

Marine Estate Management Regulation

Frequently asked questions

June 2017

What is the purpose of the draft Marine Estate Management Regulation 2017?

The draft Marine Estate Management Regulation 2017 is one of two Regulations that support the *Marine Estate Management Act 2014* and the Government's approach to managing marine parks and aquatic reserves. This Regulation includes:

- procedures and criteria to be used in assessing applications to undertake activities that are regulated in marine parks and aquatic reserves
- functions of authorised officers and Ministers, including Ministerial delegation
- procedures for permit administration, including an offence for breaching permit conditions
- seizure of things in marine parks and aquatic reserves, exemption for defence force activities, penalty notice offences and other miscellaneous provisions.

This Regulation does not include zones, zone objectives or management rules for marine parks or aquatic reserves. These are addressed in the Marine Estate Management (Management Rules) Regulation 1999.

What is the *Marine Estate Management Act 2014*?

The *Marine Estate Management Act 2014* provides for the management of the marine estate (coastline, estuaries and marine waters of NSW), marine parks and aquatic reserves. The key objective is to promote a biologically diverse, healthy and productive marine estate while facilitating economic, cultural, social and recreational opportunities and allowing for scientific research and education.

Why are changes being proposed in the Marine Estate Management Regulation 2017?

All regulations need to be reviewed regularly to determine if they are still relevant, consistent with other legislation, and/or can be improved and/or streamlined.

This Regulation has been reviewed and all but one of the current provisions are still required to support management of marine parks and aquatic reserves. Four amendments are being proposed that will improve and streamline management, make the Regulation more consistent with other legislation, and make the Regulation easier to understand and implement. No new provisions are proposed to support management of the broader marine estate.

What are the proposed changes?

Proposed changes to the Regulation concern the practical operation of marine parks and aquatic reserves:

1. The criteria for assessing permit applications (Clause 9(h)) will be broadened to include prevention and mitigation of damage. This will encourage applicants wishing to undertake activities in marine parks and aquatic reserves to focus on avoiding or mitigating damage rather than only making good any damage, and ensure this is considered in assessing applications.
2. Delete Clause 10(2) as Clauses 8 and 9 of the Regulation already ensure that the Ministers must consider the objects of zones when assessing applications for activities. In addition the Clause

could conflict with the Marine Estate Management (Management Rules) Regulation 1999 that allows consent for research, environmental protection, public health, traditional use or public safety purposes. For example catching, tagging and releasing fish in a sanctuary zone for research on the effectiveness of sanctuary zones would require approval under the Marine Estate (Management Rules) Regulation 1999. This is because harming, or attempting to harm an animal in a sanctuary zone is prohibited without the Ministers' consent. However, in theory this activity may not be permissible under clause 10(2) of the Marine Estate Management Regulation.

3. Extend existing marine park powers to remove persons, property and heavily fouled vessel hulls and to obtain information on commercial fishing and aquaculture activities (Clauses 21 to 24) to also apply in aquatic reserves. This will improve management of aquatic reserves and allow for consistency with marine park management.
4. Expand powers for removal of property (Clause 22) where it is likely to interfere with a person's use or enjoyment of the marine park or aquatic reserve or is likely to cause a significant impact on species or habitats. This will allow authorised officers to take proactive steps to seek the removal of property without having to wait until impacts occur.

Three other amendments outlined in the Regulatory Impact Statement are to make the wording more legally accurate and do not change the effect of the provisions.

What will not change?

There are no new regulations for the marine estate in general, only changes concerning the practical operation of marine parks and aquatic reserves.

The zones, zone objectives and management rules for marine parks or aquatic reserves remain the same.

The requirement for permits has not changed.

How will the changes better protect marine parks and aquatic reserves?

The changes will give more focus in permit applications to prevention and mitigation of damage, rather than just making good any damage.

Aquatic reserves will also be given the same protection as marine parks with the power to remove persons and/or property causing an environmental impact.

Marine parks and aquatic reserves will be further protected by allowing removal of property that is **likely to** cause a significant impact on species or habitats, without having to wait until impacts occur.

How will the proposed changes affect stakeholders and the community?

The Regulatory Impact Statement outlines the costs and benefits of the proposed Regulation on individuals and the community.

The proposed changes to the existing Regulation will have minor, if any, impact on stakeholders and the community.

Specific impacts may include:

- Visitors to aquatic reserves may be directed by an authorised officer to leave or remove their property from a reserve if they are likely to cause significant impact on species or habitat or interfere with another person's use or enjoyment of the reserve. This may impose costs on affected parties, however these provisions aim to encourage behaviours that protect the biodiversity in marine protected areas and introduce consequences for inappropriate actions.
- Commercial fishers and persons undertaking aquaculture within aquatic reserves may have to provide information on their activities to the Minister for the Environment as well as the Minister for Primary Industries. Administration costs for a business may increase, however it allows for better management of the aquatic reserve.

The proposed draft Regulation and associated Regulatory Impact Statement will be available for community and stakeholder input for 28 days. This is an opportunity for stakeholders and the community to outline if and how the changes to the Regulation affect them. The information provided will be taken into consideration when finalising the Regulation.

How can I comment on the proposed changes and draft Regulation?

The draft Regulation and Regulatory Impact Statement are available for review and comment from 12 June to 9 July 2017.

An information pack including these documents, a submission form and frequently asked questions is available through the marine estate website www.marine.nsw.gov.au and also through all marine park and fisheries offices and some national park offices. Your submission form can be submitted through the website or by post to:

Marine Estate Management Regulation Submission
NSW Department of Primary Industries, Fisheries
Locked Bag 1
Nelson Bay 2315 NSW

Submissions close at 11:59 pm 9 July 2017.

How will my comments be taken into account?

Your comments and comments from other stakeholders will be reviewed and considered when finalising the amendments to the Marine Estate Management Regulation. A report will be developed outlining how this community feedback has been addressed.

What are the next steps?

Amendments to the Regulation will be finalised with the assistance of community and stakeholder views.

The Minister for Primary Industries and the Minister for the Environment will consider community and stakeholder views in finalising the Regulation.

The Regulation will then be publicised in the Government Gazette and published on the NSW legislation website.

Where can I find more information?

The *Marine Estate Management Act 2014* and regulations that are currently in force are available from www.legislation.nsw.gov.au

The Department of Primary Industries website provides more information about [aquatic reserves and marine parks](http://www.dpi.nsw.gov.au/fishing/marine-protected-areas) (www.dpi.nsw.gov.au/fishing/marine-protected-areas)

More information about marine estate projects can be found on the marine estate website www.marine.nsw.gov.au

Feedback requested

We would appreciate feedback on these Frequently Asked Questions: Is this useful information? Is it easy to understand? What other questions would you like answered? Please email your comments to contact.us@marine.nsw.gov.au

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (June 2017). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

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