



OUT21/2865

Dear Ministers Marshall and Kean

Re: Advice on the draft Marine Estate Management (Management Rules) Amendment Regulation 2020

I refer to your letter of 11 January 2021 seeking advice from the Marine Estate Management Authority (MEMA) on the draft Marine Estate Management (Management Rules) Amendment Regulation 2020, regarding draft management rules for Batemans Marine Park, as required under s.43 of the *Marine Estate Management Act 2014* (the Act). I also note that the Ministers have requested MEMA consider the Marine Estate Management Strategy and statewide Threat and Risk Assessment (TARA) report in preparing its advice.

MEMA notes that under s.43 of the Act, Ministers are to have regard to the Marine Estate Management Strategy (Strategy) (2018-2028) and any relevant TARA report prepared under the Act in preparing draft management rules.

The network of marine protected areas, the TARA report of 2017 and the Strategy are complementary parts of marine estate management. Together they work to deliver the objects of the Act and MEMA's vision of *a healthy coast and sea, managed for the greatest wellbeing of the community, now and into the future.*

As you are aware, marine estate agencies are preparing a draft network management plan for the five mainland marine parks to deliver on the Government's commitment to deliver a new approach to marine park management. This new management plan must satisfy legislative requirements under Part 5, Division 5 of the Act by:

- stating the environmental, economic and social values to be conserved by the parks
- identifying threats to those values
- stating the management objectives in relation to those values and threats
- specifying actions to achieve the management objectives, based on a consideration of risks, and
- setting out the management programs to be implemented to manage the parks.

In developing the draft network management plan, marine estate agencies are following MEMA's five-step decision-making process as set out in our Principles Paper of 2013. The five-step process, which has underpinned the marine estate reforms to date, enables agencies to:

- effectively engage the community to identify and consider community values (benefits) and threats
- identify management priorities informed by an assessment of threats and risks to benefits
- assess current management and deliver effective management responses to respond to priority threats affecting benefits
- transparently evaluate any trade-offs required.

The TARA and the Strategy are key considerations as part of this five-step process. Linkages to the Strategy and risk levels assigned in the TARA are being considered during the development of the network management plan and will be supplemented by local evidence and community consultation.

Marine estate agencies are proposing to finalise the new approach to marine park planning in two stages. Stage one involves preparation of the draft network management plan by June 2021, statutory community consultation on the draft plan (June-Aug 2021), consideration of submissions and finalisation of the network management plan by Oct 2021. Stage two involves reviewing marine park management rules to implement aspects of the final management plan, with a priority focus on Port Stephens-Great Lakes and Batemans marine parks. Draft management rules would be released for statutory community consultation following completion of the management plan, scheduled for late 2021.

MEMA considers that stakeholders and the broader community would benefit from considering the current Batemans draft management rules during stage two of the network management planning process. A consolidated set of draft management rules can then be released for consultation, including those rules arising from the network management planning process. In this way, the community will have had their say on the strategic 10-year draft network management plan, including local management objectives and actions for their park which will inform the full suite of management rules required to conserve values, manage threats and deliver management objectives. This will ensure that the order of consultation activities is appropriate and reduces stakeholder confusion and consultation fatigue. In accordance with s.43 of the Act, you will need to seek MEMA's advice on the full suite of draft management rules to implement the final network management plan, and this advice can also provide Ministers with information on how the TARA and the Strategy have been considered in their development. MEMA notes that the amnesty arrangements for Batemans will remain in place until the management rules are finalised post public consultation.

I note that the Montague Island Nature Reserve, managed by the NSW National Parks and Wildlife Service (NPWS), is currently on the International Union for the Conservation of Nature's (IUCN) Green List of Protected and Conserved Areas. This listing recognises Montague Island's conservation values, including as an internationally significant seabird breeding site (for shearwaters, penguins, terns, petrels and gulls) and breeding site for Australian and New Zealand fur seals. The listing also recognises exemplary management and governance by the NPWS. The ability to conserve these values relies on complementary management of values and threats in Batemans Marine Park surrounding Montague Island, which is managed by the Department of Primary Industries – Fisheries.

Following the announcement of the recreational fishing amnesty in December 2019, Montague Island became the first Green listed site to be formally investigated by the IUCN as to whether its Green list status remains appropriate. On 13 September 2020, the Australian IUCN Green List Expert Panel agreed to assign the 'precautionary' trigger to the Island's Green List status. NPWS has provided the IUCN's Expert Panel with information on the Island's long-term monitoring and research program on its seal and seabird populations and opportunities for stakeholder input into the proposed changes. NPWS is now awaiting a response from the IUCN. Incorporating the current Batemans draft management rules into stage two of the network management planning process will also enable marine estate agencies to consider any response from the IUCN and incorporate appropriate management responses into the marine park network management plan and comprehensive set of draft management rules in late 2021.

Marine estate agencies will also be engaging with relevant Registered Native Title Body Corporates and NTSCORP (as the states Native Title service provider for Aboriginal Traditional Owners) to ensure the future act regime under the *Native Title Act 1993* (Cwth) and any associated extension of these requirements under Indigenous Land Use Agreements are appropriately addressed. By incorporating the current Batemans draft management rules into the marine park network management planning

and management rules processes, the NSW Government's future act obligations will have been appropriately captured.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Reichelt", is enclosed within a faint, dotted rectangular border.

Dr Russell Reichelt AO FTSE
Chair
Marine Estate Management Authority

Thursday, 8 April 2021