



Marine Park Planning Officer
PO Box 127
Byron Bay
NSW 2481

Dr Adam Smith
National Chair
Spearfishing Commission
4 Seaward Crescent
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Dear Sir

KEY SUBMISSION FROM AUSTRALIAN UNDERWATER FEDERATION

I am the National Chair of the Australian Underwater Federation (AUF) which represents 1100 members and over 20,000 skindivers throughout Australia.

The AUF is writing in response to the draft zoning plans for the Cape Byron Marine Park.

The intent of the NSW MPA legislation entitled *Marine Parks Regulation 1999*, Division 3 12 (1) (d) allows the taking of fish by the use of a spear or speargun in the habitat protection zone of a marine park. Although the AUF supports the use of marine parks for sustainable management we are particularly concerned with draft zoning plans which are contradictory to the legislation and new marine parks that are increasingly proposing inequitable arrangements among user groups in that spearfishers are excluded where others users are permitted.

We are particularly concerned with the Cape Byron draft plan which, as is currently proposed, spearfishers will effectively be removed from the almost the entire area. The proposed zoning would be DEVASTATING to local spearfishers activities as the following quote illustrates:

“The draft proposal is unbelievable as it will almost completely shut out spearfishing in the park, 100% of accessible and shallow off shore reef areas will be gone, approx 70% of headlands will be locked up (the 30% we have left to dive is crap). Fishing by trolling & float lining is still allowed at Wilson's Reef & Mac Boulders, spearing is out. We should at least be able to target pelagicfish in both these areas”.

Spearfishing is permitted in habitat protection zones and in general use zones in every other marine park in Qld and NSW including the Great Barrier Reef Marine Park.

There should be no negative discrimination of spearfishers as is currently proposed in the draft Cape Byron plan.

Marine parks are there to not only protect the biodiversity, through the use of sanctuaries that cover representative areas but are also there to provide for ecologically sustainable methods of fishing, and to provide opportunities for public appreciation, understanding and enjoyment of the marine park. The proposal to restrict spearfishing is not equitable and spearfishing has been shown to be the most ecologically sustainable method of recreational fishing, and has existed as a method of fishing in Australian waters since indigenous fishers started to utilise the oceans and river systems

Communications with the local spearfishing groups, suggest that spearfishing is a very important social activity with low environmental pressure (probably about 1% of the take of other recreational fishers), and occurs in specific locations (because of shallow water, rocky habitat, water visibility and fish abundance). Spearfishers are passionate conservationists and enjoy communicating the beauty of the marine environment and its creatures with other people (Ron and Valerie Taylor, Ben Cropp, Barry Andrewartha are all well known spearfishers and marine advocates). Cape Byron represents a unique location in Australia, where spearfishers can regularly see and catch prized species such as Spanish mackerel and mulloway. The numbers of fish species actually taken would be low, but the quality for the species taken would be expected to be high and therefore very important.

In drafting our submission we have read the proposed Plan and consulted with Australian Underwater Federation members and other spearfishers who have local knowledge the area, have lived in the area, or who currently reside in the area. We have adopted a number of suggestions (below) that slightly reduce the proposed area of 'Sanctuary Zones' by no more than 0.5% of the total area. This we believe will maintain the objectives of the *Marine Parks Act 1997* while also satisfying the objective of equity among user groups.

Proposed zone amendments

Byron Bay and Tallow Beach

The provisions which are of specific interest to spearfishers which should be amended are:

- The "surface fishing only" Habitat Zone. This new type of zone excludes spearfishing, thus is divisive between fishers. It is contrary to the available research (see Smith and Nakaya, 2002) which has demonstrated that spearfishers are more selective, have no bycatch, use no bait and cause no habitat damage. The proposal of allowing line fishing and excluding spearfishing was recently abandoned in the amended Great Barrier Reef Marine Park zoning scheme;
- Most of the Bay is proposed as a Sanctuary Zone. This will virtually eliminate spearfishing from the Park and restrict boat-based fishing to two small patch reefs in the Bay. This means that there is no opportunity for spearfishers and small boat fishers and is contrary to the object of sustainable fishing as defined in the Act; and

Amendments to the Byron Bay and Tallow Beach zones should include:

- Three additional small patch reefs (Cranes, Outer Wilsons and Morey's) should be added to offset the impact of the Marine Park on the small boat fisher and spearfisher (Figure 1);
- Extend the Habitat Protection Zone at Cape Byron to Cosy Corner to provide more access for the rock fisher and spearfisher (Figure 1). This will also avoid confusion with boundaries when spearfishing in the proposed Habitat Protection Area;
- Amend the table of uses for the Mackerel Boulder and Wilsons Habitat Protection Zones to allow similar activities to all other Habitat Protection Zones in the Park (Figure 1); and
- Replace the Special Purpose Zone along Tallow Beach with a Habitat Protection Zone to allow access to all recreational fishers (Figure 1).

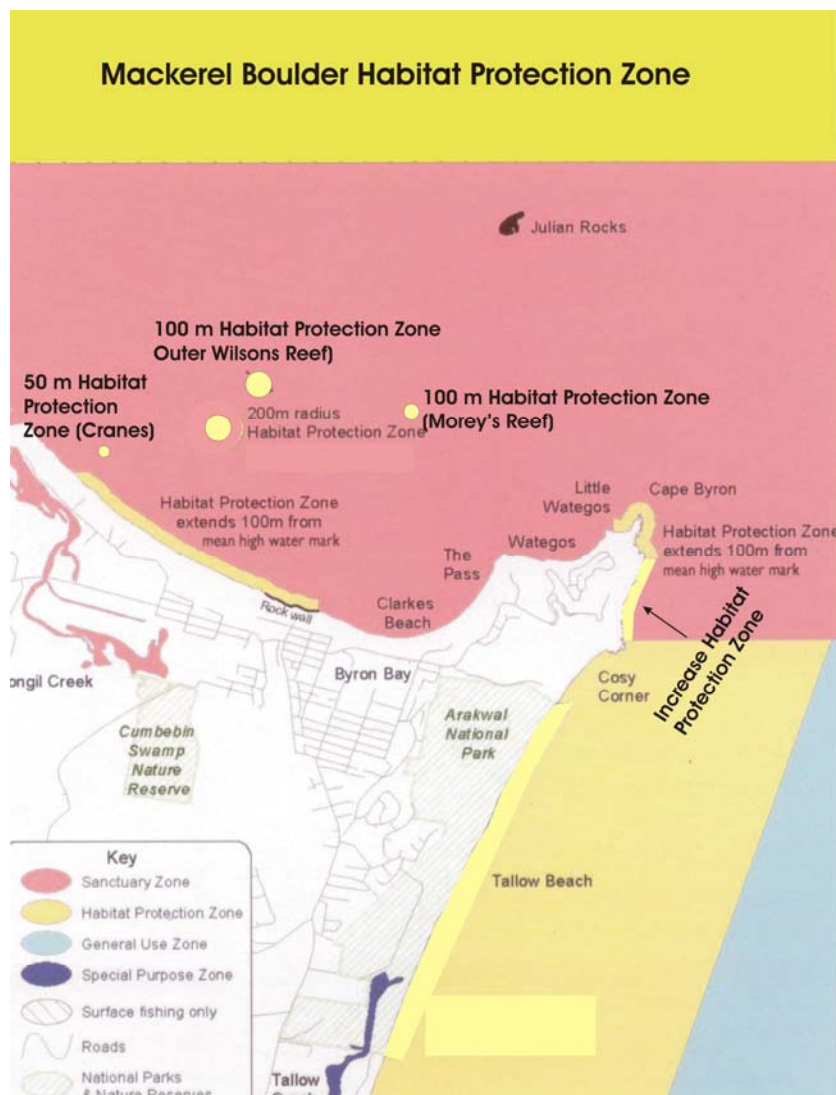


Figure 1. Cape Byron to Tallow Beach Sector showing suggested amendments.

Broken Head

This sector of the Plan provides a more reasonable balance between conserving marine environments and allowing sustainable fishing than that provided in the Byron Bay to Tallow Beach sector or at Lennox Head. However, there should be some opportunity to fish for pelagic fish species (only) at the Cocked Hat Rocks Sanctuary Zone. The Authority could provide a list of pelagic species which can be fished as was done for the Solitary Island Marine Park.

Lennox Head

The Lennox Head zone is unfair for the small boat fisher in that it restricts his/her activities to the Pinnacle which is a small and difficult to locate offshore rocky outcrop. The Plan also introduces a new and confusing zoning concept: excluding fishing from the Sanctuary Zone by few words referring to the Pinnacle rather than providing a coloured map entitled Pinnacle Habitat Protection Zone.

Instead, we suggest that:

- The area at the Pinnacle and along the shelf to the north should be identified and mapped as a Habitat Protection Zone to allow some access to the small boat fisher. This area should be several hundred metres in size.

Conclusion

The above comments require only minor amendments to the Draft Zoning Plan and will not significantly reduce the proposed area of the Park under the Sanctuary Zone. I hope that the Marine Parks Authority realises that better outcomes can be achieved with the support of user groups and that small amendments by the Authority are likely to reap huge rewards in the medium to long term by having a supportive fishing and spearfishing community behind and supporting management.

In short, the AUF is strongly opposed to the current draft Cape Byron marine park as the proposed restrictions on spearfishing methods and catches are not compatible with equity and ecologically sustainable management. We suggest that the decision makers need to engage with us for more detailed consultation and negotiation. My telephone number is 0418 726 584 and email is adamsmith@bigpond.com.au.

Yours sincerely

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Chair Australian Underwater Federation (National)- Spearfishing
9 November 2004

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