



New South Wales

Marine Parks Amendment Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Marine Parks Act 1997*:

- (a) to remove the requirement to obtain the consent of owners or occupiers of areas below mean high water mark to the declaration of those areas as marine parks, and
- (b) to declare again the existing marine parks with modifications to the areas which they cover, and
- (c) to require the concurrence of the Ministers administering that Act (the *relevant Ministers*) to the carrying out of certain development and activities within marine parks, and
- (d) to include provisions enabling activities to be prohibited within marine parks by means of a published notice, and
- (e) to enable the removal of wrecked vessels and other obstructions from marine parks, and
- (f) to increase the penalties for offences under that Act, and

- (g) to makes changes to the way in which advisory committees are established under that Act and to specify in more detail the functions of those committees, and
- (h) to make other amendments relating to the administration of that Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Marine Parks Act 1997* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Native Title (New South Wales) Act 1994* set out in Schedule 2.

Schedule 1 Amendment of Marine Parks Act 1997

Consent of owners and occupiers not required below mean high water mark

Schedule 1 [4] and **[6]** remove the obligation to obtain the consent of the owner or occupier of land submerged by tidal waters before declaring a marine park. Where the consent of such a person is required (above mean high water mark), special provision is made with respect to the notification of and the consent of owners and occupiers in line with similar provision applying in connection with the issue of mining authorities (**Schedule 1 [1]** and **[23]**).

Schedule 1 [8] and **[13]** require the relevant Ministers to consider comments and submissions made by holders of existing interests within marine parks before promoting regulations classifying areas within marine parks for different uses and before adopting operational plans for marine parks.

Schedule 1 [24] makes a consequential amendment to remove the existing provisions in the Act dealing with native title. Those provisions will now be unnecessary because of the amendment to the *Native Title (New South Wales) Act 1994* contained in Schedule 2 which preserves native title rights and interests.

Declaration of marine parks

Schedule 1 [29] and [30] contain provisions revoking the current declarations of the Jervis Bay Marine Park, Solitary Islands Marine Park and Lord Howe Island Marine Park and declaring those parks again with modifications to the areas which they cover. The areas have now been described without exempting areas below mean high water mark for which the consent of the owners and occupiers has not been obtained. Also, the area described for the Jervis Bay Marine Park specifically excludes any area within the Booderee National Park which was established under the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth.

Schedule 1 [5] extends the provisions that apply to the declaration of marine parks to any additions made to marine parks.

Development and activities within marine parks

Schedule 1 [11] replaces the existing provisions dealing with the requirement to consult with the Marine Parks Authority when determining a development application under Part 4 of the *Environmental Planning and Assessment Act 1979* for development in a marine park or giving approval to, or carrying out, an activity within the meaning of Part 5 of that Act in a marine park. The new provisions require the concurrence of the relevant Ministers to be obtained to the granting of consent to the development application or to such an activity for which an environmental impact statement is required to be prepared under Division 3 of Part 5 of that Act, except where an activity is proposed to be approved or carried out by a Minister, in which case, consultation only is required.

Marine park closures

Schedule 1 [12] (proposed Division 3 of Part 3) enables the relevant Ministers to publish notifications in the Gazette prohibiting specified activities from being carried out in a marine park or part of a marine park. These prohibitions are referred to as *marine park closures* and may remain in force for no longer than 5 years.

Schedule 1 [3], [7] and [10] make consequential amendments.

Removal of obstructions

Schedule 1 [12] (proposed Division 4 of Part 3) enables the Marine Parks Authority to direct the removal from a marine park of any sunken or wrecked vessel, abandoned property or anything unlawfully erected or placed in the marine park.

Penalties for offences

Schedule 1 [9] makes it an offence (carrying a penalty of 500 penalty units in the case of an individual and 1,000 penalty units in the case of a corporation) to contravene a provision of the management regulations for a marine park if the regulations designate the contravention as a serious offence.

Schedule 1 [20] increases from \$10,000 to \$20,000 the maximum penalty that may be imposed by a Local Court for an offence under the Act.

Marine parks advisory committees

Schedule 1 [15] provides that marine parks advisory committees are to be established by the relevant Ministers rather than the Marine Parks Authority.

Schedule 1 [16] requires those committees to be established so as to include a member to represent the interests of marine science.

Schedule 1 [18] sets out more detailed functions of those committees, including advising the relevant Ministers and the Marine Parks Authority on zoning and operational plans for marine parks, the conservation of marine biological diversity within marine parks, the ecologically sustainable use of marine parks and the use and enjoyment of marine parks by members of the public.

Schedule 1 [17] contains a consequential amendment.

Provisions relating to administration

Schedule 1 [14] provides that the Marine Parks Authority is subject to the control and direction of the relevant Ministers.

Schedule 1 [19] extends the classes of persons who can be appointed as marine park rangers to officers or employees of government Departments or public or local authorities. **Schedule 1 [2]** makes a consequential amendment.

Schedule 1 [21] enables gifts or bequests of money for marine parks to be paid into the Marine Parks Fund.

Schedule 1 [22] provides a delegation power in relation to functions exercised by the relevant Ministers or the Marine Parks Authority.

Schedule 1 [28] applies certain provisions of regulations originally made under the *Fisheries Management Act 1994* for the management of aquatic reserves to marine parks that were formally aquatic reserves. Those provisions are to be treated as if they were regulations under the *Marine Parks Act 1997*.

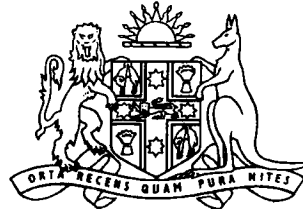
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Schedule 1 [25]–[27] and [29] contain provisions of a savings and transitional nature.

Schedule 2 Amendment of Native Title (New South Wales) Act 1994

The amendments preserve native title rights and interests in respect of areas declared to be a marine park under the *Marine Parks Act 1997*.



New South Wales

Marine Parks Amendment Bill 2000

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New South Wales

Marine Parks Amendment Bill 2000

No. , 2000

A Bill for

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

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Marine Parks Amendment Act 2000</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Marine Parks Act 1997 No 64	7
The <i>Marine Parks Act 1997</i> is amended as set out in Schedule 1.	8
4 Amendment of Native Title (New South Wales) Act 1994 No 45	9
The <i>Native Title (New South Wales) Act 1994</i> is amended as set out in Schedule 2.	10 11

Schedule 1	Amendment of Marine Parks Act 1997	1
	(Section 3)	2
[1]	Section 4 Definitions	3
	Insert in alphabetical order:	4
	<i>Commonwealth Native Title Act</i> means the <i>Native Title Act 1993</i> of the Commonwealth.	5
	<i>native title holder</i> has the same meaning as it has in the Commonwealth Native Title Act.	6
	<i>registered native title body corporate</i> has the same meaning as it has in the Commonwealth Native Title Act.	7
	<i>registered native title claimant</i> has the same meaning as it has in the Commonwealth Native Title Act.	8
[2]	Section 4	9
	Omit the definition of <i>marine park ranger</i> . Insert instead:	10
	<i>marine park closure</i> —see section 20A (2).	11
	<i>marine park ranger</i> —see section 35A (1).	12
[3]	Section 4 (2)	13
	Insert at the end of section 4:	14
	(2) Notes in the text of this Act do not form part of this Act.	15
[4]	Section 6 Declaration of marine parks	16
	Omit section 6 (3) and (4). Insert instead:	17
	(3) A proclamation must not be made under this section:	18
	(a) in respect of an area of Crown lands above mean high water mark without the consent of the Minister administering the <i>Crown Lands Act 1989</i> , and	19
	(b) in respect of any area of land above mean high water mark (whether or not Crown lands) without the consent of the owner and the occupier of the land.	20

(4)	A declaration under this section in relation to an area is not affected by:	1
		2
(a)	an existing interest in respect of land in the area, or	3
(b)	a change of ownership of land in the area.	4
(5)	Subject to this Act, a provision of this Act or the regulations has effect in relation to an area of a marine park despite any such existing interest or change of ownership, unless the provision otherwise specifies.	5
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[5]	Section 9 Variation of area of marine park	9
	Insert after section 9 (2):	10
(3)	The provisions of section 6 (2)–(5) apply to a variation of an area under this section that adds an area to a marine park in the same way as those provisions apply to the declaration of an area as a marine park.	11
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[6]	Section 14A	15
	Insert after section 14:	16
14A	Consent of owners and occupiers	17
	If an owner or occupier of land whose consent is required under section 6 or 9 to the making of a proclamation declaring an area to be a marine park or adding an area to a marine park cannot, after diligent inquiry, be found or identified, the proclamation may be made without the consent of that owner or occupier.	18
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[7]	Part 3, Division 1, heading	24
	Insert before section 15:	25
Division 1	Regulations for the management, protection and conservation of marine parks	26
		27

(ii)	if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and	1 2 3 4 5
(iii)	the permissible uses of the area concerned under the regulations, and	6 7
(b)	if the consent authority intends to grant consent to the carrying out of the development, obtain the concurrence of the relevant Ministers to the granting of the consent.	8 9 10
(2)	A Minister who is a determining authority must not carry out, or grant approval to carry out, an activity (within the meaning of Part 5 of the <i>Environmental Planning and Assessment Act 1979</i>) within a marine park unless the Minister has:	11 12 13 14
(a)	taken into consideration:	15
(i)	the objects of this Act specified in section 3, and	16
(ii)	if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and	17 18 19 20 21
(iii)	the permissible uses of the area concerned under the regulations, and	22 23
(b)	in the case of an activity for which an environmental impact statement is required to be prepared under Division 3 of that Part, consulted with the relevant Ministers on the carrying out of the activity or the granting of approval.	24 25 26 27 28
(3)	A determining authority (not being a Minister) must not carry out, or grant approval to carry out, an activity (within the meaning of Part 5 of the <i>Environmental Planning and Assessment Act 1979</i>) unless the determining authority has:	29 30 31 32
(a)	taken into consideration:	33
(i)	the objects of this Act specified in section 3, and	34
(ii)	if a zoning plan for the marine park is contained in the regulations as referred to in section 16, the objects of the zone within which the area concerned is situated as specified in the zoning plan, and	35 36 37 38 39

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| (iii) | the permissible uses of the area concerned under the regulations, and | 1
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| (b) | in the case of an activity for which an environmental impact statement is required to be prepared under Division 3 of that Part, obtained the concurrence of the relevant Ministers to the carrying out of the activity or the granting of approval. | 3
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| (4) | In deciding whether or not concurrence should be granted under this section, the relevant Ministers must take into consideration: | 8
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| (a) | the objects of this Act specified in section 3, and | 11 |
| (b) | if a zoning plan for the marine park is set out in the regulations as referred to in section 16, the objects of the area concerned specified in the zoning plan, and | 12
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| (c) | the permissible uses of the area concerned under the regulations. | 15
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| (5) | The provisions of section 79B (8)–(11) of the <i>Environmental Planning and Assessment Act 1979</i> , and the regulations under that Act, apply to and in respect of a requirement under this section to obtain the concurrence of the relevant Ministers in the same way as they apply to a requirement to obtain concurrence imposed on a consent authority by an environmental planning instrument under that Act. | 17
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| (6) | For the purposes of applying those provisions, a reference in those provisions to the matters stated pursuant to section 30 (3) of the <i>Environmental Planning and Assessment Act 1979</i> (however expressed) is to be read as a reference to the objects of this Act specified in section 3 and the permissible uses of the area concerned under the regulations. | 24
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[12] Part 3	1
Insert after section 20:	2
Division 3 Marine park closures	3
20A Prohibition of activities in marine parks	4
(1) The relevant Ministers may from time to time, by notification, prohibit the carrying out of any specified activity (including the taking of fish) in a marine park or part of a marine park.	5 6 7
(2) Any such prohibition is called a <i>marine park closure</i> .	8
(3) A marine park closure:	9
(a) may apply absolutely or subject to conditions, and	10
(b) must specify the activities that are prohibited and the area to which it applies, and	11 12
(c) may only apply to the marine park specified in the notification, and	13 14
(d) has effect despite any provision of the regulations.	15
20B Publication of notification of marine park closure	16
(1) The notification of a marine park closure is to be published in the Gazette.	17 18
(2) However, if the relevant Ministers consider that the marine park closure is required urgently, they may publish the notification:	19 20 21
(a) in a newspaper circulating, or by radio or television broadcast, in the area adjacent to the marine park to which the closure applies, or	22 23 24
(b) by causing a copy of the notification to be exhibited in a prominent place adjacent to the marine park to which the closure applies.	25 26 27
(3) In any such urgent case, the relevant Ministers are to publish the notification in the Gazette as soon as practicable.	28 29
20C General provisions relating to marine park closures	30
(1) A marine park closure takes effect on the publication of the notification or on a later date specified in the notification.	31 32

	(2) A marine park closure remains in force, subject to this Act, for the period (not exceeding 5 years) specified in the notification.	1 2
20D	Amendment or revocation of closures	3
	The relevant Ministers may from time to time amend or revoke a marine park closure by a further notification published in accordance with this Division.	4 5 6
20E	General provisions relating to closures	7
	Sections 42, 43 and 45 of the <i>Interpretation Act 1987</i> apply to notifications of marine park closures in the same way as they apply to statutory rules within the meaning of that Act.	8 9 10
	Note. The above provisions of the <i>Interpretation Act 1987</i> relate to standard provisions authorising the adoption of other publications by reference, the making of differential closures, the amendment or repeal of closures and judicial notice and presumptions as to validity for closures.	11 12 13 14
20F	Regulations relating to closures	15
	The regulations may make provision for or with respect to giving effect to marine park closures or to any other matter relating to marine park closures.	16 17 18
20G	Offence provisions	19
	(1) A person who carries out any activity in contravention of a marine park closure is guilty of an offence.	20 21
	Maximum penalty: In the case of a corporation, 1,000 penalty units or, in any other case, 200 penalty units or imprisonment for 6 months, or both.	22 23 24
	(2) A person who is in possession of any animal or plant that has been taken in contravention of a marine park closure is guilty of an offence.	25 26 27
	Maximum penalty: In the case of a corporation, 500 penalty units or, in any other case, 100 penalty units or imprisonment for 3 months, or both.	28 29 30
	(3) It is a defence to a prosecution for an offence under subsection (2) if the person charged satisfies the court that the person did not know and could not reasonably have known that the animal or plant had been taken in contravention of a provision of or made under this Act.	31 32 33 34 35

Division 4	Miscellaneous	1
20H	Removal of wrecked vessels and other property from marine parks	2
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(1)	In this section, <i>unused property</i> means:	4
	(a) any sunken or wrecked vessel, or	5
	(b) any abandoned property, or	6
	(c) anything unlawfully erected or placed.	7
(2)	The Authority may, by notice in writing, direct the owner of or person responsible for any unused property in a marine park to remove the property within such time as is specified in the notice. Any such owner or person who fails, without reasonable excuse, to comply with the direction is guilty of an offence.	8
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	Maximum penalty: In the case of a corporation, 500 penalty units or, in any other case, 100 penalty units or imprisonment for 3 months, or both.	13
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		15
(3)	The Authority may remove, or authorise the removal of, any unused property in such manner as the Authority thinks fit (whether or not the Authority has issued a direction for its removal under this section). The unused property may be removed by its destruction if it is reasonable to do so in the circumstances.	16
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(4)	The Authority may, subject to and in accordance with the regulations, dispose of anything removed under this section.	22
		23
(5)	The Authority may recover as a debt in a court of competent jurisdiction the reasonable costs and expenses incurred by the Authority in the exercise of the Authority's powers under this section from the owner of or person responsible for the unused property.	24
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[13]	Section 25 Adoption of operational plan for marine park	29
	Insert at the end of section 25 (6) (b):	30
	and	31
	(c) any comments made by persons who are the holders of existing interests within the marine park within the period specified for that purpose in the notice referred	32
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	to in subsection (4) or such further period as the relevant Ministers allow,	1 2
[14]	Section 29 Establishment of Marine Parks Authority	3
	Insert after section 29 (2):	4
	(2A) The Authority is subject to the control and direction of the relevant Ministers in the exercise of its functions.	5 6
[15]	Section 35 Marine parks advisory committees	7
	Omit “Authority” in section 35 (1). Insert instead “relevant Ministers”.	8
[16]	Section 35 (2)	9
	Insert “, marine science” after “marine conservation”.	10
[17]	Section 35 (3)	11
	Omit “Authority is” from section 35 (3).	12
	Insert instead “relevant Ministers are”.	13
[18]	Section 35 (4) and (4A)	14
	Omit section 35 (4). Insert instead:	15
	(4) An advisory committee has such functions as are conferred on it by or under this or any other Act.	16 17
	(4A) The principal function of an advisory committee is to advise the relevant Ministers and the Authority on the management of each marine park for which the advisory committee was established and, in particular, on the following matters:	18 19 20 21
	(a) the appropriate classification of areas within the marine park for the purposes of proposed zoning plans (as referred to in section 16) and associated provisions to be included in the regulations,	22 23 24 25
	(b) the provisions of an operational plan for the marine park,	26 27
	(c) the conservation of marine biological diversity within the marine park,	28 29
	(d) the ecologically sustainable use of the marine park,	30

- (e) the use and enjoyment of the marine park by members of the public. 1
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[19] Section 35A 3

Insert before section 36: 4

35A Marine park rangers 5

- (1) For the purposes of this Act, a *marine park ranger* means: 6
 - (a) a person appointed as a marine park ranger in accordance with this section, or 7
8
 - (b) a police officer. 9
- (2) The relevant Ministers may appoint any of the following persons as a marine park ranger for the purposes of this Act: 10
 - (a) an officer of the National Parks and Wildlife Service referred to in section 6 of the *National Parks and Wildlife Act 1974*, 12
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 - (b) a fisheries officer within the meaning of the *Fisheries Management Act 1994*, 15
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 - (c) an officer or employee of a government Department or a public or local authority. 17
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- (3) The relevant Ministers are not to appoint as a marine park ranger a person who is: 19
 - (a) an officer or employee of a local council without first obtaining the consent of the general manager of the council to the appointment, or 21
22
23
 - (b) an officer or employee of any other public or local authority without first obtaining the consent of the employer of the person to the appointment. 24
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[20] Section 39 Proceedings for offences 27

Omit “\$10,000” from section 39 (2). Insert instead “\$20,000”. 28

[21] Section 42 Marine Parks Fund	1
Insert at the end of section 42 (1) (b):	2
, and	3
(c) any gift or bequest of money made for payment into the Fund.	4 5
[22] Section 43A	6
Insert after section 43:	7
43A Delegations	8
(1) The relevant Ministers may delegate a function conferred by or under this Act on the relevant Ministers (other than the power of delegation conferred by this subsection) to the Authority.	9 10 11
(2) The Authority may delegate the exercise of any of its functions (other than this power of delegation) to any person, except as provided by subsection (3).	12 13 14
(3) The Authority may delegate any of the functions delegated to it under this section by the relevant Ministers, but only to the extent authorised by the relevant Ministers.	15 16 17
[23] Sections 44A–44C	18
Insert after section 44:	19
44A Service of documents generally	20
A document that is authorised or required by this Act or the regulations to be served on any person may be served by:	21 22
(a) in the case of a natural person:	23
(i) delivering it to the person personally, or	24
(ii) sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or	25 26 27 28 29
(iii) sending it by facsimile transmission to the facsimile number of the person, or	30 31

(b)	in the case of a body corporate:	1
(i)	leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or	2 3 4 5 6 7
(ii)	sending it by facsimile transmission to the facsimile number of the body corporate.	8 9
44B	Service of documents on native title holders	10
(1)	If a document is authorised or required by this Act or the regulations to be served on a person who is a native title holder in relation to an area, service of the document is taken to be effected in accordance with section 44A if the document is served on a registered native title body corporate in relation to the area.	11 12 13 14 15 16
(2)	If no approved determination of native title (within the meaning of the Commonwealth Native Title Act) exists in relation to the area concerned, a document authorised or required by this Act or the regulations to be served on a person who is a native title holder who cannot be identified may be served on any such person by serving it, in a manner authorised by section 44A on:	17 18 19 20 21 22
(a)	any representative Aboriginal/Torres Strait Islander bodies for an area that includes the area concerned, and	23 24
(b)	any registered native title claimants in relation to the area concerned.	25 26
44C	Meaning of “diligent inquiry”	27
(1)	For the purposes of section 14A, a <i>diligent inquiry</i> to identify a person is the taking of the following actions:	28 29
(a)	the searching of the following registers:	30
(i)	the Register kept under the <i>Real Property Act 1900</i> , and	31 32
(ii)	the General Register of Deeds kept under the <i>Conveyancing Act 1919</i> , and	33 34
(iii)	the National Native Title Register kept under the Commonwealth Native Title Act,	35 36

(b)	placing, on a board or other structure in a conspicuous place on the land concerned, a notice:	1
(i)	stating that it is intended to declare the land as part of a marine park, and	2
(ii)	inviting the owner and occupier of the land to contact the Authority at a specified address,	3
(c)	publishing a notice referred to in paragraph (b) in a newspaper circulating in the vicinity of the land concerned and in a newspaper circulating generally in New South Wales.	4
(2)	For the purposes of section 14A, a person who is a native title holder is taken to have been unable, after diligent inquiry, to be found or identified if:	5
(a)	notice of the proposed proclamation is served by the relevant Ministers in accordance with section 44B, and	6
(b)	at the expiration of the period of 4 months commencing on service of the notice, the person is neither a registered native title claimant nor a registered native title body corporate in relation to the land concerned.	7
[24]	Section 45 Native title rights and interests	8
	Omit the section.	9
[25]	Schedule 3 Savings, transitional and other provisions	10
	Insert before clause 1 of Schedule 3:	11
	Part 1 Preliminary	12
[26]	Schedule 3, clause 1 (1)	13
	Insert at the end of clause 1 (1):	14
	<i>Marine Parks Amendment Act 2000</i>	15

[27] Schedule 3	1
Insert before clause 2:	2
 Part 2 Provisions consequent on enactment of this Act	3 4
[28] Schedule 3, clause 2	5
Omit the clause. Insert instead:	6
2 Regulations relating to aquatic reserves	7
(1) If an aquatic reserve under the <i>Fisheries Management Act 1994</i>	8
is revoked by a declaration of a marine park under this Act, the	9
provisions of the regulations under Division 2 of Part 7 of that	10
Act relating to the aquatic reserve (as in force on the	11
declaration of the marine park) continue to have effect in	12
relation to the marine park and are taken to be regulations	13
under this Act and may be amended or repealed accordingly.	14
(2) Despite subclause (1), on the commencement of this clause,	15
provisions the same as the provisions of Parts 1 and 9 of the	16
<i>Fisheries Management (Aquatic Reserves) Regulation 1995</i> (as	17
in force immediately before 1 September 2000) are taken to	18
form a regulation that may be cited as the <i>Marine Parks</i>	19
<i>(Solitary Islands) Regulation 2000</i> .	20
(3) The <i>Marine Parks (Solitary Islands) Regulation 2000</i> is taken	21
to be a regulation made under this Act and may be amended or	22
repealed accordingly.	23
(4) Part 2 of the <i>Subordinate Legislation Act 1989</i> does not apply	24
to a regulation taken to have been made under this Act by the	25
operation of this clause.	26
(5) For the purposes of section 10 of the <i>Subordinate Legislation</i>	27
<i>Act 1989</i> :	28
(a) a regulation taken to have been made under this Act by	29
the operation of subclause (1) is taken to have been	30
published on the revocation of the relevant declaration	31
referred to in that subclause, and	32

(b)	the regulation referred to in subclause (3) is taken to have been published on the date of commencement of this clause.	1 2 3
(6)	Sections 39, 40 and 41 of the <i>Interpretation Act 1987</i> do not apply to a regulation taken to have been made by the operation of this clause.	4 5 6
(7)	In any regulation taken to have been made under this Act by the operation of this clause:	7 8
(a)	a reference to the relevant aquatic reserve is taken to be a reference to a marine park, and	9 10
(b)	a reference to the Director of NSW Fisheries is taken to be a reference to the Authority.	11 12
(8)	A defence under section 36 or 37 of the <i>Fisheries Management Act 1994</i> applies to an offence against a regulation referred to in subclause (4).	13 14 15
[29]	Schedule 3, Part 3	16
	Insert after clause 2:	17
	Part 3 Provisions consequent on enactment of Marine Parks Amendment Act 2000	18 19
	3 Declaration of certain marine parks	20 21
(1)	The declarations of the Jervis Bay Marine Park and the Solitary Islands Marine Park published in the Gazette on 2 January 1998 and Lord Howe Island Marine Park published in the Gazette on 26 February 1999:	22 23 24 25
(a)	are taken to have been validly proclaimed in accordance with the provisions of Part 2 as in force at the time each of those proclamations was made, and	26 27 28
(b)	are revoked on the commencement of this clause.	29
(2)	On the commencement of this clause:	30
(a)	the areas described in Part 1 of Schedule 4 are declared to be a marine park to be known as “Jervis Bay Marine Park”, and	31 32 33

- (b) the areas described in Part 2 of Schedule 4 are declared to be a marine park to be known as “Solitary Islands Marine Park”, and 1
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- (c) the areas described in Part 3 of Schedule 4 are declared to be a marine park to be known as “Lord Howe Island Marine Park”. 4
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- (3) The declaration of an area to be a marine park by the operation of subclause (2) is taken to be a declaration made in accordance with section 6 and may be revoked or varied in accordance with this Act. 7
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- (4) In Schedule 4: 11
- Lord Howe Island* has the same meaning as *Island* in section 3 (1) of the *Lord Howe Island Act 1953*. 12
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- tidal lands* means any area of land that is covered from time to time by tidal waters, and that is above the lowest astronomical tide level. 14
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- tidal limit* means to the limit of tidal influence at mean high water mark. 17
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- tidal waters* means any area of waters of the sea or subject to tidal influence. 19
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- (5) Latitudes and longitudes referred to in Schedule 4 are latitudes and longitudes determined by reference to the Australian Geodetic Datum 1966 (AGD66). 21
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- 4 Advisory committees** 24
- (1) An advisory committee established by the Authority under section 35 and in existence immediately before the commencement of Schedule 1 [15] to the *Marine Parks Amendment Act 2000* is taken on that commencement to have been established under that section by the relevant Ministers. 25
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- (2) A person holding office as chairperson of an advisory committee under section 35 immediately before the commencement of Schedule 1 [17] to the *Marine Parks Amendment Act 2000* is taken on that commencement to have been appointed as chairperson by the relevant Ministers. 30
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5 Marine park rangers

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

[30] Schedule 4

Insert after Schedule 3:

Schedule 4 Declaration of marine parks

(Schedule 3, clause 3)

Part 1 Jervis Bay Marine Park

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

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

-
- (e) then generally in a southerly direction to a position at 35°04'36"S, 150°51'00"E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Crocodile Head, 1
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- (f) then generally in a south-westerly direction to a position at 35°06'36"S, 150°48'18"E being a point 1500 metres due south of the most southerly point at the territorial sea baseline of Point Perpendicular, 4
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- (g) then generally in a southerly direction to a position at 35°10'18"S, 150°46'18"E being a point 1500 metres due east of the most easterly point at the territorial sea baseline of Cape St George, 7
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- (h) then generally in a south-westerly direction to a position at 35°12'54"S, 150°41'42"E being a point 1500 metres due south of the most southerly point at the territorial sea baseline of St Georges Head, 10
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- (i) then generally in a south-westerly direction to a position at 35°11'6"S, 150°35'42"E being a point at mean high water mark of the most southerly point of Bherwerre Beach, 13
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- (j) then generally north along the coast at mean high water mark of Bherwerre Beach, Bherwerre Peninsula and all its tidal tributaries, Bowen Island, Jervis Bay and all its tidal tributaries, Beecroft Peninsula and all its tidal tributaries, Currarong Beach, and Kinghorn Point reef, to the point of commencement described in paragraph (a) above. 16
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Part 2 Solitary Islands Marine Park 21

All Crown lands beneath tidal and coastal waters to mean high water mark, within the area set out below, together with the waters within that area: 22
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- (a) commencing at a point at mean high water mark at the most easterly point of Plover Island (29°40'24"S, 153°19'49"E), 24
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- (b) then along a line drawn along latitude 29°40'24"S, to a point 3 nautical miles due east of the territorial sea baseline (declared under section 7 of the *Seas and Submerged Lands Act 1973* of the Commonwealth in the Commonwealth of Australia Gazette S29 of 9 February 1983), 26
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- (c) then generally in a southerly direction, including all coastal waters within 3 nautical miles of the territorial sea baseline of the coast, and within 3 nautical miles of the territorial sea baseline of North West Rock, North Solitary Island, North Rock, North West Solitary Island, South West Solitary Island, South Solitary Island and Split Solitary 30
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Island, to a point 3 nautical miles due east of the territorial sea baseline at the eastern most point of Muttonbird Island,	1 2
(d) then along a line drawn along latitude 30° 18' 25" S, to a point at mean high water mark of the eastern most point of Muttonbird Island (30° 18' 25" S, 153° 9' 12" E),	3 4 5
(e) then generally in a northerly direction along the coast at mean high water mark, including all rivers, estuaries, bays, lagoons and inlets upstream to their tidal limit, and tidal lands, including Plover Island, to the point of commencement described in paragraph (a) above.	6 7 8 9
Part 3 Lord Howe Island Marine Park	10
All Crown lands beneath tidal and coastal waters surrounding Lord Howe Island to mean high water mark, together with those waters.	11 12

Schedule 2	Amendment of Native Title (New South Wales) Act 1994	1
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	(Section 4)	3
[1]	Section 104A Saving of native title rights and interests with respect to national parks and other reservations or dedications or declarations	4
		5
	Insert the following paragraph (appropriately lettered) at the end of section 104A (1):	6
		7
	() a proclamation under the <i>Marine Parks Act 1997</i> that declares an area of land or waters to be a marine park or part of a marine park (including a provision of an Act that is taken to operate as such a proclamation).	8
		9
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		11
[2]	Section 104A (3)	12
	Insert “, the <i>Marine Parks Act 1997</i> ” after “the <i>Wilderness Act 1987</i> ”.	13