

SUBMISSION TO THE CONSULTATION ON THE DRAFT MANAGEMENT RULES FOR MARINE PARKS

THE NATURE COAST MARINE GROUP

The Nature Coast Marine Group (NCMG) is a community organisation based on the NSW South Coast. It has 105 financial members and many more supporters. Its work focuses on education, information, research and providing a program of activities to enable local people to enjoy the marine environment. The NCMG has a particular focus on the Batemans Marine Park.

The NCMG considers that the Government's original decision to allow line fishing in marine park sanctuary zones was mistaken. While we welcomed the later decision to remove the amnesty on line fishing at 20 out of the 30 sites in marine park sanctuary zones, our concern with the process remains and we urge the Government not to proceed with rezoning of the remaining 10 sites and to restore their full sanctuary zone protection. In terms of the management rules for the marine parks, we believe that the original set of rules should stand and that the amendments are unnecessary and, indeed, are harmful to the achievement of the objectives of the Marine Estate Management Act 2014.

There are five principal reasons for our concerns:

1. The effectiveness of the marine parks will be significantly impaired without full sanctuary zone protection for these sites. This applies particularly to the Batemans Marine Park. If the decision with respect to Batemans is not reversed, there will be virtually no ocean beaches or headlands in the marine park that are fully protected.
2. The removal of full sanctuary zone protection is unnecessary as there are already extensive areas of beach and headland already available to recreational fishing.
3. There were serious flaws in the advice on which the two decisions of March 2013 and December 2014 were based.
4. In addition to these general concerns, each of the sites in the Batemans Marine Park should continue to enjoy full sanctuary zone protection for specific reasons relating to threatened species or scientific integrity or both.
5. The proposed rezoning would add to confusion about the rules applicable to marine parks and would make enforcement more difficult.

1. The effectiveness of the marine parks will be significantly impaired without full sanctuary zone protection for the sites under consideration

Extensive national and international debate has been given to the design of marine protected areas (MPAs). From both design and government policy points of view it has been agreed that MPAs should comprise a comprehensive, adequate and representative sampling of habitats and biota¹. Thus, for a marine park to be credible and effective it must include a representative sampling of ocean beaches and rocky headlands².

The original zoning of the Batemans Marine Park (BMP) provided that 19% of the total area was set aside as sanctuary zones, while the remaining 81% was available for other purposes, including recreational fishing. Sanctuary zones were set up so that they would cover the range of habitats and biota found in the marine park; for example, offshore islands, beaches, headlands, estuaries, seagrass beds, kelp beds, mangroves and so on. The coastline of the Batemans Marine Park is approximately 152 kms in length. The original zoning provided that approximately 28.6 kms or 18.8% of this coastline was in sanctuary zones³. Beaches in sanctuary zones represented 11.5 kms or 7.6% of the total length of the coastline, while headlands represented 17 kms or 11.2% of the coastline. While the NCMG argued at the time that effective protection required more and larger sanctuary zones, we accepted the original zoning as a minimal design for an effective marine park.

The decision to allow line fishing in sanctuary zones has destroyed this minimal level of protection. There are now virtually no ocean beaches or headlands that have full sanctuary zone protection. Only 0.6% (0.88 kms) of the BMP coastline is protected as ocean beaches and only 5.2% (7.92 kms) as headlands.

To make matters worse, the quality of what remains in sanctuary zones is poor. There is a total of a few hundred metres of small beaches, much of which are in embayments. Whereas long beaches such as at Congo, Bingie, Brou and south of Bogola head were protected under the original zoning, now there are no protected long sandy ocean beaches at all. Most of the protected headland is in one zone, at Burrewarra Point, while the remainder is at Broulee Island. These

¹ “The development of the National Representative System of Marine Protected Areas (NRSMPA) was endorsed by Australian Governments under the Intergovernmental Agreement on the Environment. ... The primary goal of the NRSMPA is ... to establish and manage a comprehensive, adequate and representative system of marine protected areas to contribute to the long-term ecological viability of marine and estuarine ecosystems, to maintain ecological processes and systems, and to protect biological diversity at all levels.” *Australia’s Oceans Policy*, Canberra, 1998. The CAR concept is elaborated in the *Report of Independent Scientific Audit of Marine Parks in NSW*, Sydney 2012, pp 4-5

² The term ‘headlands’ has not been clearly defined but is here understood to encompass headlands, rocky shores and intertidal and nearshore subtidal rocky reefs

³ We acknowledge that an additional 5.5 kms, or 3.6% of the total, is in a Special Purpose Zone in a relatively remote area adjoining the Murrumbidgee National Park, where recreational fishing is prohibited, but where commercial abalone fishing is permitted.

zones, while welcome, have the defect that they are small and not isolated from other zones⁴.

The Batemans Marine Park cannot be effective if it does not protect ocean beaches and rocky headlands. Inshore subtidal rocky reefs, in particular, sustain a wide assemblage of fauna and flora that should have full protection in a reasonably large set of sanctuary zones, so that the benefits of marine protected areas in terms of biodiversity conservation can be realised. Such zones will also ensure that science has reference areas for scientific study that can guide marine estate management into the future. For the BMP to represent adequately the bioregion's habitats and biota it must include a much more extensive sampling of ocean beaches and rocky headlands, coastlines and intertidal and nearshore subtidal reefs. This means that the Government should reinstate the original zoning for the BMP and we urge the Government to do so.

2. The removal of full sanctuary zone protection is unnecessary as there are already extensive areas of beach and headland already available to recreational fishing

There was controversy over many aspects of the Batemans Marine Park when it was established. Over the years this controversy has subsided. Tourist numbers in the Eurobodalla Shire have not been affected by the park's establishment and, indeed, have shown a continuing healthy increase. Wider surveys and anecdotal evidence within the local area suggest that most people are not only happy with the marine park, but support it as a vital protection for the marine environment.

The Nature Coast Marine Group agrees that extensive areas should be available for residents and visitors to be able to enjoy recreational fishing. However, the data in the previous section demonstrates that before the amnesty on line fishing was introduced, almost 80% of the coastline was available to recreational fishers. This included all types of beaches and rocky headlands, in areas that are both easily accessible and remote. From the point of view of providing an amenity for recreational fishers, there is no need for the available area to be increased to over 90%.

It is sometimes suggested that 'there is no harm in someone wetting a line', that recreational fishing is intrinsically low impact and therefore not a problem. This ignores the fact that the number of people fishing recreationally is very large and cumulatively can have a significant impact. A NSW Fisheries survey some years ago indicated there were some 2 million recreational fishers in NSW, who collectively caught 14 million fish each year. Impacts on the ecological values of the marine environment are not well understood, but removing large numbers of fish will inevitably affect trophic relationships, particularly on rocky reefs. An

⁴ Isolation by sand from other areas is one of the features that make for effective marine parks, see Edgar et al 'Global conservation outcomes depend on marine protected areas with five key features', *Nature*, 5 February 2104. The other four features are that marine protected areas should be 'no take', enforced, long lasting and large.

example is the occurrence of ‘urchin barrens’ in NSW waters, where it is speculated that the removal of fish and other predators of urchins has resulted in an explosion in numbers of urchins, which then graze algae to the extent that habitats are degraded and negatively transformed.

In any case, studies have shown that a key element in successful marine protected area design is that they should incorporate ‘no take’ areas, which means no taking of any living creatures.⁵ There is some debate about the value or otherwise of rotating no take areas, but the present exercise cannot be represented as part of this debate, as it does not seek to maximise benefits of no take areas.

3. There were serious flaws in the advice on which the two decisions of March 2013 and December 2014 were based

The issue arose originally as a consequence of the 2012 Report of the Independent Scientific Audit of Marine Parks in New South Wales. Significantly, the report made no recommendation to change the zoning of beaches or headlands. The report did refer to three submissions (11, 13 and 191) that purportedly highlighted ‘highly contentious areas: namely the strict (no take) protection of beaches and some rocky headlands’. However, a perusal of these submissions reveals only passing references, one from Professor Kearney, one very brief reference from another academic and one from a fishing organisation, mirroring Professor Kearney. It then refers to submissions as supporting the idea of rotating protections (7, 51, 89 and 136), but a perusal of these submissions shows they were not based on any scientific study. The Audit did not reference any genuine scientific studies of the issue.

The audit report then went on to refer to a study which it referred to as supporting the idea of rotation⁶. But again, a reading of the study reveals that it did not query the need for protection of beaches, nor did it support the idea of rotation. On the contrary it supported the idea of ‘no take’ zones on ocean beaches, as part of a network of multi-use zonings. The misreading of this paper reflects poorly on the Audit Report’s credibility.

In any case, the Audit Report’s reference to zoning of ocean beaches did not encompass headlands. It was concerning, therefore, that the Government’s original decision applied not only to beaches, but also, with one exception, to headlands, which are of course completely different habitats, with a quite different assemblage of flora and fauna. It is a difference as stark as that between a desert and a rainforest. While the fish inhabiting waters off beaches are mostly highly mobile and are often schooling fish in large numbers, headlands are isolated and limiting habitats for the flora and fauna that is found there. The fish inhabiting them often have nowhere else to go.

⁵ Edgar et al, *op cit*

⁶ Defeo O, McLachlan A, Schoeman DS, Schlacher TA, Dugan J, Jones A, Lastra M & Scapini F (2009) Threats to sandy beach ecosystems: a review. *Estuarine, Coastal and Shelf Science* 81:1–12

The next area of faulty advice that has concerned us was the Assessment by the Marine Estate Expert Knowledge Panel (EKP), which was the basis for the Government's December 2014 partial reversal of its original decision. This Assessment was presented as 'independent scientific advice', but we are deeply concerned that the marine science component of the assessment was not published nor made available for scientific scrutiny, that it appears to be based on no field studies, that by its own admission it ignored significant environmental considerations (primarily the indirect or consequential effects of line fishing on other marine life and habitats) and that it made no reference to the wealth of studies on marine protected areas. Whatever status the Assessment may have as a bureaucratic exercise, it is difficult, in view of these weaknesses, to accord it credibility as genuine science. We are also concerned that, while the EKP assessment acknowledged the clear distinction between headlands and ocean beaches, this was not reflected either in their recommendations or in the Government's decision.

4. Specific concerns about the Batemans Marine Park and the four zones in question

Black Rockcod are seen from time to time on inshore subtidal reefs and it is surmised that reasonable numbers of these threatened fish inhabit the Batemans Marine Park. While they are a protected species, some fishers are not aware of this and/or are unable to identify one if it is caught (NCMG members have on several occasions had to intervene with local fishers to ensure Black Rockcod that had been caught were returned to the water). Grey Nurse Sharks are also seen from time to time inshore, and it is suspected that they spend time along the coastline as well as in known aggregation sites. Risks to both these species will be reduced if there are inshore sanctuary zones closed to line fishing in the BMP.

As local South Coast people, we are distressed that the Expert Knowledge Panel's assessment failed to take account of local information and appeared ignorant of much of the scientific work going on in the Batemans Marine Park. Over the summer of 2012-13, the NCMG undertook surveys of Grey Nurse Sharks and Black Rockcod in the Batemans Marine Park. After the original decision was announced, we informed relevant ministers (by email letter of 16 April 2013,) that we had sighted a threatened Black Rockcod at North Head and advised that whereas this fish would have been relatively secure while a sanctuary zone was in place at North Head it had now been placed in danger of hooking and death. In the light of this, it is difficult to understand why the EKP assessment rated the risk to threatened species at this site as 'low'. We also advised that Black Rockcod had been seen at Guerilla Bay but the EKP assessment did not mention Black Rockcod in connexion with this site. In addition, we advised of the presence of Grey Nurse Sharks at inshore sites, including close to the Brou Beach Sanctuary Zone, which is proposed as one of the sites to be rezoned to permit fishing. This information was of course promptly shared with the Batemans Marine Park and NSW Fisheries but is not mentioned in the EKP assessment.

As regards long term ongoing monitoring, divers from our organisation have carried out 450 surveys (underwater visual census) in the Batemans Marine Park during the past eight years under the aegis of Reef Life Survey, an internationally recognised program which is supervised by prominent Australian marine ecologists and which has published highly regarded peer reviewed papers. Local sites under this program were chosen in consultation with staff and scientists from the Batemans Marine Park/NSW Fisheries and information shared with them. We note from the EKP advice that the presence of an ongoing monitoring program was regarded as a factor that would support removal of the amnesty and restoration of sanctuary zone status., clearly recognising that the integrity of scientific monitoring in marine parks depends in part on consistency in zoning arrangements. The EKP seemed to be completely unaware of the long term program NCMG has been involved with, even though it has been developed and implemented in association with BMP and NSW Fisheries. Although we have active sites at Bingi Bingi Point in the Mullimburra Sanctuary Zone and Fullers Beach in the Bullengella Lake-Corunna Lake Sanctuary Zone, we were disappointed to find that the amnesty was retained at both of these zones. This program also has a site at North Head, and along with another survey program carried out in association with BMP and NSW Fisheries, this time involving snorkel census, this should have strengthened the argument for removing the amnesty there.

5. Other issues relevant to the restoration of sanctuary zones

It takes time for fishers and other users of marine parks to absorb information about what is and what is not permitted. The creation of yet another zoning sub-category will cause uncertainty and confusion among marine park users. The complication of having different kinds of 'habitat protection zones', each with their own rules, is not desirable. Frequently changing the rules adds to the confusion. Enforcement is an important part element of building support and credibility for marine park management. Nothing is as corrosive as the perception that 'free riders' can get away with flouting rules with impunity. But if the rules are complex and changing frequently, enforcement becomes difficult.

The draft regulations provide that the only extractive activity permitted in the proposed zones is line fishing from shore. However, in other habitat protection zones, the collection of baitweed, dead shells and beached seaweed is permitted. This does not appear to be specifically addressed in the draft regulations and should be corrected to make it clear, if it is decided to go ahead with the rezoning, that these activities are not permitted. In any case, the rules applying to other habitat protection zones allow a wide range of extractive activities. In our view, it would be preferable if the rezoned area were given a name other than 'habitat protection zone' so as to make it clear that they provide for a higher level of protection than that of other HPZs.

Education about the marine environment is important in building understanding of the marine environment and support for its management. Ready accessibility

of 'no take' sanctuary zones enhances opportunities for both formal and informal education activities. If there are no accessible sanctuary zones, education will inevitably suffer.

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