

“MARINE ESTATE MANAGEMENT ACT 2014 NO 72” 5 YEAR STATUTORY REVIEW

Prepared by: Iain Watt – PSGLMP Advisory Committee - Conservation Representative
President - EcoNetwork Port Stephens and
Vice President - Marine Parks Association

PREAMBLE

This document is in response to a request from the Department of Primary Industries (DPI) and Environment, Energy and Science group (EES) for input to the 5-year review process of the *Marine Estate Management Act 2014* (the Act) as described in Part 8 s 84 of the Act. Comments were sought comment on whether:

1. policy objectives of the Act remain valid; and
2. terms of the Act remain appropriate for securing those objectives

A Discussion Paper was distributed by DPI outlining requirements for the review. This included a summary of achievements to date under the Act.

There was no clear guidance as to how the review should be undertaken. It does not provide an entirely accurate rendition of The Act, as it interpolates and re-prioritises that which The Act is quite clear, namely the priority of biodiversity conservation and ecosystem integrity and functionality.

Part 8 s 84 of the Act should contain a clearly defined process for all actors to feed into the review and an explanation of what feedback might be expected from the Ministers.

The Discussion Paper, under the section Achievements under the Act provides a list of vague actions that bear little relevance to the application of the legislation within the Act and are misleading, implying that more has been done than is the case.

It remains to be seen whether ‘the nine initiatives and more than forty actions’ to be delivered by the stated \$45.7 million investment will deliver any sustainable management outcomes for the Marine Estate and in particular for NSW Marine Parks.

DO POLICY OBJECTIVES OF THE ACT REMAIN VALID?

The objectives of the MEM Act 2014 the Act are inconsistent with the delivery of the of the Act.

- The Marine Estate Management Authority (MEMA) should be a statutory body not an Advisory body.
- Operational management of the MEMA is weak and should be strengthened to be able to meet the proposed responsibilities.
- The role of MEMA and critical partnerships such as DPI and LGA administration should be clarified and strengthened.
- The Marine Parks Advisory Committees should be statutory with clear terms of reference defined in the Act.

- The principles of ecologically sustainable development have been watered down and should be expanded so as to avoid any misunderstanding.
- The Act fails to address Climate Change and how these impacts will be managed
- The Act fails to promote integration of coastal and terrestrial management.
- The Act does not provide an adequate basis for biodiversity conservation and ecological integrity and functionality. Understanding the rationale underpinning these factors will inform implementation and avoid any misrepresentation and misunderstanding around these factors.

The principle of a Marine Estate Management Authority as an overarching body with responsibility for the management of the marine estate is plausible. However, what has transpired is not what was proposed in the Independent Audit of Marine Parks (The Audit) (Beeton et. al. 2012). The Marine Estate Management Authority and the Marine Estate Expert Knowledge Panel (MEEKP) should be statutory not advisory. The Ministers should be required to provide transparent and valid reasons for ignoring or not integrating advice provided by this panel and the MEMA in general. It should be mandatory that Ministers consult with the MEMA/MEEKP prior to making any decisions that will impact on the marine estate and marine parks.

To date this fundamental principle has not been followed and political interference continues to trump science, demonstrated by the opening of beach and headland sanctuaries to recreational fishing in 2014, followed by the moratorium on the Sanctuary zones in Batemans Bay Marine Park in 2019. This ignores sound scientific and community advice.

Scientific Committee: The Audit recommended a Scientific Committee that would be independent of Government Agencies. The Scientific Committee would identify and oversee strategic research in the Marine Estate and would comprise experts in marine science, economics and social sciences, with an independent chair reporting to the Ministers.

This has become the Marine Estate Management Authority, based on an Advisory Committee and the Marine Estate Expert Knowledge Panel (MEEKP) that reports to the Advisory Committee. The MEEKP apparently cannot initiate research of its own accord but only as requested by the Minister, through the Advisory Committee (MEMA). This is a very cumbersome method for generating a comprehensive scientific approach to managing the Marine Estate.

Furthermore, while the Audit recommended incorporating social and economic input to the management of the Marine Estate, it was not intended to be at the expense of science. The Audit states that the Marine Estate management should be based in science but find a workable balance between interests. And that publically financed research should prioritise potential threats to the biodiversity and ecological integrity that are considered by experts to be most significant and that it should include all 5 classes of threat;

- climate change,
- resource use,
- land based impacts,
- marine biosecurity and
- marine pollution.

This has been dumbed down to a threats and risks assessment (TARA) process driven by community consultation. The public perception and inadequate information about key threats will now drive the management and strategy rather than scientific integrity.

Community Consultation: The Audit also recommended that the *‘Scientific Committee must as a matter of course consult with the community’*. The proposed role of the Scientific Committee as described in the Audit would circumvent impulsive actions by Ministers to please sections of their electorate.

The current system allows for limited consultation with the community, relying largely on Social Surveys commissioned by the DPI, addressing a relatively small cross section of the community. The results of these surveys provide useful insight to the community attitudes. However, these results do not appear to be referenced in the review process.

MEMA and MEEKP should be independent of Government Agencies and should be mandated to be responsible for the management of the Marine Estate and to communicate with the communities on such matters. It should also be sufficiently funded through the annual State budget to be able to achieve its goals. This will provide a long term sustainable approach to marine estate management that will not be governed by short term political agendas.

The Marine Parks Advisory Committees should be statutory: Establishing Marine Parks Advisory Committees (MPAC) is an attempt at meeting recognised international best practice for community consultation and developing community engagement in the marine parks management process.

There is considerable evidence (globally) that engagement with the community makes for better and cheaper enforcement of regulations. However, laws and regulations should be transparent and easily understood, and if necessary supported by an education campaign. The community more readily accept rules and regulations that they understand and will be more inclined to ignore those that they don’t.

Currently there is no mention of MPACs in the Act, and would appear to be a hangover from the now repealed Marine Parks Act 1997. The MPACs are non-statutory (Marine Parks Advisory Committee Hand Book) and therefore there is no requirement for the Minister to accept advice provided by the MPAC. As such, the MPACs are irrelevant under the Act.

The MPACs should be statutory and their Terms of Reference clearly defined in the Act so as to guide all involved parties. Furthermore, the Ministers should be required to acknowledge

such advice and provide a transparent and valid explanation in the case of such advice not being incorporated into management actions.

There is an issue with nomenclature. There are 2 references to Advisory Committees. The Advisory Committee that is the Marine Estate Management Authority and the Marine Parks Advisory Committees established at each of the Marine Parks. This should be resolved.

Confidentiality: The members of the MPACs are bound by confidentiality clauses outlined in the Marine Parks Advisory Committee Hand Book. This restricts the ability of the committee members to engage with the communities/stakeholders that they have been selected to represent. This shows little willingness by the Government to demonstrate transparency and engage with the community, and further strengthens the argument that the MPACs should be statutory and their roles clearly defined in the Act.

DO THE TERMS OF THE ACT REMAIN APPROPRIATE FOR SECURING THOSE OBJECTIVES?

There are several terms within the Act that are not appropriate for securing the objectives of the act. These should be addressed during the proposed review process.

While it is reasonable to develop a single overarching generic management plan for all the NSW marine parks, there has to be capacity for each marine park to develop strategies rules and regulations specific to each individual marine park.

The MEM Act 2014 aims to promote a biologically diverse, healthy and productive marine estate and with regards to Marine Parks provide biodiversity conservation and ecological integrity and function.

Somewhere in the debate about marine estate management and marine parks the objectives of the Act have been hijacked and the Act has come to be viewed by some as a fisheries management tool. It is not. The Fisheries Management Act 1994 No 34 as at May 2020 provides for fisheries management in NSW.

The Act states that the primary purpose of a marine park is to conserve the biological diversity, and maintain ecosystem integrity and ecosystem function, of bioregions in the marine estate. This will require sanctuary zones based on the accepted international gold standards of comprehensive, adequate and representative (CAR) and No-take, enforced, old, large and isolated (NEOLI) principles. The successful application of these principles in impoverished countries where communities are dependent on subsistence fishing is a stark and embarrassing contrast to what has been happening in NSW.

The secondary purposes of a marine park are, where consistent with the primary purpose: To provide for the management and use of resources in the marine park in a manner that is consistent with the principles of ecologically sustainable development. This is an important point as it clearly defines the priorities and the spirit in which the Act was developed.

Critically, other documents produced by the Government to clarify the Act for public consumption, such as the Marine Estate Management (MEM) Act 2014 Strategy, the MEMA Summary and the MEMA Overview inevitably simplify the content. But they also water down the Act and in all three documents the priorities appear to be reversed so as to prioritise the economic and social benefits to be provided by the Marine Estate.

It cannot be stated strongly enough that the primary purposes of the Act as described in the current version be retained, and if anything, strengthened. Logically all other aspects will have to be adapted to meet the primary purposes of the Act.

Commentary on the Act

Further commentary as to how appropriate the Act is for securing its stated objectives has been laid out below with direct commentary on the relevant clauses. For ease of reference, the relevant clauses have been copied directly from the Act and are italicised. The commentary for each clause follows in red text.

WHAT IS THE MARINE ESTATE MANAGEMENT ACT 2014?

An Act to provide for the strategic exercise of government functions in the management of the marine estate of New South Wales; for the declaration and management of marine parks and aquatic reserves; and for other purposes. [Assented to 11 November 2014]

This section should be amended to read ‘in the “sustainable” management of’ so as to clarify as to how the marine estate will be managed.

THE OBJECTIVES OF THIS ACT

3 Objects of this Act

The objects of this Act are as follows:

*(a) to provide for the management of the marine estate of New South Wales consistent with the **principles of ecologically sustainable development** in a manner that:*

(i) promotes a biologically diverse, healthy and productive marine estate, and

Clause (i) should include habitat restoration.

Bullet point 3 in Clause (ii) is not appropriate and should be moved, creating a new Clause (ii) that reads ‘*the maintenance of ecosystem integrity*’. It should be removed from the current Clause (ii) and the current Clause (ii) would then be amended to become Clause (iii). This will be more consistent with other clauses such as Part 5 s22 Marine Parks.

The successful application of Clause (i) and proposed (ii) are critical to achieving the successful outcomes listed in the current Clause (ii). A diverse, healthy and productive marine estate and healthy vibrant communities are not mutually exclusive, but the former is a pre-requisite for the latter.

Where consistent with (i) and (ii) facilitates.....

(ii) facilitates:

- *economic opportunities for the people of New South Wales, including opportunities for regional communities, and*
- *the cultural, social and recreational use of the marine estate, and*
- *the maintenance of ecosystem integrity, and*
- *the use of the marine estate for scientific research and education*

The use of the marine estate for research and education is axiomatic, but very important. This should be the first bullet point as research and education are critical to the better understanding of the marine estate from which economic, cultural and leisure opportunities can then flow.

(b) to promote the co-ordination of the exercise, by public authorities, of functions in relation to the marine estate,

(c) to provide for the declaration and management of a comprehensive system of marine parks and aquatic reserves.

Adequate and Representative should be added in after *comprehensive* so as to ensure that they are sufficiently large to be functional and represent a full range of habitat covering the full range of bioregions and ecosystems to be retained as Sanctuary Zones.

The clauses (b) and (c) should be inverted as clause (c) is the primary function of the Act, while promoting co-ordination etc. is part of the wider management of the marine estate in which the marine parks according to the Act play a crucial role.

THE 'PRINCIPLES OF ECOLOGICALLY SUSTAINABLE DEVELOPMENT'

Under section 4 Definitions, sub section 2

Ecologically sustainable development can be achieved through the implementation of the following:

- (a) the precautionary principle,*
- (b) inter-generational equity,*
- (c) conservation of biological diversity and ecological integrity,*
- (d) improved valuation, pricing and incentive mechanisms.*

The definition of Ecologically Sustainable Development ESD in the Act has been over simplified. Each of these 4 items can be greatly expanded so as to provide a better understanding of their meaning. This is important as these 4 elements provide the framework for understanding how sustainable management of the marine estate and marine parks should be achieved. Poor definition of the ESD leaves the principles open for misinterpretation and misrepresentation.

Reference should be made to Environment Administration Act 1991, which contains an adequate definition of ESD.

HOW IS THE MARINE ESTATE MANAGED?

5 Reference to relevant Ministers

(1) In this Act, a reference to the relevant Ministers is a reference to the Minister for the Environment and the Minister for Primary Industries.

(2) If a provision of this Act requires or authorises the relevant Ministers to take any action or decide any matter, the provision is taken only to require or authorise the relevant Ministers to take the action jointly or decide the matter jointly.

Decisions have to be taken jointly. Therefore, the Minister of the Environment is equally responsible for decisions pertaining to the sustainable management of the Marine estate. The Minister for the Environment cannot (should not) relinquish this responsibility, which appears to be the case currently.

It is anathema that the Minister responsible for the Department of Primary Industries (DPI), which is primarily responsible for natural resource extraction, including fisheries should be involved with biodiversity conservation. Fisheries is an extractive activity, not a conservation activity and the Minister has specific Laws to enact fisheries management. It is not appropriate to mix these two issues under one roof.

Despite what some fisheries scientists might claim the 'sustainable' extraction of fish from the marine environment remains a very imprecise process, largely promulgated on guess work. The Minister for the Environment should not be placed in the position of having to argue the case for conservation against the economic and political weight of respectively, commercial and recreational fishing interests. Without political support this is a lost cause.

Party political horse trading appears to be what drives these issues and places conservation in a very weak position, despite the science that demonstrates the benefits of well managed marine parks and the support of the general public. (References on request).

Under the current legislation, it would appear that the fox has been put in charge of the hen house. Given the Objects of the Act and Part 5 Marine Parks and Aquatic Reserves, Division 1 s22 (1) and Division 2 s33, this is incompatible. The forestry industry (also an extractive industry under DPI) would never be expected to manage the National Parks – why then would Marine Parks be managed by Fisheries. The Minister for DPI should be removed from any executive role within the Act.

The Act should be placed under the Environment Portfolio, with full political support with similar operational mandates as the National Parks. The National Parks do not require the Department of Forestry (DPI) or the forestry industry to provide logistical support and neither should Marine Parks be dependent on Fisheries (DPI) for logistical support.

Part 2 Administration

Division 1 Marine Estate Management Authority

7 Establishment of Marine Estate Management Authority

(1) There is established by this Act an advisory committee to be called the Marine Estate Management Authority.

The Authority is an *'advisory body'*. This does not provide the MEMA with the authority required to manage the complexities of the NSW Marine Estate. The relevant Ministers therefore have no obligation to heed the advice of the MEMA. There is a need for greater transparency in this relationship and that of the public.

The Authority should be a statutory body with responsibilities for the sustainable management of the Marine Estate as outlined in the Objects of the Act. A statutory body should view the management strategies of the Marine Estate beyond the short term political cycles. This should avoid short sighted and agenda driven political decisions being made regarding the management of the Marine Estate.

8 Functions of the Authority

(2) In particular, the Authority has the following functions:

- (b) to undertake assessments of threats and risks to the marine estate,*
- (c) to prepare a draft marine estate management strategy for submission to the relevant Ministers in consultation with the relevant public service agencies,.....*
- (e) to promote collaboration and co-ordination between public authorities in their exercise of functions relating to the management of the marine estate,*
- (f) to foster consultation with the community in relation to the management of the marine estate and the preparation of the marine estate management strategy.*

These functions are admirable. However, given that the Authority is not a statutory body it is difficult to understand how the Authority is to carry out these Functions. The Authority is being expected to provide advice, and fulfil several important functions with no underpinning substance, funding or staff.

The MEMA should be recognised as a Statutory Body with sufficient funding allocated to be able to undertake their duties and tasks according to the Act.

Division 2 Marine Estate Expert Knowledge Panel

9 Establishment and functions of Marine Estate Expert Knowledge Panel

- (3) The Marine Estate Expert Knowledge Panel may provide advice to the Authority on any matter referred to it by the Authority.*
- (4) The regulations may make provision for the constitution and procedures of the Marine Estate Expert Knowledge Panel. However, in establishing any such Panel, the relevant Ministers must seek to include on the Panel persons with expertise in the fields of the ecological, economic or social sciences.*
- (5) The Marine Estate Expert Knowledge Panel is not subject to the control and direction of the relevant Ministers or the Authority in respect of any advice it provides to the Authority*

This section is unclear. It would appear from clause (3) that the Marine Estate Expert Knowledge Panel (MEEKP) may only provide advice to the Authority on matters referred to

it by the Authority and by extension, the Ministers. This compromises the MEEKP to initiate and to carry out independent research and investigations other than those prompted by the Authority.

This is in contradiction to clause (5) that states that MEEKP will not be subject to the controls and direction of the relevant Ministers or Authority. The MEEKP are supposed to be the persons with the expertise in the field, yet appear to be marginalised by this rather contradictory section.

Furthermore, section 4 describes the make-up of the MEEKP to include 'persons with expertise in the fields of the ecological, economic or social sciences'. To avoid any ambiguity with this statement, the word 'or' between economic and social should read 'and'. This ambiguity could be misinterpreted to mean that the various actors, ecological, economic or social are optional, and not that experts from each of these fields should be included on the Panel.

The scientific role should be highlighted as key to managing biodiversity conservation and ecosystem integrity and ultimately the goals of the Act. Other activities can then follow.

This entire section needs to be re-drafted once the role of the Authority has been addressed to ensure that it is a sufficiently funded statutory body.

Part 3 Marine estate management strategy

10 Purpose of marine estate management strategy

The purpose of a marine estate management strategy is to set the over-arching strategy for the State government to co-ordinate the management of the marine estate with a focus on achieving the objects of this Act.

This clause should be amended to read 'to coordinate the "sustainable" management of. The primary object of the act being to 'promote a biologically diverse, healthy and productive marine estate' should be highlighted throughout the Act and not watered down in any way.

Part 4 Threat and risk assessment

20 Assessment of threats and risks to marine estate

(1) *The Authority must ensure that an assessment of threats and risks to the marine estate is periodically carried out.*

(2) *The purpose of the threat and risk assessment is:*

(a) *to identify threats to the environmental, economic and social values of the marine estate, and*

(b) *to assess the risks associated with those identified threats, and*

(c) *to inform marine estate management decisions by prioritising those threats and risks according to the level of impact on the values derived from the marine estate.*

(3) *A threat and risk assessment under this section is to be commenced:*

(a) *as soon as possible after:*

(i) in the case of the first assessment—the commencement of this section, and

(ii) in any other case—the period of 10 years has elapsed since the previous assessment, and

(b) at any other time determined by the relevant Ministers.

(4) The Authority is to carry out the threat and risk assessment in accordance with any standard prescribed by the regulations for the purpose of this section.

21 Threat and risk assessment report

(3) However, before the threat and risk assessment report is provided to the relevant Ministers, the Authority must consult on a draft of the report by giving such public notice that a draft report has been prepared and undertaking such public exhibition of the draft report as is required by the regulations.

The Threats and Risk Assessment (TARA) approach to managing the marine estate is inappropriate. It relies largely on anecdotal evidence collected through social science style surveys at the expense of undertaking scientific research. The *Report of the Independent Scientific Audit of Marine Parks in New South Wales* (Beeton, 2012) (the Audit) recommended the inclusion of social and economic input recognising the need for better understanding of the community position, but not at the expense of scientific research. There is no mention of scientific research in Part 4, s 20, (1) – (4) or elsewhere in the Act. Scientific research should be given priority in the Act, but include finding a workable balance between competing interests, as recommended in the Audit.

Poor understanding of the processes and lack of education about the marine parks is probably one of the greatest risks facing the marine estate, yet it is hardly addressed.

The public perception of threats and risks is often based on anecdotal, inadequate or poorly understood information, with little supporting evidence. This raises the questions of how useful this is in terms of sustainable management. Threats and risks to marine parks should and can be quantified objectively through rigorous scientific processes.

The Audit states that publically financed research should prioritise potential threats to the biodiversity and ecological integrity that are considered by experts to be most significant and lists the primary 5 classes of threat; climate change, resource use, land based impacts, marine biosecurity and marine pollution. These terms should be incorporated into the Act.

The TARA process does not (cannot) incorporate the complex interactions among the many variables found in the marine ecosystem. The process does not have the capacity to consider the wider context and associated complexities.

While the TARA system is inappropriate for developing policy or management strategies for the marine estate, it is potentially very useful for dumbing down complex processes and providing a spurious rationale for poor management decisions.

The proposed TARA principles of management are inadequate for supporting robust marine parks management as there is insufficient rigour in the process.

Part 5 Marine Parks and Aquatic Reserves

Division 1 Marine parks

22 Purposes of marine parks

- (1) *The primary purpose of a marine park is to conserve the biological diversity, and maintain ecosystem integrity and ecosystem function, of bioregions in the marine estate.*

Section (1) should be amended to include 'of "all" bioregions'. Comprehensive, Adequate and Representative marine parks and sanctuaries have still not been achieved in NSW.

This section should define how section (1) is to be achieved. It should include reference to the importance of marine sanctuaries and the application of the CAR and NEOLI principles in developing marine sanctuaries. It should also define the area of a marine park within the marine estate that should be protected as a marine sanctuary. The international recommendations and those applied in the Great Barrier Reef Marine Park are for 30% of the marine park to be protected as sanctuary or no-take areas.

- (2) *The secondary purposes of a marine park are, where consistent with the primary purpose:*

- (a) to provide for the management and use of resources in the marine park in a manner that is consistent with the principles of ecologically sustainable development, and*
- (b) to enable the marine park to be used for scientific research and education, and*
- (c) to provide opportunities for public appreciation and enjoyment of the marine park, and*
- (d) to support Aboriginal cultural uses of the marine park.*

The growth of the NSW coastal population is likely to increase recreational fishing pressure. This may lead to calls to open the marine sanctuaries to recreational fishing. However, no extractive activities of any kind, no matter what fisheries managers claim about new fisheries management techniques, should be allowed in sanctuaries.

When developing Marine Parks management plans the ecologically sustainable development principles should be followed. As such, the precautionary principle should prevail, in support of intergenerational equity, biodiversity conservation and ecological integrity and improving evaluation, pricing and incentive mechanisms for associated communities and stakeholders.

44 Review of management rules for marine parks and aquatic reserves

It should be stated in the Act whether or not community advice will be sought as a matter of course and if so how. The level of feedback community participants can expect from the

Ministers should also be stipulated in Act. Transparency is crucial if the Government expects continued community engagement in these matters.

The research and evidence used in producing the review reports should be clearly cited and be available to the public. This will help abnegate the use of anecdotal evidence in the application of empirical environmental management.

Division 5 Management plans

47 Management plans for marine parks and aquatic reserves

48 Content of management plans

A management plan must

- (a) state the environmental, economic and social values to be conserved by the marine park or aquatic reserve, and*
- (b) identify threats to those values, and*
- (c) state the management objectives of the marine park or aquatic reserve in relation to those values and threats, and*
- (d) specify actions to achieve those management objectives, based on a consideration of risks, and*
- (e) set out the programs to be implemented for managing the marine park or aquatic reserve, and*
- (f) include any other matters that the relevant Ministers consider necessary to be included in the management plant or that the regulations require to be included.*

This section refers to threats and risks assessments as the key method (b, c, d, above) for the development of management plans. Nowhere does it mention the need for robust scientific research in developing management plans. This section should clearly define what methods will be used to monitor and manage biodiversity conservation and ecosystem integrity and functionality over and above the anecdotal threats and risks model.

Schedule 2 Savings, Transitional and other Provisions

Part 2 Provisions Consequent on enactment of this Act

7 Marine Parks Fund (p 39)

On the repeal of the former Act: (Marine Parks Act)

- (a) the Marine Parks Fund under that Act is abolished, and*
- (b) any balance standing to the credit of that Fund is transferred to the Marine Protected Areas Fund established under this Act.*

Part 7 Finance

74 Marine Protected Areas Fund

- (1) There is to be established in the Special Deposits Account a Marine Protected Areas Fund.*

(2) The Fund is to be administered by the Secretary of the Department of Trade and Investment, Regional Infrastructure and Services.

(3) There is to be paid into the Fund:

- (a) all fees, charges and other amounts payable under this Act in connection with marine parks or aquatic reserves, and*
- (b) any gift or bequest of money made for payment into the Fund.*

(4) There may be paid out of the Fund all charges, costs and expenses incurred in, or in connection with, the following:

- (a) the administration of Parts 5 (Marine parks and aquatic reserves) and 6 (Enforcement) of this Act,*
- (b) the carrying out of research into matters relating to the management of marine parks and aquatic reserves,*
- (c) the conduct of consultation for the purpose of the management of marine parks and aquatic reserves,*
- (d) the operation of the Marine Estate Expert Knowledge Panel.*

(5) The costs and expenses referred to in subsection (4) include, without limitation, the costs and expenses incurred by the following persons or bodies in the carrying out of functions under, or in connection with, Parts 5 and 6 of this Act:

- (a) the relevant Ministers,*
- (b) the Authority,*
- (c) any Public Service agency.*

The range of costs and expenses expected to be paid out of the Marine Parks Fund (4) and (5) are both substantial and costly. Sufficient and reliable funding is critical to the sustainable management of Marine Parks. The Act should be amended to ensure that the primary funding sources are identified beyond the MPA Fund and that sustainable funding mechanisms will be provided from the State Government.

It is unclear why these funds should be administered by the Secretary of the Department of Trade and Investment. The MPA Fund should be administered as a trust fund similar to that of the Recreational Fishers Licence Trust Fund, or a statutory body engaged with the sustainable management of the Marine Parks, not the industrial partners involved in extractive industries in the marine estate. Furthermore, the MPA Fund should be transparent and open to public scrutiny.

Being starved of funds does not help provide positive management outcomes for the marine parks. Underfunding inevitably leads to under staffing and ineffective management. De-funding of selected institutions to the point of collapse seems to be a common approach for dismantling important institutions that might otherwise cause community pushback.

The Recreational Fishers Licence Trust Fund is administered by a trust and is used for the sole purpose of supporting recreational fishing activities, including construction of boat ramps and holding fishing clinics to introduce and encourage community involvement and engagement with recreational fishing, among other things. Ironically the number of recreational fishers in NSW remains extremely low, at 12 % of the population, 20% of whom

are aged between 5 and 14 years old! Furthermore, DPI publishes a newsletter supporting fishing and publishes the 'Go Fishing guide' all in support of recreational fishing. On the other hand, generating public support for conservation efforts and the marine parks appears to be a very low priority.

It should be stipulated in the Act that the MPA funds be used in part at least, for the provision of 'soft enforcement' (primarily education and community based activities), including infrastructure such as snorkel trails and interpretive centres, newsletters, training and supporting guides etc. aimed at encouraging community participation and pride in their local Marine Parks.

Developing and delivering a comprehensive education programme about the NSW Marine Parks should be a management priority. A lack of understanding in the community about the marine environment and the values and benefits of Marine Parks is probably one of the greatest threats and risks to achieving biodiversity conservation and the objects of this Act. It has been demonstrated that when the population understand why a law exists, there will be better compliance of that law. This should be the backbone of the enforcement strategy, supported by the more traditional methods when necessary.

The Government appears to be incapable or unwilling to make the necessary political and financial commitment to support marine parks and biodiversity conservation in NSW. If this is the case, rather than allowing the NSW Marine Parks to die of a thousand cuts, the entire NSW Marine Parks system should be deferred. They can then be re-assessed with a view to developing a better understanding of the benefits accrued through tourism and other ecosystem services and developing better marine estate and marine parks management.