



Legislation Summary

The Marine Estate Management Bill 2014 proposes a new legislative framework to underpin an evidence based, coordinated approach to managing the NSW marine estate.

This document summarises the key provisions of the Bill. It also identifies key policy or changes from current provisions in the *Marine Parks Act 1997* and *Fisheries Management Act 1994* that are being incorporated into the Bill.

Objectives

Objectives establish the purpose of legislation, guide judiciary and those responsible for administering the Bill, provide a clear indication of what the legislation is intended to achieve and underpin performance assessment.

The objects of the Bill include the following concepts.

- » Management of the marine estate that:
 - is in accordance with the principles of ecologically sustainable development;
 - promotes a biologically diverse, healthy and productive marine estate; and
 - facilitates economic opportunities, cultural, recreational and social uses, the maintenance of ecological integrity, and scientific research and education.
- » Coordination of the marine estate responsibilities of NSW public authorities.
- » Declaration and management of a comprehensive system of marine parks and aquatic reserves.

The purposes of marine parks and aquatic reserves include the following concepts:

- » The primary purpose of marine parks and aquatic reserves is to conserve biological diversity, ecosystem integrity and function.
- » Secondary purposes include management and use consistent with the principles of ecologically sustainable development, scientific research and education, public appreciation and enjoyment, and Aboriginal cultural uses.

Key definitions

RELEVANT MINISTERS

The Minister for Primary Industries and Minister for the Environment are jointly responsible for the Bill with respect to the key role they play in managing the marine estate.

MARINE ESTATE

The marine estate includes the coastal waters of the State out to three nautical miles. Also included are estuaries, coastal lakes and lagoons, coastal wetlands and adjacent coastal lands influenced by oceanic processes including beaches, dunes, headlands and rock platforms.

Advisory bodies

The Bill establishes the Marine Estate Management Authority and includes the following features.

- » Membership:
 - Independent Chair;
 - Heads of key government agencies including NSW Trade & Investment, Environment & Heritage, Planning & Environment and Transport for NSW; and
 - Chair of the Marine Estate Expert Knowledge Panel.
- » Functions:
 - Advise the Ministers on marine estate matters;
 - Assess threats and risks;
 - Develop Marine Estate Management Strategy and advise on implementation by NSW Government agencies;
 - Promote coordination and collaboration; and
 - Foster community consultation and engagement.
- » Constitution and procedures.

The Bill provides for the possible establishment of the Marine Estate Expert Knowledge Panel and includes the following:

- » Panel to advise the Authority on marine estate matters.
- » Membership is to include environmental, economic and social science expertise.

Marine Estate Management Strategy

The Marine Estate Management Strategy will recognise that effective coastal and marine management needs to be underpinned by evidence regarding human activities and other factors that impact on the marine estate. It will outline the priority threats and opportunities for how these may be addressed.

The legislation provides for a Strategy that:

- » will state the vision and priorities for coordinated management of the marine estate;
- » be informed by threat and risk assessment;
- » incorporate consultation with the NSW community and Local Land Services; the intention is to make the Strategy a state priority for Local Land Services;
- » public authorities must have regard to;
- » is a whole-of-government strategy, approved by Ministers; and
- » will be publicly available; and
- » independently reviewed at least every 10 years.

Threat and risk assessment

Threat and risk assessment will be used to guide future management actions. The Bill provides for threat and risk assessment that:

- » considers threats and risks across the marine estate;
- » identifies and prioritises threats and risks;
- » informs effective management responses;
- » is provided to Ministers; and
- » is published at least every 10 years.

Marine park and aquatic reserve management

Key provisions for marine parks and aquatic reserves are outlined below.

PURPOSES

The primary purpose of marine parks and aquatic reserves is to conserve biological diversity, and maintain ecosystem integrity and function.

Where consistent with biodiversity conservation, the secondary purposes allow for other uses such as management and use of resources, research, education, appreciation, enjoyment and Indigenous cultural uses.

DECLARATION

- » Marine parks declared or varied by NSW Governor on recommendation of the relevant Ministers, who must have considered the Strategy and threat and risk assessment.
- » Aquatic reserves declared by relevant Ministers through publication in government gazette and signage on the ground.

MANAGEMENT PLANS AND RULES

- » Management plans must be prepared for marine parks. A plan may be prepared for aquatic reserves where appropriate. Management plans:
 - can cover multiple marine parks and reserves;
 - will be both strategic and operational in nature;
 - must have regard to the Marine Estate Strategy and threat and risk assessment;
 - require a minimum of two months public consultation;
 - will also include input from non-statutory marine park advisory committees in the development of management plans and rules for their local marine park;
 - are to be reviewed at least every 10 years; and
 - will be supported by management rules in regulations.

REGULATION OF DEVELOPMENT AND ACTIVITIES

- » The Bill provides for the use of standard zones in marine parks and aquatic reserves. Specific zone types and their objectives will be included in the regulations.
- » For development and activities within marine parks and aquatic reserves, the consent authority must receive the relevant Ministers' concurrence.
- » For development and activities affecting parks and reserves, the consent authority must consult with the relevant Ministers.
- » Mining remains prohibited within parks and reserves.
- » The Bill includes the power to remove wrecked vessels and property, and recover costs associated with issuing notices to do so.
- » Marine park and aquatic reserve notifications are to be published in the government gazette and are a management tool for prohibiting certain activities in certain areas. It will be possible to charge fees for uses and activities in a marine park or aquatic reserve.

PERMITS

- » Ministers can grant permits for prohibited/restricted activities, for example commercial business or organised sporting activities within a marine park.
- » Permits can be granted to different classes of persons, for example individuals or commercial businesses.
- » Some activities will no longer need a permit, for example for low impact activities.

COMPLIANCE AND ENFORCEMENT

- » Enforcement powers are attributed to 'authorised officers'.
- » Fisheries officers and NSW Police will be automatically appointed as authorised officers.
- » There are no new offences. Existing offences are carried over, including offences:
 - against management regulations;
 - against marine park or aquatic reserve notifications;

- in relation to removing wrecked vessels or other property from marine parks and aquatic reserves; and
 - powers that are applied under certain divisions of the *Fisheries Management Act 1994*, *National Parks and Wildlife Act 1974* and *Protection of Environment Operations Act 1997*.
- » Extraterritorial application means that enforcement action may be taken even if person or matter occurs outside the State.

FINANCE

A new Marine Protected Areas fund will be created, which can collect and expend money relating to marine park and aquatic reserve administration, research and consultation. The fund can also be spent on administration of enforcement of the Bill and operation of the Marine Estate Expert Knowledge Panel.

This replaces the previous fund that only accommodated marine parks.

SAVINGS AND TRANSITION

- » Various savings and transitional provisions are included in the Bill so that current arrangements will remain in place until new powers come into force or regulations are made.
- » For example existing zoning plans and operational plans for marine parks will continue to remain in force until new management plans and rules are developed.

Non-legislative matters of note

CONSULTATION MECHANISMS

The new approach to marine estate management includes changes to consultation mechanisms. The Bill includes the following requirements.

- » Community consultation will be required when developing the Marine Estate Strategy, threat and risk assessment, management plans and rules.
- » To support the new legislation it is proposed to put in place supporting non-statutory committees and processes including:
 - Marine estate leaders reference group;
 - Marine park advisory committees;
 - Aboriginal marine park advisory groups; and
 - Targeted stakeholder and public consultation and engagement.

MORATORIUM

- » The current moratorium on new marine parks remains Government policy, pending advice from the Marine Estate Expert Knowledge Panel, but is not included in the Bill.

What's next?

Consultation on the development of regulations will occur following commencement of the proposed Act, and will include:

- zone types;
 - management planning; and
 - the permit system.
- » Consultation on other marine estate projects continues to be rolled out.

For more information visit www.marine.nsw.gov.au