ranger...” with that person of course being the marine park ranger). Therefore clause 25 could potentially be separated more fully into two self-contained subclauses, one dealing with persons acting under the direction of the Authority / rangers and the other dealing with acts of rangers.

Changes to the zoning plans of marine parks or other material in the Marine Parks (Zoning Plans) Regulation 1999, once made, should be dealt with during zoning plan reviews.

Table 1. Details of submissions on the proposed Marine Parks Regulation 2009.

No.	Stakeholder	Date (2009)	Comment or Submission
1	Prof. Peter Saenger (MPAC)	9 April	Comment
2	Mr Bruce Cartwright	28 May	Submission
3	Mr John Prosser	29 May	Submission
4	Mr Dave Clark	1 June	Submission
5	Mr Geoff Ferns	1 June	Submission
6	Solitary Islands Marine Park Advisory Committee	3 June	Submission
7	Shoalhaven City Council (Mr Gordon Clark)	5 June	Submission
8	Mr Malcolm Poole	8 June	Comment
9	Mr Mark Dempsey	8 June	Submission
10	Hon Duncan Gay (2 messages)	9 June	Comment
11	Mr Dan Bode	10 June	Submission
12	Mr Iain McKay	11 June	Submission
13	Southern Rivers Catchment Management Authority (Dr Martine Fraser)	12 June	Submission
14	National Parks Association (Ms Nicky Hammond)	12 June	Submission
15	Bobbie Antonic	12 June	Submission
16	Nature Conservation Council NSW (Mr Ben Birt)	12 June	Submission
17	Mr Doug Pearson	12 June	Submission
18	Mr Bob Edgar (MPAC)	14 June	Submission
19	Tourism NSW (Ms Elisbeth Allen – MPAC)	15 June	Submission
20	Australian Marine Sciences Association (Dr Bill Gladstone, President NSW Branch)	17 June	Submission
21	Australian Fishing Trade Association (Mr Doug Joyner, Executive Officer)	17 June	Submission
22	Advisory Council on Recreational Fishing (Mr Nick James, Executive Officer)	19 June	Submission
23	Lord Howe Island Board (Mr Stephen Wills, CEO)	24 June	Comment
24	Department of Lands (Mr Martin Sewell)	30 June	Submission
25	Roads and Traffic Authority (Ms Alison Nash)	2 July	Submission
26	Eurobodalla Shire Council (Mr Paul Anderson, General Manager)	8 July	Submission

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Table 2. Summary of submissions on the proposed Marine Parks Regulation 2009.

**Proposed Marine Parks Regulation 2009**

Clause	Issue raised	Keywords	Response	Number of submissions
RIS	Concerned that RIS was prepared by the Marine Parks Authority rather than an independent assessment.	RIS	No changes necessary. Accords with normal practice given the agency has internal economic expertise and approach taken reflects the modest scale and limited impact of proposed regulatory change	1
All	More time required to provide comments on proposed Regulation.	Extension of public exhibition period	No changes necessary. Several late submissions were accepted. Contact was made with numerous peak stakeholder groups to determine their interest in providing a submission and extensions were provided to agreed dates on request.	3
All	General support for proposed changes to regulations. General support for marine parks.	Support	No changes necessary.	6
All	Opposition to marine parks generally. Could be interpreted as opposed to making of proposed Regulation.	Opposition	No changes necessary. No specific changes requested. Only general statements made, such as there is no scientific evidence to support marine parks.	2
All	Financial costs of policing unjustified.	Costs	No changes necessary.	1
All	Carry out a full review of the Marine Parks Act and associated regulations.	Review of Marine Parks Act and regulations	No changes necessary. A review of the Marine Parks Act as required by s. 49 was completed in 2004. The proposed Regulation is based on a review of the current Marine Parks Regulation 1999. The Marine Parks Act was amended in mid 2008. These amendments established provisions for reviewing and amending zoning plans, to be contained in the Marine Parks (Zoning Plans) Regulation 1999.	1
All	Legislation for Lord Howe Island and Lord Howe Island Marine Park should be consistent.	Lord Howe Island	No changes necessary. Continue to pursue consistency during review/amendment of Lord Howe Island Act and regulations and marine park zoning plan/Marine Parks (Zoning Plans) Regulation 1999. Review of the zoning plan for Lord Howe Island Marine Park is due to commence in late 2009.	1

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Clause	Issue raised	Keywords	Response	Number of submissions
Part 2	Support clearly defined consent procedures. Generally support permit system but need to minimise 'red tape'. Great deal of administration required for simple activities such as fishing competitions. Application process should be streamlined.	Permit administration and application process	No changes necessary. Facilitate permit applications and streamline administration through review of the permit system scheduled by the Marine Parks Authority for 2009-10.	3
Part 2	Permits may be used to limit some events, potentially in favour of other events, especially more 'environmentally friendly' events	Assessment of applications for consent	No changes necessary. Applications for consent are based on clear assessment criteria that are not specific to particular types of events or activities. Caps on permits could be applied under cl. 20 of the proposed Regulation to limit the impacts of activities that could threaten marine park biodiversity values. Caps only currently apply to commercial activities such as whale watching and charter fishing, rather than events. It is proposed to incorporate the need to have regard for economic impacts of a use in making a determination as to the maximum number of permits to issue in relation to the use.	2
Part 2	Expand assessment criteria to include matters relevant to any legislation concerned with proposed activities to facilitate issuing a single permit from State agencies.	Single permit from State agencies	No changes necessary. The Marine Parks Regulation can not effectively accommodate all matters for the range of proposals for activities in marine parks that are relevant to a wide range of other legislation that may apply (e.g. due to variation in the objects of the range of Acts that may apply). It is proposed to facilitate permit applications and streamline administration through review of the permit system scheduled by the Marine Parks Authority for 2009-10.	1

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Clause	Issue raised	Keywords	Response	Number of submissions
Part 2	Proposed Regulation should include additional clauses to accommodate activities under agreed river entrance management policies, estuary management plans and coastal management plans.	Permits for activities under agreed plans	No changes necessary. The proposed Regulation does not preclude the approach sought. It is likely that proposed activities would still need to be assessed on a case-by-case basis, but this would be streamlined by the publication of a suitable environmental assessment for the proposed activities. This matter is largely procedural in nature and is best approached through reviewing the permits policy and procedures of the Marine Parks Authority (as part of the review of the permit system scheduled by the Marine Parks Authority for 2009-10).	1
7	The timeframe for requesting further information referred to at cl. 7 (2) should be transparent.	Ministers may ask for further information in considering consent	No change necessary. Timeframe is specified as minimum of 21 days in the Permits Policy and Procedures of the Marine Parks Authority ( <a href="http://www.mpa.nsw.gov.au/pdf/MPA-Permit-Policy.pdf">http://www.mpa.nsw.gov.au/pdf/MPA-Permit-Policy.pdf</a> ). The maximum timeframe would depend on the type of information being requested.	1
9	Change 9 (h) to refer to 'arrangements that is proposed to be made'	Assessment criteria	No change necessary. Refers to how any damage to the marine park from the 'proposed activity' would be remedied.	1
9	Assessment criteria could refer to Department of Planning <i>Register of Development Assessment Guidelines</i> for guidance on development assessment.	Assessment criteria	No change necessary. The Register is a policy document that would not normally be referred to in a regulation. Sections 19 and 20 of the Marine Parks Act describe how applications for developments within and which may affect a marine park are determined in accordance with the Environmental Planning and Assessment Act. The development assessment guidelines referred to would be relevant in this context. The consent process described in the Part 2 of the Proposed Regulation relates to the impact of activities that 'without consent' are otherwise prohibited in a marine park or within specific zones. This primarily includes activities that would not require determination under the Environmental Planning and Assessment Act. Social and economic factors are considered in during the development of zoning plans which may specify additional activities that require consent in certain zones or a specific marine park.	1

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Clause	Issue raised	Keywords	Response	Number of submissions
9	Add consideration of social and economic impacts to assessment criteria	Assessment criteria	No change necessary. Separate processes under the Marine Parks Act and environmental planning and assessment legislation exist for assessing proposals. The Marine Parks Act primarily focuses on conservation of marine biodiversity and where consistent providing opportunities for sustainable resource use, public appreciation, enjoyment and understanding. The Environmental Planning and Assessment Act provides specifically for social and economic impact assessment in respect of development proposals.	1
9	Add consideration of proposals on adjacent Crown Lands	Assessment criteria	No change necessary. The Authority has a role in commenting on proposals adjacent to a marine park. State agencies would normally consult on proposals. Other requirements for assessment criteria may be specified at cl. 9(i) for proposed activities within marine parks. The Permits Policy and Procedures of the Marine Parks Authority scopes the nature of these other requirements.	1
8, 9	Assessment criteria are potentially limitless (cls. 8(3) and 9(i)).	Assessment criteria	No change necessary. The Permits Policy and Procedures of the Marine Parks Authority scopes the nature of these other requirements.	1
14(2)	The wording 'a specified class of persons' is ambiguous and may be considered prejudicial, discriminatory and provocative.	Permit may authorise others	No changes necessary. The term 'class of persons' is used in the sense of a group of people. Similar terminology is used at cls. 14(1), 20(b) and 26(d). Similar terminology is used in other national parks and fisheries management regulations and is a matter for parliamentary drafters.	1
16	Provide that permits may be valid for up to five years even though they may be used infrequently (e.g. for river entrance management) by inserting the words 'unless otherwise stated under Clause 15' at the beginning of clause 16(1)(g).	Cancellation of permits	No changes necessary. The proposed Regulation indicates that a permit remains in force for such a period as is specified in the permit (cl. 15) and therefore supports the issuing of long-term permits as required. The clause in question indicates that permits <u>may</u> be cancelled for the range of reasons listed in the proposed Regulation. But it does not mean that permits are automatically cancelled if unused for 120 days. The Permits Policy and Procedures of the Marine Parks Authority states that the maximum period for which any permit may be granted is five years.	1

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Clause	Issue raised	Keywords	Response	Number of submissions
16, 17, 18	Cancellation, variation or suspension of a permit should take into account how the action may affect the financial, business or legal obligations of the permit holder.	Cancellation, variation or suspension of permits	No changes necessary. In line with normal procedural fairness, suitable procedures for notification and consideration of representations are contained in the Permits Policy and Procedures of the Marine Parks Authority.	1
20	Economic impacts should also be considered in determining whether the number of permits will be restricted.	Restriction on number of permits	Change cl. 20 (2) (b) by including economic impacts in addition to environmental, cultural or social impacts	2
21	Power for removal of a person from a marine park for causing an 'inconvenience' is too broad or undefined. Withdraw clause until internal privacy review is conducted and RIS can adequately quantify impacts. Definitions and conditions for removal of people from the marine park should be established at cl. 21(3). Use terms 'offensive behaviour and/or harm to any other person' instead.	Removal of persons	Change cl. 21(1)(a) to better define reasons for removing persons from marine parks. It is recommended the present subclause is replaced and sufficient reasons are that the person is: <ul style="list-style-type: none"> <li>interfering or likely to interfere with operations of the Marine Parks Authority or public use or enjoyment of the marine park.</li> </ul> <p>The existing broader powers have been used little and have caused no known problems to date. But they provide an effective deterrent and tool for marine park compliance, enforcement and operations.</p> <p>The Marine Parks Act (s. 17(e)) directly provides that the regulations may make provisions for 'removing from marine parks trespassers, <u>persons causing annoyance or inconvenience</u> or persons committing offences'.</p> <p>The National Parks and Wildlife Regulation 2002 includes similar powers for removal of people from parks for causing 'nuisance or inconvenience' (cl. 8). The <i>Crown Lands Act 1989</i> (s. 124) refers to removal of a person causing 'annoyance or inconvenience' by 'disorderly conduct'. Similarly, the Lord Howe Island Act, Royal Botanic Gardens and Domain Trust Act and Regulation and the Sydney Harbour Foreshore Authority Regulation all refer to removal of persons for causing an inconvenience. The term 'annoyance' has been removed during drafting of the proposed Regulation, potentially due a recent court challenge and finding.</p>	8

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Clause	Issue raised	Keywords	Response	Number of submissions
22	Power for removal of property from a marine park for causing an 'inconvenience' is too broad or undefined. Withdraw clause until internal privacy review is conducted and RIS can adequately quantify impacts. Use terms 'danger and/or hazard' instead.	Removal of property	Change cl. 22 (1) (a) to better define reasons for removing property from marine parks. It is recommended that the present subclause is replaced and sufficient reasons are that the property is: <ul style="list-style-type: none"> <li>interfering or likely to interfere with operations of the Marine Parks Authority or public use or enjoyment of the marine park.</li> </ul> Note that cl. 22 augments s. 20H of the Marine Parks Act which allows for the removal of removable property. Cl. 22 is intended to apply to day-to-day management whereas s. 20H would typically deal with larger issues (such as wrecked vessels and unlawful structures).	4
22, 24	Do terms 'significant' and 'reasonable' have a precise legal meaning.	Definition of terms	No changes necessary. These aspects are assessed as required with respect to the particular factors involved for the case in question.	1
23	Procedures for removal of heavily fouled hulls from marine parks and inspection prior to use in marine parks are required. Responsibilities for removal of heavily fouled hulls may overlap and conflict with NSW Maritime. Role of Marine Parks Authority should be limited to stopping vessel and referral to NSW Maritime.	Heavily fouled hulls – procedures and overlap of powers with NSW Maritime	No changes necessary. Procedures for removal of heavily fouled hulls are determined by marine parks rangers, including consideration of matters such as safety at sea. It is not possible to inspect the hulls of all vessels operating in marine parks. Relative roles of MPA and NSW Maritime are the subject of inter-agency agreements. Maritime legislation largely concerns navigational issues, ports and marine pollution, rather than fouling or exotic species.	2

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Clause	Issue raised	Keywords	Response	Number of submissions
Part 3	Duty of care to maintain buoys and mooring lines free of exotic plants and animals is not specified.	Exotic plants and animals	No changes necessary. Cl. 21 of the current Marine Parks Regulation 1999 addresses causing or allowing any exotic animal or plant to be introduced into the marine park and should cover the maintenance of infrastructure free of exotic plants and animals. This clause will remain in the Marine Parks (Zoning Plans) Regulation 1999 and should be considered during any amendments of zoning plans. If required, this power could be broadened to specifically include maintenance of infrastructure within the marine park, including vessels, wharves, buoys and mooring lines, free of exotic plants and animals	1
24	Support addition of aquaculture permit holders.	Information from aquaculture permit holders	No changes necessary.	1
25	Rangers and the authorities and their representatives must be held responsible for their actions. Withdraw clause until internal privacy review is conducted and RIS can adequately quantify impacts. Refer instead to anything legally done.	Things done by ranger or under direction of Authority	Change clause to improve clarity. It is recommended that the clause is split into two clauses: 1. specify that a person does not commit an offence for anything done under direction of the Authority or a marine park ranger 2. specify that a marine park ranger does not commit an offence for anything done in the exercise of his or her functions as a marine park ranger. The first clause suggested above is intended to protect the interests of individuals from a direction from the Authority or a marine park ranger. The second clause suggested above is intended to protect marine park rangers in the proper exercise of their functions.	4

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Clause	Issue raised	Keywords	Response	Number of submissions
26	<p>Persons nominated as delegates of the Authority's functions must only operate under the direction of the Senior Marine Park Ranger.</p> <p>The wording 'a person of a class approved' must be revised as it is ambiguous and may be consider prejudicial, discriminatory and provocative.</p>	Delegation of the Authority's functions	<p>No change necessary.</p> <p>Any delegation of functions under the Marine Parks Act and Regulations are considered by the Marine Parks Authority. Typically functions are not delegated to officers below the level of Marine Park Manager.</p>	1
27	<p>Nature Conservation Council (NCC) is not a suitable peak body to represent conservation interests or would need close supervision.</p> <p>The term 'peak body' should not be used as there are several potential peak bodies for marine conservation.</p> <p>There should be two NCC representatives on the Advisory Council and each advisory committee given the abundance of fishing interests represented.</p>	NCC as a peak group for Advisory Council	<p>No changes necessary.</p> <p>Section 32(2)(b) of the <i>Marine Parks Act 1997</i> uses the language 'peak group or body' and defers to the regulations.</p> <p>The composition of the Advisory Council and advisory committees is determined by the Marine Parks Act rather than the Regulation.</p> <p>Nominees of the Nature Conservation Council are represented on a range of peak and related advisory bodies to represent conservation interests, such as the Advisory Council on Recreational Fishing and the Seafood Industry Advisory Council.</p>	3
27	NCC is a suitable peak body to represent conservation interests.	NCC as a peak group for Advisory Council	No changes necessary.	2
27	<p>Peak body should not be nominated by the proposed Regulation.</p> <p>All submissions should be considered on merit and no group deserves special attention.</p> <p>Need to recognise conservation views of other stakeholders.</p>	NCC is peak group for Advisory Council	<p>No changes necessary.</p> <p>The proposed Regulation is a transparent way of indicating how the peak body is chosen and the approach has worked adequately to date.</p> <p>The Marine Parks Act requires representatives from a range or stakeholder groups on the Advisory Council.</p>	3

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Clause	Issue raised	Keywords	Response	Number of submissions
29	The phrase 'illegal commercial fishing activities' maligns legitimate commercial fishers. Change to 'illegal fishing activities' which would also broaden the powers.	Commercial fishing activities	No changes necessary. The phrase 'illegal commercial fishing activities' is not used in the proposed Regulation itself. Enforcement powers of the <i>Fisheries Management Act 1994</i> define and refer to 'commercial fishing activities'. These powers are used for fisheries management and are being extended to marine parks. Terminology needs to be consistent for these two purposes. Explanatory material on the Regulation needs to be clear on the powers.	1
29	Forfeiture offences are supported. Forfeiture provisions should extend to illegal recreational fishing activities. Support consistency with fisheries management legislation.	Forfeiture offences	No changes necessary. The forfeiture offences apply to persons suspected of undertaking illegal 'commercial fishing activities' and not specifically to licensed commercial fishers as a class of persons. Persons who are not commercial fishers (e.g. recreational fishers) could still be found to be committing forfeiture offences depending on the nature and scale of their illegal activity.	2
32	Marine parks regulations should apply to activities of the Australian Defence Force.	Exemption for Australian Defence Force activities	No changes necessary. Would create unnecessary issues of jurisprudence between NSW and Commonwealth.	1
Sch. 1	Penalty for clause 22(1A) is \$220 whereas others are \$200, \$300 or \$500.	Consistency of penalty infringement notice amounts	No changes necessary. Clause 22(1A) concerns collection and removal of faeces deposited in a marine park by a domesticated animal. The penalty aligns with a similar penalty under s. 631 of the <i>Local Government Act 1993</i> for damaging, defacing or polluting public bathing place.	1
Sch. 1	Penalties for broadly similar offences under marine parks and other legislation should be consistent. Support proposed consistency of penalty notice amounts for domesticated animal offences. Compliance (offences/penalties) for recreational fishing should be consistent in all waters.	Consistency of penalty infringement notice amounts	No changes necessary. Alignment of offences for domesticated animals in marine parks are being aligned in proposed Regulation. Application of seizure/forfeiture provisions to marine parks provides consistency with aquatic reserves and fisheries offences within and outside marine parks for commercial fishing activities.	3

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Clause	Issue raised	Keywords	Response	Number of submissions
Sch. 1	Remove penalties. Only penalties should be for breaches of bag and size limits.	Penalties	No changes necessary. Removal of penalties would have a range of negative effects as discussed in the RIS. Bag and size limit penalties are under Fisheries Management legislation.	1

**Proposed amendments – Marine Parks (Zoning Plans) Regulation 1999**

Item	Issue raised	Keyword	Comment	Total submissions
cl. 7	Minor offences of fishing in sanctuary zones should not be treated as a criminal offence.	Criminal offence	No changes necessary. Minor matters of fishing in sanctuary zones are appropriately handled by penalty notice provisions of the Marine Parks Act and regulations and compliance procedures.	1
[8]	Objects of zones should be set out in the Marine Parks Act.	Objects of zones	No changes necessary. Beyond the scope of the Regulation remake. This matter was considered and rejected by Government during amendment of the Marine Parks Act in 2008.	2
[8]	Reference to Aboriginal and non-Aboriginal cultural features is unnecessarily divisive	Objects of zones	No changes necessary. Provides clarity for the term 'cultural features'.	1
[8]	Objects of special purpose zones at 5D (b) and (c) should be required to be consistent with subclause (a), as for other types of zones.	Objects of special purpose zones	No changes necessary. Special purpose zones are designed to provide for several classes of management objectives and complement the other types of zones in marine parks. The proposed provisions provide flexibility to consider the specific objects of individual special purpose zones during development of zoning plans.	2
[8]	Objects of sanctuary zones would preclude all activities except research as they would harm plants or animals or damage habitat.	Objects of sanctuary zones	No changes necessary. The objects of sanctuary zones have not been changed from the current Marine Parks Regulation 1999 under which a variety of non-extractive activities are permitted in sanctuary zones (e.g. swimming, boating and SCUBA diving). The impacts of activities in marine parks are managed through zoning plans and consent and development assessment provisions of the Marine Parks Act and regulations, and other legislation.	3
[8]	Support proposed changes to objects of habitat protection zones.	Objects of habitat protection zones	No changes necessary.	2

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Item	Issue raised	Keyword	Comment	Total submissions
[8]	Define word 'significant' in objects of Habitat Protection Zones and generally. Similarly define what would be 'non-significant'. Assessment of significant of impacts should be based on thorough ecological assessment.	Definition and assessment of significant impacts	No changes necessary. 'Significant' is not defined in the <i>Environmental Planning and Assessment Act 1979</i> . Activities permitted in zones of marine parks are determined in accordance with the objects of the Marine Parks Act, objects of zones, assessment criteria and zoning guidelines.	2
[11], [15], [17]	Protection of animals, plants and habitat in habitat protection zones, general use zones and special purpose zones needs to be consistent with references to fisheries guidelines.	Protection of animals, plants and habitat	No changes necessary. These clauses specifically exclude harm to fish. Harm to plants is set out in zoning plans for marine parks. Fisheries regulations continue to operate in marine parks.	2
[12], [15], [17]	Defining forfeiture offences for harming animals (other than fish) or plants or damaging habitat in habitat protection zones, general use zones and special purpose zones is not supported.	Forfeiture offences	No changes necessary. Provisions would apply to illegal commercial fishing activities that harmed animals (other than fish) or plants or damaged habitat in habitat protection zones, general use zones and special purpose zones in habitat protection zones.	1
cl. 19	Concerns regarding compliance and enforcement regarding possession of stowed, rigged or unrigged fishing gear	Possession	No changes necessary. Is being suitably addressed through compliance procedures. Should be considered in zoning plan reviews and amendments.	2

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Item	Issue raised	Keyword	Comment	Total submissions
Parts 1 to 6	Clarify the permissibility of road works to reduce uncertainties in assessment. The clauses concerning 'permissible uses' in sanctuary zones in zoning plans should be amended to refer specifically to roads.	Permissible uses	<p>No changes necessary.</p> <p>Clauses concerning 'permissible uses' in sanctuary zones are only contained in the zoning plans for Port Stephens–Great Lakes and Batemans marine parks.</p> <p>In principle, there is no impediment to maintaining or upgrading roads within a marine park as consent may be granted for public safety purposes for activities that harm plants, animals or habitats in all types of zones.</p> <p>Clause 32N should not require additional assessment documentation. It does provide the Marine Parks Authority with the ability to manage activities in marine parks and to specify conditions on any consent that are relevant to the particular marine park in question.</p> <p>It is proposed to facilitate permit applications and streamline administration through review of the permit system scheduled by the Marine Parks Authority for 2009-10.</p> <p>The process for marine parks is simpler than for terrestrial reserves where consent is required for the activities in question and a review of environmental factors is submitted for DECC determination before the consent is granted.</p>	1
Part 6	Sanctuary zone at Little Swan Bay in Port Stephens should be changed to habitat protection zone.	Zoning plan for Port Stephens–Great Lakes Marine Park	<p>No changes necessary.</p> <p>Should be considered during zoning plan reviews and amendments.</p>	1
All	Zoning plans need to be workable. All zones must be clearly identified and marked.	Zoning plans	<p>No changes necessary.</p> <p>Improve manageability of zoning plans through zoning plan reviews and amendments.</p>	2

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Item	Issue raised	Keyword	Comment	Total submissions
All	Fish species that can be taken in Habitat Protection Zones and General Use Zones of marine parks should be consistent with species that can be taken under fisheries management regulations. Recreational fishing rules (i.e. bag and size limits) should be consistent in all waters.	Species protection	No changes necessary. Protection of fish species is undertaken by marine parks and fisheries management for different purposes (biodiversity conservation and fisheries management). Issues can be addressed through zoning plan reviews and amendments (if required), noting that this matter has been raised in community consultation for the reviews of zoning plans at Solitary Islands and Jervis Bay marine parks.	3
All	Recreational fishing should be allowed in all zones.	Zoning plans	No changes necessary. Does not accord with the objects of sanctuary zones or the Marine Parks Act.	1
All	Concern about limitation or prohibition of spearfishing in areas of marine parks.	Spearfishing	No changes necessary. Consider in zoning plan reviews and amendments.	1