



**Eurobodalla Shire Council**

**Draft Tomaga River CZMP**

**Public Exhibition -  
Submissions Report**

November 2014

Prepared on behalf of Eurobodalla Shire Council by Hydrosphere Consulting.

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**PROJECT 14-017 – TOMAGA RIVER CZMP**

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REV	DESCRIPTION	AUTHOR	REVIEW	APPROVAL	DATE
0	Draft for ESC review	R. Campbell	M. Howland	M. Howland	25/11/14

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## 1. INTRODUCTION

Hydrosphere Consulting has prepared a Draft Coastal Zone Management Plan (CZMP) for Tomaga River (Hydrosphere Consulting, 2014) on behalf of Eurobodalla Shire Council (ESC). The draft CZMP was prepared during 2014 with the following major steps:

- April/May 2014: Data review, investigations and stakeholder consultation (community/agency workshop and field trip);
- June-August 2014: Preparation of first Draft CZMP;
- August/September 2014: Council review of first Draft CZMP and Councillor briefing; and
- October/November 2014: Public exhibition (Final Draft for public exhibition, Hydrosphere Consulting, 2014).

Three submissions were received during the public exhibition phase. Further details of the exhibition process and the submissions received are provided in the following sections.

## 2. EXHIBITION PROCESS

At the Ordinary Council meeting of 14 October 2014, Council resolved to place the Final Draft CZMP on public exhibition. The Final Draft CZMP (Hydrosphere Consulting, 2014) was placed on public exhibition between 20 October 2014 and 17 November 2014 (4 weeks). Public promotion of the exhibited plan included:

- Information on Council's 'Public Exhibition' page;
- Information on Council's 'Coastal Projects' page; and
- Notification to relevant agency stakeholders.

## 3. WRITTEN SUBMISSIONS RECEIVED

The three submissions received during the public exhibition period are summarised in Table 1 together with a response to the points raised in the submissions. The submissions are attached in Appendix 1.

Table 1: Summary of Written Submissions

No.	Author	Summarised Content/Points Raised	Response to Submission	Proposed Amendment to Draft CZMP
1	Regional Assessment Officer, NSW Department of Primary Industries – Aquatic Ecosystems	Supports the management plan and in particular the protection and rehabilitation of saltmarsh, mangroves, seagrass and riparian vegetation.	Noted.	None
		NSW Fisheries is working with Shoalhaven City Council (incorrectly stated as Shellharbour) to develop a joint management strategy to address the illegal removal of marine vegetation.	Further enquiries with NSW Fisheries suggest the development of this strategy is in the early stages but ESC may be able to adopt a similar approach in future.	Section 8.3.3 to include a brief discussion of this feedback and potential for future ESC involvement.
	Ranger, NSW Department of Primary Industries – Batemans Marine Park	Provides clarification of legislative considerations relating to Marine Park.	Appendix 2 of the Plan provides a similar discussion. Further clarification of Marine Parks' requirements will be included in the Plan.	Section 1.5, 3rd dot point to be amended to "NSW Marine Parks is responsible for administering the Marine Parks Act 1997, Marine Parks Regulation 2009 and Marine Parks (Zoning Plans) Regulation 1999 in Batemans Bay Marine Park..."  Section 8.5.3 (fishing platform) will also refer to the need for consent from DPI – Marine Parks for works below the mean high water mark.
		Supports the key strategies and initiatives in the plan.	Noted.	None

No.	Author	Summarised Content/Points Raised	Response to Submission	Proposed Amendment to Draft CZMP
3	Tomakin Community Association (TCA)	TCA would like to bring forward Actions 1.1 – Control of pedestrian on the spit, 1.2 – education and information signs and 1.3 – education and awareness program for spit erosion to be undertaken as soon as possible.	These actions were programmed for 2015/16 which is the first year of the implementation program, assuming that the Plan is adopted in early 2015 with commencement in the 2015/16 financial year.	None
		Cautions the removal of fencing along the spit as some fencing has been effective in preserving vegetation and controlling erosion.	The Plan recommends removal of the fencing at the base of the dune on the river side as it is redundant as an erosion control measure. As the spit continually erodes, the fence on the river side has been progressively moved further east. Although some vegetation has been protected by this fence, it has not been effective in controlling erosion. The plan proposes repair/extension of other fences along the dune crest and ocean side which will provide better protection without the issues associated with the river side fence.	None
		Community feedback on the viewing platform at the northern end of the spit is mixed. TCA suggests a disability-friendly platform at the entrance of Tomakin Beach or a boardwalk from the beach to the river.	The viewing platform at the northern end of the spit was proposed to assist in keeping people off the dune and direct them along the desired tracks, enhance scenic amenity and provide a focal point for pedestrians. The platform could be located at any point along the spit but should be connected to pathways and be easily visible to direct pedestrians along formed pathways rather than disturbing other parts of the dune. A boardwalk would serve a similar purpose but would be more expensive and the additional investment is not considered necessary as a pathway from the beach to the river already exists. Due to the environmental and cultural heritage constraints in this area, there are potential delays/risks in approval for this work.	The consideration of other locations and the potential environmental and cultural heritage constraints will be noted in Table 14 and Figure 56., Section 8.1.2

No.	Author	Summarised Content/Points Raised	Response to Submission	Proposed Amendment to Draft CZMP
3	Tomakin Community Association (TCA) continued	The river in front of Jack Buckley Park is not ideal location for a fishing platform due to interference with water traffic.	Safe fishing access from Tomakin for the elderly/mobility impaired was proposed at Jack Buckley Park due to the existing infrastructure (rock revetment) in this location, cleared area and level ground surface in response to a request from community members for facilities in this area. The platform would not extend beyond the existing rock revetment and is therefore not expected to impact significantly on the navigation channel any more than existing fishing activities along the bank. However, it is considered that the southern end of Jack Buckley Park may be more suitable as the channel deviates to the left bank in this location. Other locations could also be considered although alternative sites are expected to have additional technical, environmental and cultural heritage constraints.	Figure 59, Section 8.2.3 will be amended to show the fishing platform at the southern end of the Park. The discussion of this option will include the potential issues at this site and the need to consider alternative locations if and when funding is available.
		Action 1.7 does not specifically include the development of a plan to be implemented in the event of a breakthrough as stated in Section 8.1.3 of the report.	Action 1.7 includes “a consultative process with community and agency stakeholders to review the status of the spit over time (as required) and develop a management plan if the risk of breakthrough is considered to increase” as discussed in Table 17, Section 9.1. The action in Table 18 can be modified to include the development of a management plan in response to spit breakthrough.	Action 1.7 in Table 18 to be amended to include “... and development of a responsive management plan”.
		Action 2.2 – trial mangrove plantings is supported although previous mangrove planting has not been successful.	Mangrove planting trials have been successful in other locations and guidelines are now available which should increase the likelihood of success of this measure.	None.
		Action 3.3 – formalise access track through saltmarsh has been completed.	Due to safety issues with road crossing in this area, Council has provided alternative pedestrian access to the shopping centre consistent with approved safety standards. The land owner (Tomakin Caravan Park) should be approached to prevent pedestrian access through this area to protect saltmarsh and ensure public safety.	Section 8.3.3 and Action 3.3 will be modified to “Prevent access through Saltmarsh EEC (between Tomakin Caravan Park and IGA)”



No.	Author	Summarised Content/Points Raised	Response to Submission	Proposed Amendment to Draft CZMP
3	Tomakin Community Association (TCA) continued	Supports installation of seagrass markers (Action 3.8) to reduce propeller damage in all seagrass areas.	Noted. As discussed in the Plan, the channel is already marked with navigation markers and given the extent of seagrass, low depth and width of the existing channel, a significant number of seagrass markers would need to be placed at the current boundaries of seagrass beds to be effective in protecting all seagrass areas. This may present a navigation safety hazard, would be a significant expense and would detract from the natural qualities of the area. Instead limited strategic placement of sea grass markers is recommended.	None.
		Strongly supports Actions 4.1, 1.2 and 4.3 (water quality monitoring and improvement measures). Wants monitoring routinely not just after rainfall events.	The MER program (Action 4.1) is designed to address routine monitoring.	None.
		Rabbit warrens contribute to bank erosion and needs to be addressed in the Plan.	This will be noted as a cause of erosion, particularly at the site near Tomakin Caravan Park. Council's Rabbit Control Program is the appropriate method of addressing this issue.	Rabbits will be added as a cause of erosion in Table 9 for this location. Council's Rabbit Control Program will be noted as the appropriate control mechanism.
		Concern about siltation in lower estuary and potential restriction of boat access to ocean. Requests further consideration of Option L (Section 8.1.2) – Realignment of channel.	This option was not recommended as funding is not expected to be available from Council or external grants and approval risk is considered to be high due to potential impacts on estuarine vegetation and water quality within the Marine Park. In addition this option may not be successful in preventing erosion during large storms or floods, sand is likely to erode with wind, floods and storms, dredging would need to be repeated on an ongoing basis and the option provides minimal protection from boat wake.	None

No.	Author	Summarised Content/Points Raised	Response to Submission	Proposed Amendment to Draft CZMP
		Crab trapping regulations need to be conveyed to the public.	The Batemans Bay Marine Park Zoning Plan provides information on recreational fishing activities permitted in Habitat Protection Zones. Crab trapping is permitted and this will be corrected in the Plan.	The last sentence of paragraph 1, Section 6.6.1 will be amended to state “Crab trapping and prawning are also permitted within the Marine Park Habitat Protection Zone.”

No.	Author	Summarised Content/Points Raised	Response to Submission	Proposed Amendment to Draft CZMP
3	Tomakin Community Association (TCA) continued	Feedback is positive on most of the proposed actions, however there is concern about the funding and commitment from Council. There is also a need for ongoing maintenance of any on-ground works.	The Plan acknowledges that the actions will be delivered through a combination of Council, State Government and grant funding (where available) and that the delivery of the actions may be influenced by the availability of this funding as well as human resources. However, identification of prioritised actions in this Management Plan is the first step in this process.	None
		TCA is happy to support community education programs.	Noted and appreciated.	None

No.	Author	Summarised Content/Points Raised	Response to Submission	Proposed Amendment to Draft CZMP
4	Resident	<ol style="list-style-type: none"> <li>1. Promotes management of Spit through revegetation. Acknowledges difficulties with this approach. Supports allowing the Spit to break through.</li> <li>2. Opposes the application of additional rock walls to treat erosion. Supports trial of mangrove planting</li> <li>3. Advocates protection of foreshore vegetation and saltmarsh. Suggested formalising access to new supermarket to prevent pedestrians using saltmarsh.</li> <li>4. Allow for migration of saltmarsh under conditions of sea level rise through maintaining existing rural zones.</li> <li>5. Manage sediment inputs – negotiate with Forests NSW to manage riparian buffers during logging activities.</li> </ol> <p>General comments on coastal management including:</p> <ol style="list-style-type: none"> <li>6. Dune management to protect Barlings Estate from sea level rise</li> <li>7. Manage sediment inputs through development controls on new subdivisions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Plan acknowledges managing natural breakthrough of Spit is best option.</li> <li>2. Support for mangrove plantings is acknowledged. Mangrove plantings are proposed to minimise or replace the need for hard engineering solutions.</li> <li>3. Formal and safe pedestrian between Tomakin and New supermarket has been designed.</li> <li>4. There are no immediate plans to rezone the existing lands within the catchment</li> <li>5. Logging activities are managed under strict guidelines that allow for retention of riparian buffers</li> <li>6. A coastal hazard assessment was prepared by the developers of Barlings Beach Estate. The subdivision design has a coastal buffer that is resilient to the impacts of climate change out to a minimum planning period to the year 2100.</li> <li>7. Water quality must be considered during the design and construction phases of Sub-division development. In the situation where there is a sensitive receiving point for stormwater, such as a wetland, strict controls are applied to ensure stormwater is retained and filtered prior to discharge into the receiving water body.</li> </ol>	

## REFERENCES

Hydrosphere Consulting (2014) *Coastal Zone Management Plan for Tomaga River Estuary*, Final Draft for Public Exhibition.

## APPENDIX 1 – WRITTEN SUBMISSIONS

# *Tomakin Community Association Inc.*

ABN: 18 863 430 476

PO Box 938 Batemans Bay NSW 2536

*Tomakin - Sunpatch by The Sea*

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Dr Catherine Dale  
General Manager  
Eurobodalla Shire Council  
P O Box 99  
MORUYA NSW 2537

Dear Dr Dale

## **COASTAL ZONE MANAGEMENT PLAN FOR THE TOMAGA RIVER ESTUARY**

I am writing on behalf of the Tomakin Community Association (TCA) to provide feedback on the Coastal Zone Management Plan (CZMP) for the Tomaga River Estuary.

Firstly, I would like to say the community appreciates Council's commitment to reviewing the 2005 Tomaga Estuary Management Study and Estuary Management Plan. While some of the projects have been implemented from the 2005 report, it's timely to review the effect of these projects, and identify current management issues for future protection of our very popular Tomaga River Estuary.

The local community highly regards the Tomaga River and Estuary as an important and vital recreational area, and has a strong desire to protect and maintain its beauty and character. The CZMP has been developed with this in mind and has made some excellent recommendations reflecting community feedback at our meeting and field trip. It should be noted however for the community to support work associated with the protection of the spit and river, current access to the foreshores of the river is an important consideration.

There are a number of identified actions in the CZMC which TCA would like to bring forward as a matter of priority. For example, **Action 1.1** - control of pedestrian access on the spit, **Action 1.2** - install education and information signs on spit, and **Action 1.3** - education and awareness program - spit erosion. TCA regards these actions are a high priority and would like commencement of this work as soon as possible, not in 2016. Feedback on removing current fencing along the spit suggests the need for caution as some of this fencing has been effective in preserving vegetation and erosion.

Community feedback on **Action 1.5** - construct viewing platform at the northern end of the spit is mixed, with one suggestion to have a viewing platform at the entrance of Tomakin Beach which could be disability friendly. Another view, and one that was

included in the 2005 EMP, is to build a boardwalk from the beach to the river. These two suggestions could be combined with a fishing platform on the river side and would be a great benefit for the community.

Notwithstanding the above suggestion, the river in front of Jack Buckley Park is not an ideal fishing location for a platform (**Action 5.2**) as the channel in the river is very narrow along this area and a platform could interfere with water 'traffic'. Consideration should be given to finding an alternative site that is disability friendly. TCA would be happy to offer advice on a more suitable location.

**Actions 1.6 and 1.7** refer to monitoring spit profile and consult with community and agency stakeholders. It does not specifically include the development of a plan to be implemented in the event of a breakthrough as stated in **Section 8.1.3** of the report. TCA strongly supports a plan being developed in readiness of a breakthrough, which would ensure action could be taken on a timely basis should a breakthrough occur.

**Action 2.2** – trial mangrove plantings (refer **Figure 58** in report), toe protection and bank revegetation is supported. It should be noted however informal mangrove planting was undertaken along this area some years ago and was not successful.

It should be noted that **Action 3.3** - formalise access track through saltmarsh EEC (between Tomakin Caravan Park and IGA) has already been completed, and TCA acknowledges the good work done here.

Incomplete actions from the 2005 EMP 7.12.2 (**page 11** of report) state that seagrass markers have not been installed. **Action 3.8** identifies the placement of seagrass markers in the lower estuary. TCA believes there is a real need to upgrade current markers to reduce prop damage in **all** seagrass areas. This is a particular concern with rental power boats from The Moorings.

**Actions 4.1, 4.2 and 4.3** are strongly supported. Monitoring however should be done routinely - not just after an event, such as heavy rainfall. This would for example, ensure illegal dumping of contaminated waste would be detected.

**Section 7.5** of the report identifies erosion along the river bank near the Tomakin Caravan Park and the effect on local heritage sites. Rabbit warrens are a large contributor to erosion along the river bank and needs to be urgently addressed and included as an action item in the CZMP Implementation Program.

There is community concern the channel from the boat ramp to the river mouth is difficult to navigate at low tide and is silting up, therefore over time this could restrict boat access to the ocean from Tomakin. **Section 8.1.2 Option 1L** of the report - realignment of the channel, would be a good option to address this issue and TCA requests further consideration of this option to be included as an action item in the CZMP Implementation Program.

The report identifies crab trapping is only allowed upstream of the George Bass Drive bridge (refer **Section 6.6.1** of the report). This needs to be addressed, as crab trapping does occur in all areas of the river. Information about this restriction needs



to be better conveyed to the public and needs to be included as an action item in the CZMP Implementation Program.

As stated previously, feedback has been very positive on most of the identified actions, however there is concern about the funding and commitment from Council on the CZMP Implementation Program. The community has also raised the need for Council to commit to on-going maintenance of any construction work on the spit i.e. signs, fencing, access ways, platforms, boardwalks etc.

TCA would be very happy to support in any community education programs through TCA's Facebook Page and newsletters.

Hydrosphere Consulting, Office of Environment and Heritage, and Council have done an excellent job with the report and its recommendations. TCA and the community look forward to seeing Council's on-going support of the CZMP Implementation Program through funding of identified actions.

Thank you for the opportunity to provide feedback.

Yours sincerely

President  
16 November 2014

Eurobodalla Shire Council

Email [council@eurocoast.nsw.gov.au](mailto:council@eurocoast.nsw.gov.au)

Attention: Norm Lenehan

### **Comments on the review of the Tomaga Estuary Management Plan and Coastal Management**

If I am not too late I would like you and the consultants to consider the following comments:–

#### **Estuary Management**

1. Manage the Spit – I agree with the suggestions to try revegetation and exclusion of pedestrians but acknowledge this may not be possible. Allowing the spit to break through then minimising the impact seems the most sensible proposal.
2. Moderate erosion of the banks – Placing more rocks on the approaches to the bridge (south bank) has led to more erosion just upstream. Apart from being very expensive (and unlikely to be funded) rock walls seem to create as many problems as they solve. It may be worthwhile planting mangrove seedlings if the shore profile is suitable and people will tolerate them.
3. Protect foreshore habitat – The government is currently preparing legislation that may affect the Crown land adjoining the river. The relevant department/s should be asked to retain this land and ensure it is managed to protect riparian vegetation.

The saltmarsh between the caravan park and George Bass Drive at Tomakin needs to be protected from pedestrian and other access. Fencing and a walkway beside the service station may help redirect people.

Saltmarshes throughout the estuary are threatened by sea level rise. Even with a small elevation in sea level they will be converted to mangrove forest and may eventually be totally submerged. Wherever there is low-lying rural land that could become saltmarsh in future this should be identified and remain rural. As sea level rise becomes more obvious there may be ways to compensate landowners so that the land is converted to saltmarsh and not kept dry by levees etc.

4. Manage sediment inputs – As well as the proposals in the current plan, there needs to be more co-operation with Forests NSW. Heavier logging and post harvest burns leave more soil exposed to erosion so wide and effective riparian buffers are more important than ever.

#### **Coastal Management**

Tomakin and the Barlings Beach Estate remain very vulnerable to climate change and sea level rise.

1. Dune protection should be given top priority with fencing and revegetation.

2. When the land behind Barlings Swamp is developed run-off will increase dramatically and the swamp will overflow through the current caravan park and residential estate. This will be made much worse if predictions of more intense rainfall events and higher storm surges prove true. Some proposals to limit the impact of run-off from future subdivisions should be included in the new plans.

Thankyou for the opportunity to comment

## Myree Mcilveen

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**From:**

**Sent:** Monday, 17 November 2014 11:52 AM

**To:** Council

**Cc:**

**Subject:** Tomago Estuary Management Plan

Dear Council,

Thank you for the opportunity to comment on the Draft Tomago Estuary Management Plan.

Fisheries supports the management plan and believe that a number of positive protection measures have been proposed.

In particular the protection and rehabilitation of saltmarsh, mangroves, seagrass and riparian vegetation align with Fisheries NSW responsibility to ensure that there is no net loss of key fish habitats and that fish stocks are conserved.

The illegal removal of marine vegetation continues to be an ongoing threat to key fish habitat and an ongoing issue for Fisheries compliance officers throughout the state. Currently our compliance officers are working with the Shellharbour City Council to develop a joint management strategy for this issue.

Fisheries looks forward to working with the Estuary Management Committee and the Eurobodalla Council in the future to preserve and enhance the natural values of the Tomago Estuary

Regards,

| Regional Assessment Officer

NSW Department of Primary Industries | Aquatic Ecosystems

4 Woollamia Road | PO Box 97 | Huskisson NSW 2540

T: 02 | F: 02 4441 8961 E: \_\_\_\_\_

W: [www.dpi.nsw.gov.au/fisheries](http://www.dpi.nsw.gov.au/fisheries)

***Conserve, Share, Provide***

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Reference: OUT14/37924

Mr Norm Lenehan  
Coastal and Flood Management Planner  
Eurobodalla Shire Council  
PO Box 99  
Moruya NSW 2537

Dear Mr Lenehan,

**Re: Draft Coastal Zone Management Plan for Tomaga Estuary**

With reference to the abovementioned draft plan we wish to make these comments. In S 1.5 (page 3), regarding the marine park please refer to the following legislation; Marine Parks Act 1999; Marine Parks Regulations 2009 and Marine Parks (Zoning Plans) Regulation 1999. We would also like to clarify that since the implementation of the Batemans Marine Park in 2007 the Tomaga River estuary lies within a habitat protection zone of the marine park, the objects of this zone are:

- (a) to provide a high level of protection for biological diversity, habitat, ecological processes, natural features and cultural features (both Aboriginal and non-Aboriginal) in the zone, and
- (b) where consistent with paragraph (a), to provide opportunities for recreational and commercial activities (including fishing), scientific research, educational activities and other activities, so long as they are ecologically sustainable and do not have a significant impact on any fish populations or on any other animals, plants or habitats.

Consent in the form of a permit is only to be given under subclause (1):

- (a) for research, environmental protection, public health, traditional use or public safety purposes, or
- (b) for the purposes of an ecologically sustainable use that does not have a significant impact on fish populations within the zone or on any other animals, plants or habitats.

Please also note that commercial businesses operating from within the estuary require a permit. Permit approval is also required for any works below the mean high water mark, such as the construction or repair of jetties and boat ramps etc. Further developments within or affecting the marine park must also be referred to Batemans Marine Park for consideration, comment and in turn formal approval through the permitting process if required.

We support the key strategies and initiatives outlined in the plan and where possible look forward to working with council and the community to achieve these objectives into the future. If you have any queries regarding the above please contact me at the Batemans Marine Park office on 4476 0804.

Yours sincerely,

Ranger  
Batemans Marine Park

30 September 2014



**NSW MARINE PARKS PERMIT**

**Permit No: BMP(E)14003/071017**

NSW Marine Parks (Zoning Plans) Regulation 1999 Part 1 Division 3, Clause 1.34 (1) (a) - sporting competition, tournament

**This permission remains in force for the period from 07/10/2014 to 07/10/2017 unless sooner varied, suspended or cancelled.**

**Permission is granted to:**

Permittee:	Mr John Reed
Trading As:	Batemans Bay Sailing Club
Address:	PO Box 356 Batemans Bay NSW 2536 Ph: 02 6291 7250 Mobile: 0488 077 760 Fax: 02 6291 7250

This permit and all conditions herein extend to all employees of the Permittee, and other persons acting on behalf of or at the direction of the Permittee for the purposes specified in this permit.

**Use and entry authorised to the following New South Wales Marine Park/s:**

- Batemans Marine Park

**Permitted zone/s and location/s:**

- All zones within Batemans Bay Marine Park except where such authorised entry and/or use of a zone or location is contrary to the Zoning Plan.

**Use and entry authorised for the following activities:**

- Conduct of :- Organised sporting competition or tournament.
- Permitted activities being :- Sailing Club Races and Events
- An average of 20 yachts between 6 to 12 metres with 2 to 10 crew.
- Frequency/ Duration of Trips: As listed in BBSC Program

in accordance with the details above and subject to conditions stated on the following pages.

.....  
**Delegate of  
the NSW Marine Parks Authority.**

**Date: 30 September 2014**

## **WARNINGS**

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- 1) All activities, the subject of this permit, must be undertaken in accordance with the provisions of the laws in force from time to time in the State of New South Wales and, in particular, the provisions of the Marine Parks Act 1997, NSW Marine Parks (Zoning Plans) Regulation 1999 and the NSW Marine Parks Regulation 2009.
- 2) A breach by the Permittee/s or any person to whom this permit extends, of the Marine Parks Act 1997 or Regulations including any permit condition contained herein may result in the variation, suspension or cancellation of this permit.

## **STANDARD CONDITIONS**

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- 3) The Permittee must ensure that when events are conducted in the Marine Park under this permit, the permit or a certified copy of the permit is held at the site where the event is to be conducted by the club officials.
- 4) The Permittee must produce a copy of this permit on site when requested to do so by a Marine Park Ranger.
- 5) The Permittee must inform all members participating in the event of any restrictions applying under this permit.
- 6) The Permittee must notify the Marine Parks Authority within seven (7) days of :
  - a) any change to the Permittee details; and/or
  - b) the cessation of operations to which this permit relates.
- 7) Where the activity, the subject of this permit, requires a current license or permit from another government agency including, but not limited to NSW Maritime, NSW Department of Primary Industries - Fisheries and the Office of Environment and Heritage (National Parks & Wildlife Service) for such an activity to occur, it is a condition of this permit that other license/s or permit/s are issued and are current.
- 8) The Permittee or any person to whom this permit extends must not anchor on seagrass beds.
- 9) The Permittee or any person to whom this permit extends, must provide all people competing under this permit with a copy of the Batemans Marine Park – Zoning Plan User Guide and/or explain any restrictions under the zoning plan which may affect their activities.
- 10) The Permittee or any person to whom this permit extends must not land their vessel at any island that is within a National Park or Nature Reserve within the Batemans Marine Park unless licensed to do so by the Office of Environment and Heritage (National Parks & Wildlife Service).
- 11) The Permittee or any person to whom this permit extends, must ensure that they operate in a responsible manner at all times when operating within the Batemans Marine Park, this permit does not provide for any 'right of priority' over the use of any area within the park.
- 12) The Permittee must provide a current schedule of proposed club events to be undertaken under this permit each year by 1 May to Batemans Marine Park Ranger Shamaram Eichmann; ([sham.eichmann@dpi.nsw.gov.au](mailto:sham.eichmann@dpi.nsw.gov.au)).
- 13) The Permittee must advise the Marine Park Ranger of any alterations to the schedule of proposed club events to be undertaken under this permit as soon as these alterations are known, and at least 48 hours prior to the commencement of those activities within the marine park.



## **MARINE PARKS AUTHORITY MOORING USE CONDITIONS**

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- 17) In addition to Clause 1.26 of the Marine Parks (Zoning Plans) Regulation 1999, the Permittee must not occupy a Marine Parks Authority mooring:
- a) if other vessels are waiting to use that mooring, for a duration greater than what is reasonably required to undertake the permitted activities
  - b) without the constant on-board attendance of a licensed boat operator;
  - c) if the mooring appears to be damaged or in disrepair in such a manner that the safe use of the mooring is questionable.
- 18) The Permittee must not manoeuvre the vessel under power while still attached to a mooring or use the mooring line as a diving descent line.

## **INSURANCE CONDITIONS**

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- 19) The Permittee must at all times during the period of the permit, maintain a policy of public liability insurance for a sum of not less than ten million dollars (\$10,000,000) to indemnify itself, from and against liability for all action, suits, demands, costs, losses, damages and expenses (hereinafter called claims) which the Permittee may pay, sustain or be put to by reason of damage to property or injury to persons (including death) caused by or arising in any way out of the conduct of the Permittee on any lands or waters managed by the Batemans Marine Park or generally as a result of the presence of the Permittee, or the Permittee's agents or clients on lands or waters managed by the Batemans Marine Park.
- 20) The Permittee must not cancel or alter the insurance policy without first obtaining written consent from the Batemans Marine Park.
- 21) In the event the insurer cancels the insurance policy prior to the expiration of the insurance policy, the Permittee must advise the Batemans Marine Park in writing within three (3) business days of receiving advice of the cancellation from the insurer.
- 22) In the event the insurance policy expires prior to the expiration date of this permit, the Permittee must produce to the Batemans Marine Park evidence of renewal of the insurance policy no fewer than 28 days prior to the expiry of the insurance policy.
- 23) The Permittee must provide a copy of the insurance policy and a copy of the certificate of currency of the insurance policy, to the delegate when required by the Batemans Marine Park.
- 24) The Permittee must notify the Batemans Marine Park as soon as possible of any fatal accident or serious injury sustained by a participant/s resulting from the conduct of the permitted activity listed in this permit on lands or waters of a marine park. All other accidents or injuries must be reported to the Authority in writing within seven (7) days of the occurrence.

## **NATIVE TITLE CONDITIONS**

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- 25) In the event that native title rights and interests are, or would be, affected by the grant of this Permit and this Permit is not authorised under the Native Title Act 1993 (Cth) so that the Permit may be 'invalid' within the meaning of the Native Title Act 1993 (Cth) then:
- The Permittee agrees that it will not seek to recover any compensation, damages, costs, losses or expenses whatsoever resulting from the invalidity from the Authority;
  - The parties agree that the valid parts of the Permit continue in force unaffected by the invalid parts.
- 26) The Permittee must not interfere with or prevent any person holding native title in the Marine Park from having reasonable access to the Marine Park.

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## **INTERPRETATION AND DEFINITIONS**

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27) A word or phrase in this permit has the same meaning as the word or phrase has in the NSW Marine Parks Act 1997, NSW Marine Parks (Zoning Plans) Regulation 1999 and the NSW Marine Parks Regulation 2009.

A reference to a date includes that date.

'Authority' means the Marine Parks Authority constituted by section 29 of the NSW *Marine Parks Act 1997*.