

LEGISLATIVE COUNCIL BRIEF

Marine Parks Ordinance (Chapter 476)

MARINE PARKS (DESIGNATION) (AMENDMENT) ORDER 2016

INTRODUCTION

At the meeting of the Executive Council on 25 October 2016, the Council ADVISED and the Chief Executive ORDERED that the Marine Parks (Designation) (Amendment) Order 2016 (the Order), at **Annex A**, should be made under section 15 of the Marine Parks Ordinance (MPO) (Cap. 476).

2. The Order amends the Marine Parks (Designation) Order (Cap. 476 sub. leg. B) for the purpose of designating The Brothers Marine Park (BMP).

JUSTIFICATIONS

The Proposal

3. The Environmental Impact Assessment (EIA) Report of the Hong Kong-Zhuhai-Macao Bridge (HZMB) Hong Kong Boundary Crossing Facilities (HKBCF) project proposed designating The Brothers as a new marine park, as one of the mitigation measures to compensate for the loss of Chinese White Dolphin (CWD) habitat arising from the reclamation and marine works of the HZMB-HKBCF project. Upon the Advisory Council on the Environment's endorsement of the EIA Report, the Director of Environmental Protection approved the EIA Report on 23 October 2009 and granted the Environmental Permit (EP) for construction and operation of the HZMB-HKBCF project on 4 November 2009. The designation of the BMP is one of the conditions¹ set out in the EP.

¹ Condition 1.7 of the EP for the HZMB-HKBCF project states that "The Permit Holder shall ensure that the Project is designed, constructed and operated in accordance with the information and

Design of The Brothers Marine Park

4. Based on the long term dolphin monitoring data compiled by the Agriculture, Fisheries and Conservation Department (AFCD) between 2001 and 2012, the waters around The Brothers is one of the hot spots with high concentration of CWD sightings. Through systematic and rigorous scientific approach, important CWD habitats around The Brothers have been identified and considered in the delineation of the extent of the proposed BMP. To improve the overall compatibility of the BMP, the views of other marine users in the vicinity have been taken into account in the delineation of the BMP boundary. The BMP boundary is derived based on the dolphin usage, the existing facilities in the area, the associated marine traffic and water quality. The Director of Agriculture, Fisheries and Conservation (DAFC), acting as the Country and Marine Parks Authority (the Authority) under the MPO, obtained the support of the Country and Marine Parks Board (CMPB) on the proposal including the boundary and management plan of the BMP.

Statutory Process under the MPO

5. Taking into account the advice of the CMPB, the Authority sought permission from the Chief Executive in Council (CE in C), on 6 October 2015, to prepare a draft map showing the BMP for proceeding with the statutory designation process under section 7 of the MPO. In accordance with section 7(4) of the MPO, the Authority prepared a draft map of the BMP in consultation with the CMPB. On 12 February 2016, the Authority published the required notice in the gazette, notifying the public that the draft map was available for public inspection for a period of 60 days (from 12 February to 11 April 2016) in accordance with section 8 of the MPO. The Authority did not receive any objection during the 60-day inspection period.

6. Under section 13 of the MPO, the Authority submitted the draft map of the BMP to the CE in C for approval. The CE in C approved the draft map on 30 August 2016 in accordance with section 14 of the MPO. As per section 14(5) of the MPO, B copies of the approved map (at **Annex B**), certified as true copies of the original by

recommendations described in the EIA Report”. The EIA Report mentioned that the Government had made a firm commitment to designating The Brothers as a marine park in accordance with the statutory process under the MPO, which would help conserve CWD and hence serves as a mitigation measure for the loss of CWD habitat owing to the construction and operation of the HZMB-HKBCF project. The related Condition 2.4 of the EP reads “The Permit Holder shall advance the preparation works for the designation of the marine park in The Brothers Islands, including a study on the details of the designation and consultation with stakeholders, on the understanding that designation of the marine park would immediately follow the completion of the Project.”

the Authority, were deposited at the Land Registry, the headquarters of the AFCD, and the headquarters of the Marine Department on 23 September 2016.

7. According to section 15 of the MPO, after the CE in C has approved the draft map and the draft map has been deposited in accordance with section 14(5) of the MPO, the CE shall, by order in the Gazette, designate the area shown in the approved map to be a marine park.

THE ORDER

8. The Order designates the area delineated and coloured pink on the approved map as a marine park and, accordingly, amends the Marine Parks (Designation) Order (Cap. 476 sub. leg. B) to include the area in the Schedule.

LEGISLATIVE TIMETABLE

9. The legislative timetable is as follows:

Publication in Gazette	4 November 2016
Tabling at the Legislative Council	9 November 2016
Commencement of Order	30 December 2016

IMPLICATIONS OF MAKING THE ORDER

10. The designation of the BMP is in conformity with the Basic Law, including the provisions concerning human rights. There are no competition, productivity and gender implications.

11. The Order has no adverse environmental implication. The designation of the BMP would enhance the protection of CWD in Hong Kong waters.

12. On economic implications, the designation of a new marine park might affect the future development of the site concerned. Certain commercial activities in the BMP, including fishery and mid-stream operations, might also be affected, but the mitigation and enhancement measures² should help reduce the impacts. On the other

² Mitigation and enhancement measures have been in place to address the concerns about fishery and mid-stream operations. On fishery operations, according to the Marine Parks and Marine Reserves

hand, preserving the environment for CWD would be conducive to the development of eco-tourism in Hong Kong.

13. On sustainability implications, the designation of the BMP might affect the livelihood of bona fide fishermen and marine operators but would help enhance marine eco-value and manage marine habitat. It is conducive to maintaining the marine biodiversity of Hong Kong in a sustainable way.

14. On family implication, as the designation of the BMP may affect the livelihood of bona fide fishermen and marine operators, it may have implication for the families of the affected fishermen and marine operators. Measures to alleviate the impacts include the issue of marine park permits to bona fide fishermen to continue fishing in the BMP, enhancements to the marine park fishing permit system, implementation of the marine ecological enhancement measures³, and enhanced procedures for permit application for carrying out mid-stream operations within the Sham Shui Kok Anchorages (SSKAs) in response to the request of the marine operators.

15. On financial and civil service implications, a capital cost of \$4 million has been earmarked under the project vote of the HZMB-HKBCF project for both the procurement of a patrol vessel (\$3 million) for the future control and management of the BMP, and the installation of boundary marker buoys and signboards (\$1 million) for demarcation purpose. Separately, the future control and management of the BMP which is planned to open by the end of 2016, will incur an additional recurrent expenditure of \$3.9 million per annum.

PUBLIC CONSULTATION

Regulation (MPMRR), the Authority may, at his discretion, grant a permit for fishing to a bona fide fisherman or a person who ordinarily resides near a marine park to which the permit relates. Furthermore, enhancement measures on the permit requirement have been adopted, including allowing succession of marine park fishing permit to immediate family members and restricted transfer of fishing permit to an authorised person listed in any of the fishing permits issued for the same marine park. Under the current arrangement, permit holders are required to renew their fishing permits once every two years. Some fishermen requested to be granted special life time permits, or ones that are for at least five to ten years. Further review on the marine park fishing permit system may be considered at a later stage. On mid-stream operations, the Authority would provide the area of Sham Shui Kok Anchorages (SSKAs) as a mooring site under section 11 of the MPMRR. As stipulated in section 15(c) of the MPMRR, marine operators may continue to carry on any activity for the purpose of, or incidental to, any business (such as mid-stream operations) within the SSKAs with permit issued from the Authority under section 17(2) of the MPMRR for carrying on an activity for business.

³ Ecological enhancement measures refer to the placement of artificial reefs and release of fish fries in the proposed BMP.

16. DAFC acting as the Authority under the MPO, with the assistance of the Highways Department as the proponent of the HZMB-HKBCF project, had conducted a two-stage public consultation with relevant stakeholders prior to the commencement of the statutory public inspection period under the MPO. The Marine Parks Committee under the CMPB, and the CMPB, were consulted on 17 March 2015 and 2 June 2015 respectively. Members generally supported the proposal including the boundary and management plan of the BMP.

17. In accordance with the provisions of the MPO, the Authority prepared the draft map for the BMP and consulted the CMPB on 30 October 2015. In general, Members supported the draft map including the explanatory statement of the BMP. Subsequently, the Authority published the required notice in the gazette on 12 February 2016, notifying the public that copies of the draft map were available for inspection for a period of 60 days with effect from the date of gazettal. Any person aggrieved by the draft map might raise objections within the inspection period (12 February - 11 April 2016). The Authority did not receive any objection during the 60-day inspection period.

PUBLICITY

18. A press release was issued on 4 November 2016. A government spokesperson has been arranged to handle media enquiries.

ENQUIRIES

19. Any enquiries on this brief may be addressed to Mr. Elvis Au, Assistant Director (Nature Conservation & Infrastructure Planning) of the Environmental Protection Department at telephone number 3509 8617 or Mr. Patrick Lai, Assistant Director (Country and Marine Parks) of the AFCD at telephone number 2150 6606.

Environmental Protection Department
Agriculture, Fisheries and Conservation Department
2 November 2016

Marine Parks (Designation) (Amendment) Order 2016

(Made by the Chief Executive under section 15 of the Marine Parks Ordinance (Cap. 476) after consultation with the Executive Council)

1. Commencement

This Order comes into operation on 30 December 2016.

2. Marine Parks (Designation) Order amended

The Marine Parks (Designation) Order (Cap. 476 sub. leg. B) is amended as set out in section 3.

3. Schedule amended

The Schedule, after item 4—

Add

“5. The Brothers Marine Park

That area delineated and coloured pink on the map (Plan No. MP/BROS)—

- (a) that was approved on 30 August 2016 by the Chief Executive in Council; and
- (b) certified true copies of which have been deposited in the Land Registry, the headquarters of the Agriculture, Fisheries and Conservation Department and the headquarters of the Marine Department.”.



Chief Executive

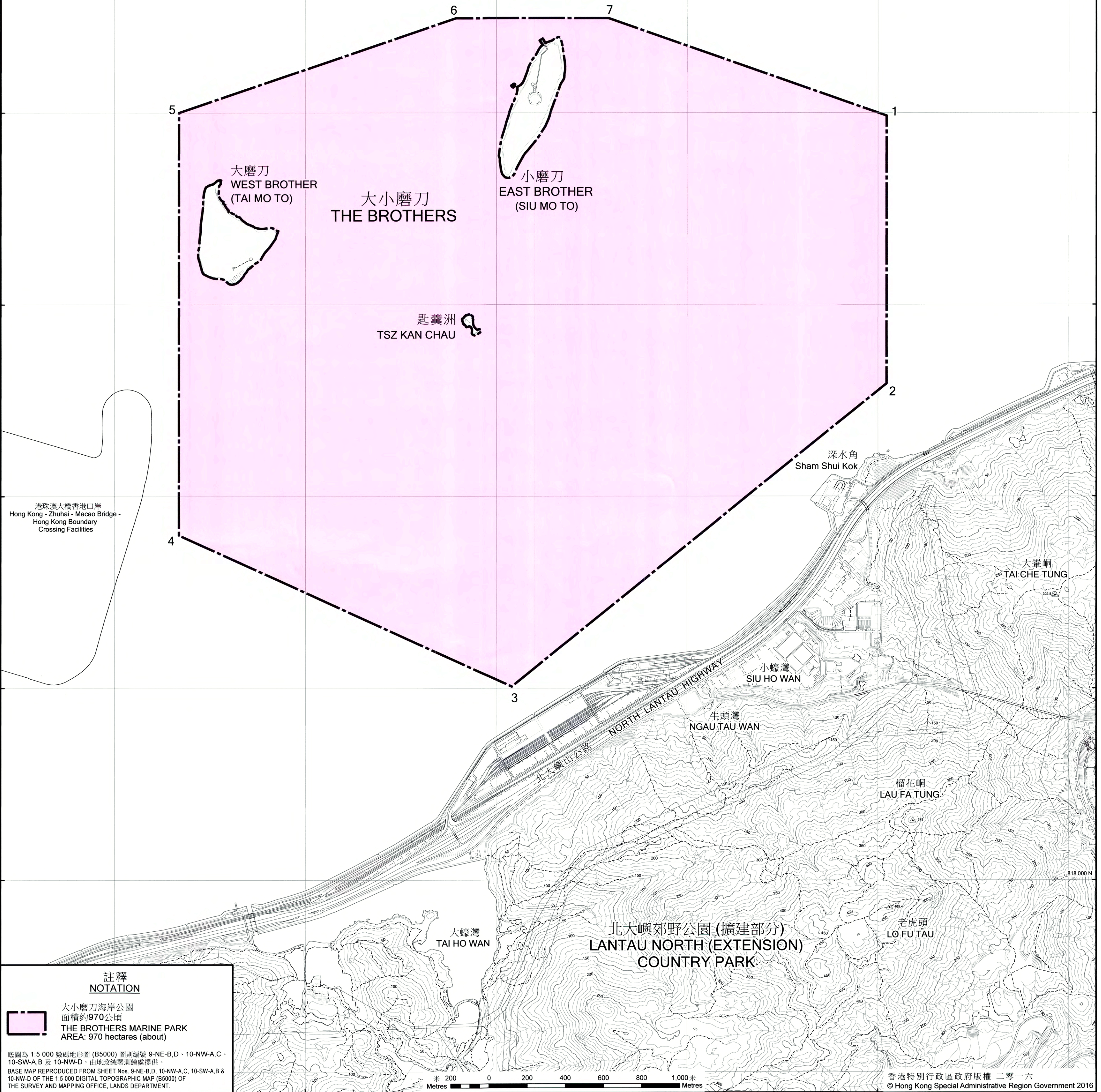
26th October 2016

Explanatory Note

This Order amends the Marine Parks (Designation) Order (Cap. 476 sub. leg. B) to designate The Brothers Marine Park as a marine park under the Marine Parks Ordinance (Cap. 476).



點	香港 1980 方格網 Hong Kong 1980 Grid	
Point	北距 Northing	東距 Easting
1	821984	818045
2	820588	818045
3	819009	816082
4	819799	814337
5	822000	814337
6	822493	815787
7	822492	816588



港珠澳大橋香港口岸
Hong Kong - Zhuhai - Macao Bridge -
Hong Kong Boundary
Crossing Facilities

**註釋
NOTATION**

 大小磨刀海岸公園
面積約970公頃
THE BROTHERS MARINE PARK
AREA: 970 hectares (about)

底圖為 1:5 000 數碼地形圖 (B5000) 圖則編號 9-NE-B.D、10-NW-A.C、10-SW-A.B 及 10-NW-D。由地政總署測繪處提供。
BASE MAP REPRODUCED FROM SHEET Nos. 9-NE-B.D, 10-NW-A.C, 10-SW-A.B & 10-NW-D OF THE 1:5 000 DIGITAL TOPOGRAPHIC MAP (B5000) OF THE SURVEY AND MAPPING OFFICE, LANDS DEPARTMENT.

本圖則已於二零一六年八月三十日經由行政長官連同行政會議
根據海岸公園條例第十四條(一)批准。
THIS PLAN WAS APPROVED ON 30 AUGUST 2016 BY
THE CHIEF EXECUTIVE IN COUNCIL IN ACCORDANCE
WITH SECTION 14(1) OF THE MARINE PARKS ORDINANCE.


郊野公園及海岸公園管理局總監
COUNTRY AND MARINE PARKS AUTHORITY

日期: 二零一六年九月九日
DATE: 9 SEPTEMBER 2016

大小磨刀海岸公園
THE BROTHERS MARINE PARK

檔案編號
FILE REF. AF GR MPA/02/8/10

比例
SCALE 1 : 10 000

製圖日期
COMPILED 9 . 2016

漁農自然護理署
郊野公園及海岸公園管理局
COUNTRY AND MARINE PARKS AUTHORITY
AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT



圖則編號
PLAN No.

MP/BROS

The Brothers Marine Park Explanatory Statement

Authority

1. This statement forms part of the draft map of The Brothers Marine Park prepared by the Country and Marine Parks Authority (the Authority) in accordance with Section 7 of the Marine Parks Ordinance (Cap. 476).

Location and Boundary

2. The Brothers is located in the north of Lantau of the Hong Kong Special Administrative Region. The Brothers Marine Park covers a sea area of about 970 hectares.

3. The marine park includes coastal area below the high water mark. The seaward boundary of the marine park is shown in the map. The landward boundary will be demarcated with reference to the high water mark along the coastline of The Brothers.

Ecological Value

4. The waters around The Brothers are important habitats for the Chinese White Dolphin. The area near Siu Mo To also supports relatively rich fisheries resources.

Environmental Monitoring, Education and Publicity

5. Ecological and water quality monitoring will be carried out to monitor the marine resources within The Brothers Marine Park. Education and publicity programmes will be provided for the public. On-site advisory notices, signs and interpretation materials will also be placed at appropriate locations.

Recreation

6. In addition to conservation and education, recreation is also one of the major functions of designating a marine park. However, recreational activities that are detrimental to the ecology of the area and the health of the Chinese White Dolphins, such as water skiing, water scootering and jet skiing, will be prohibited in the entire marine park.

Management and Enforcement

7. The Authority will implement suitable management and control measures at The Brothers Marine Park. Staff of the Authority will patrol The Brothers Marine Park and take law enforcement action whenever necessary.