

South Australia

National Parks and Wildlife (Protected Animals—Marine Mammals) Variation Regulations 2019

under the *National Parks and Wildlife Act 1972*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*

- 4 Variation of regulation 4—Interpretation
- 5 Variation of regulation 10—Operation of vessels close to marine mammals
- 6 Variation of regulation 12—Distance to be kept by aircraft
- 7 Variation of regulation 14—Distance to be kept by swimmers
- 8 Substitution of regulation 19
 - 19 Restrictions on commercial activities
 - 20 Expiation of offences
- 9 Substitution of Schedule 1

Schedule 1—Encounter Bay Restricted Area

- 1 Encounter Bay Restricted Area

Schedule 1—Related variations

Part 1—Preliminary

- 1 Variation provisions

Part 2—Variation of *National Parks and Wildlife (Fees) Regulations 2018*

- 2 Substitution of Schedule 1 Part 3

Part 3—Fees relating to *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*

- 3 Fees relating to *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *National Parks and Wildlife (Protected Animals—Marine Mammals) Variation Regulations 2019*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*

4—Variation of regulation 4—Interpretation

- (1) Regulation 4, definition of *Adelaide Metropolitan Beaches Restricted Area*—delete the definition;
- (2) Regulation 4, definition of *calf*—delete the definition and substitute:

calf means—

 - (a) in the case of a dolphin—a dolphin that is generally in close proximity to an adult dolphin of the same species and is less than half the length of that dolphin;
 - (b) in the case of a whale—a whale that is generally in close proximity to an adult whale of the same species and is less than half the length of that whale;
- (3) Regulation 4, definitions of *Encounter Bay Restricted Area* and *Great Australian Bight Marine Park Whale Sanctuary*—delete the definitions and substitute:

Encounter Bay Restricted Area—see Schedule 1;
- (4) Regulation 4, definition of *observe*—delete the definition and substitute:

observe, in relation to a marine mammal, means—

 - (a) to watch or listen to the marine mammal; or
 - (b) to film or take photographs of the marine mammal; or
 - (c) to make audio, video or other recordings of the marine mammal,

(including by means of remotely controlled equipment);
- (5) Regulation 4, definition of *submersible*—delete "machine designed to move 1 or more persons" and substitute:

vessel designed to be operated or used

- (6) Regulation 4, definition of *vessel*, (a)—delete "float on" and substitute:
be operated or used on or in

5—Variation of regulation 10—Operation of vessels close to marine mammals

Regulation 10(3) and (4)—delete subregulations (3) and (4) and substitute:

- (3) If a whale moves towards a vessel that is within 300 metres of the whale, the person who is in control of the vessel must not use, or continue using, the vessel—
- (a) to enable the observation of the whale; or
 - (b) for the purposes of swimming, or enabling persons to swim, near the whale,

unless the person either maintains the vessel's position or moves it away from the whale.

- (4) If a marine mammal other than a whale moves towards a vessel that is within 150 metres of the marine mammal, the person who is in control of the vessel must not use, or continue using, the vessel—
- (a) to enable the observation of the marine mammal; or
 - (b) for the purposes of swimming, or enabling persons to swim, near the marine mammal,

unless the person either maintains the vessel's position or moves it away from the marine mammal.

6—Variation of regulation 12—Distance to be kept by aircraft

Regulation 12(4)—delete "persons in the aircraft to observe the marine mammal unless he or she flies it" and substitute:

the observation of the marine mammal unless the person flies the aircraft

7—Variation of regulation 14—Distance to be kept by swimmers

Regulation 14(3)(e)—after "calf" insert:

or pup

8—Substitution of regulation 19

Regulation 19—delete the regulation and substitute:

19—Restrictions on commercial activities

- (1) Subject to subregulation (2), a person must not, for fee or reward—
- (a) use an aircraft, vessel or other means to take another person into the vicinity of a marine mammal to enable the other person to observe the animal or swim near the animal; or
 - (b) assist another person in the vicinity of a marine mammal to observe the animal or swim near the animal.

- (2) Subregulation (1) does not prevent a person from taking another person to a place, as part of a tour operated for fee or reward, to enable the other person to observe a marine mammal from a prescribed viewing structure.

20—Expiation of offences

The expiation fee for an alleged offence against section 68(1) of the Act comprised of contravening these regulations is \$315.

9—Substitution of Schedule 1

Schedule 1—delete the Schedule and substitute:

Schedule 1—Encounter Bay Restricted Area

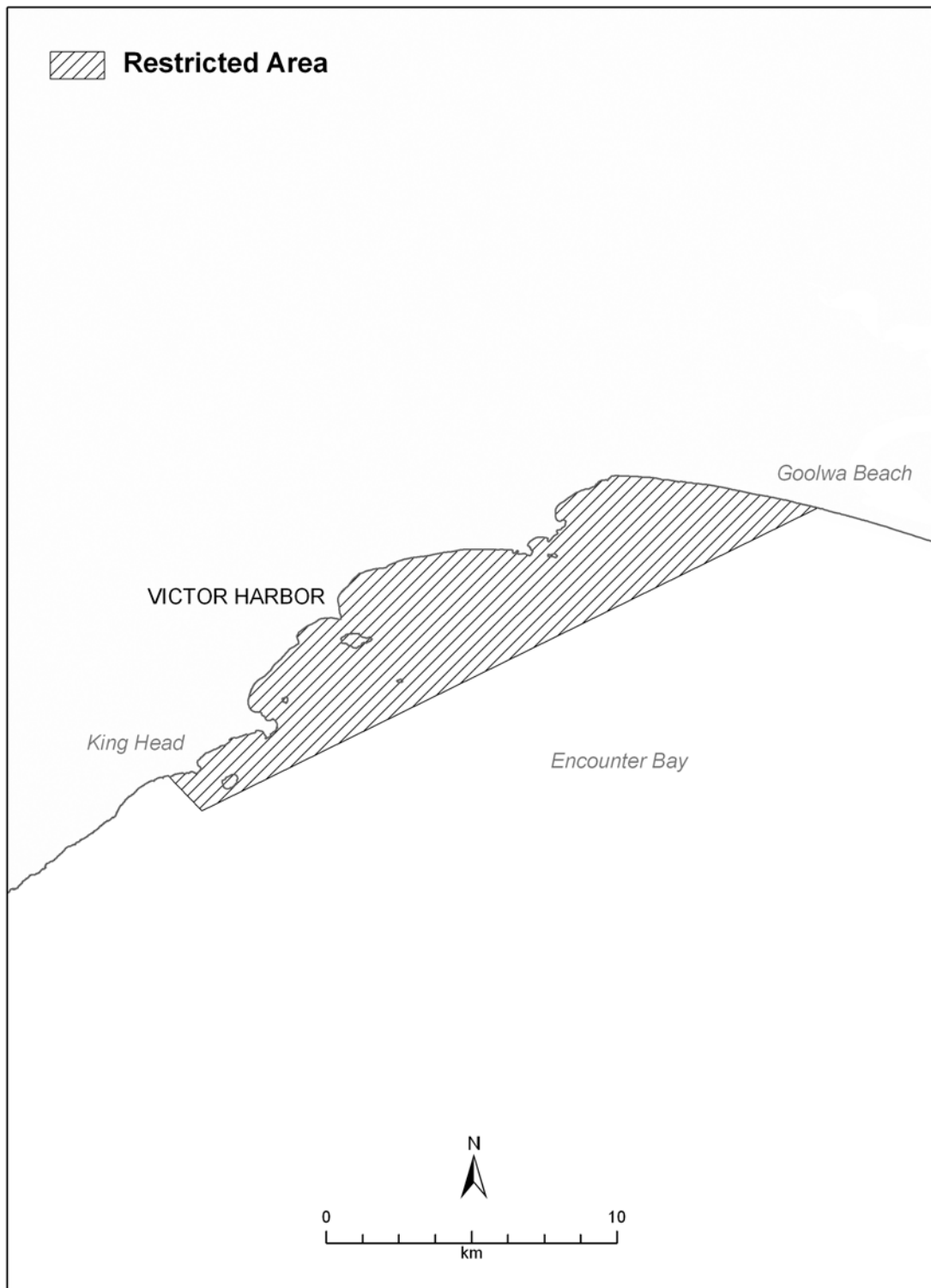
1—Encounter Bay Restricted Area

The Encounter Bay Restricted Area comprises the area bounded by a line commencing at a point at the high water mark approximately 1.5 kilometres west of King Head, position latitude 35°36'3" South, longitude 138°34'5" East, then 1 nautical mile south-easterly to position latitude 35°37'0" South, longitude 138°35'0" East, then to a point at the high water mark near the Goolwa Beach car park, position latitude 35°31'23" South, longitude 138°46'25" East, then to the point of commencement along the high water mark.

Note—

The map in this Schedule is provided for convenience of reference only.

Encounter Bay Restricted Area



Schedule 1—Related variations

Part 1—Preliminary

1—Variation provisions

In this Schedule, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *National Parks and Wildlife (Fees) Regulations 2018*

2—Substitution of Schedule 1 Part 3

Schedule 1 Part 3—delete Part 3 and substitute:

Part 3—Fees relating to *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*

3—Fees relating to *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*

- (1) Subject to subclause (2), the following fees are payable for the purposes of the Act and the *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*:

1 On application for the grant of a permit under section 68(2) of the Act authorising acts or activities in relation to marine mammals that are contrary to the *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*—

- | | |
|--|----------|
| (a) in the case of an application for a permit subject only to standard conditions | \$402.00 |
| (b) in any other case | \$633.00 |

2 On application for the issue of a duplicate permit \$23.10

- (2) A fee specified in subclause (1) item 1 represents the amount payable for each period of 12 months for which the permit is granted.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 14 March 2019

No 22 of 2019

19EWDEWCS0028