



New South Wales

Fisheries Industry (Interim Protection and Environmental Assessment) Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide interim protection to licences and other authorities to conduct fishing activities granted by the Minister for Fisheries, by suspending the operation of Part 5 of the *Environmental Planning and Assessment Act 1979* in respect of those activities, pending an environmental assessment of those activities,
- (b) to require the Minister for Fisheries to obtain the approval of the Minister for Urban Affairs and Planning in relation to fishing activities proposed to be approved by the Minister for Fisheries.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides that the principles of the proposed Act are as follows:

- (a) the principles of ecologically sustainable development,
- (b) public consultation,
- (c) thorough and adequate environmental assessment.

Clause 5 sets out the objects of the proposed Act.

Clause 6 suspends the operation of Part 5 of the *Environmental Planning and Assessment Act 1979* in respect of fishing activities approved by the Minister for Fisheries, pending an environmental assessment of those activities. The Minister is required to obtain an environmental impact statement in respect of each designated fishery (that is, each share management fishery, restricted fishery or other fishery in which a person is authorised to take fish by or under the *Fisheries Management Act 1994*) in accordance with the timetable set out in Schedule 1, for submission to the Minister for Urban Affairs and Planning. The Minister for Urban Affairs and Planning is to be the approving authority in respect of those activities.

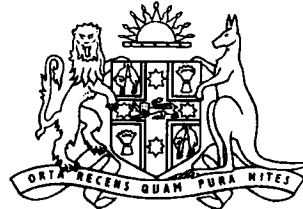
Clause 7 provides for the matters to be covered by an environmental impact statement.

Clause 8 requires an environmental impact statement to be publicly exhibited and to be the subject of public consultation.

Clause 9 requires the state of each designated fishery to be reviewed every 5 years after an approval is given by the Minister for Urban Affairs and Planning under Division 4 of Part 5 of the *Environmental Planning and Assessment Act 1979*.

Clause 10 requires the proposed Act to be reviewed after it has been in operation for 5 years.

Schedule 1 sets out the timetable for completion of the environmental assessment process.



New South Wales

Fisheries Industry (Interim Protection and Environmental Assessment) Bill 2000

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Principles of Act	3
5 Objects of Act	3
6 Fisheries and their environmental assessment	4
7 Scope of environmental assessment	5
8 Public consultation	6
9 Review of state of fishery	6
10 Review of Act	7
Schedule 1 Timetable	8



New South Wales

Fisheries Industry (Interim Protection and Environmental Assessment) Bill 2000

No. , 2000

A Bill for

An Act to provide interim protection for licences and other authorities granted in respect of fishing activities and to make provision for the environmental assessment of fishing activities; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Fisheries Industry (Interim Protection and Environmental Assessment) Act 2000</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	6
3 Definitions	7
(1) In this Act:	8
<i>approval</i> has the meaning given by section 110 of the <i>Environmental Planning and Assessment Act 1979</i> .	9 10
<i>designated fishery</i> means:	11
(a) a share management fishery,	12
(b) a restricted fishery,	13
(c) any other fishery in which a person is authorised or proposed to be authorised to take fish by a licence, endorsement, permit or authorisation of any kind issued or renewed under the <i>Fisheries Management Act 1994</i> .	14 15 16 17
<i>fishery</i> has the meaning given by the <i>Fisheries Management Act 1994</i> .	18
<i>fishing activity</i> has the meaning given by the <i>Fisheries Management Act 1994</i> .	19 20
<i>management plan</i> means a management plan for a fishery prepared under the <i>Fisheries Management Act 1994</i> .	21 22
<i>principles of ecologically sustainable development</i> means the principles described in section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i> .	23 24 25
<i>restricted fishery</i> has the meaning given by the <i>Fisheries Management Act 1994</i> .	26 27
<i>share management fishery</i> has the meaning given by the <i>Fisheries Management Act 1994</i> .	28 29

(2) In this Act:	1
(a) a reference to a management plan prepared after the commencement of this Act includes an amendment prepared after the commencement of this Act to a management plan (made before or after the commencement of this Act),	2 3 4 5
(b) the fisheries referred to in Schedule 1 are as described by or under the <i>Fisheries Management Act 1994</i> .	6 7
4 Principles of Act	8
This Act is guided by the following principles:	9
(a) the principles of ecologically sustainable development,	10
(b) public consultation,	11
(c) thorough and adequate environmental assessment.	12
5 Objects of Act	13
The objects of this Act are as follows:	14
(a) to provide interim protection for fishing licences and other authorities granted to the commercial fishing industry,	15 16
(b) to achieve healthy fish habitats and sustainable fish stocks through environmental assessment of commercial fishing activities and land and marine ecosystem management and production of management plans for fisheries, based on the principles of ecologically sustainable development,	17 18 19 20 21
(c) to create a comprehensive and representative aquatic reserve and marine park system,	22 23
(d) to suspend the application of Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> to fishing activities being carried out or proposed to be carried out in designated fisheries pending the completion of environmental assessment and management plans for those fishing activities,	24 25 26 27 28
(e) to provide that the Minister for Urban Affairs and Planning is to be the approving authority for fishing activities that are subject to environmental impact statements obtained under this Act,	29 30 31 32

- (f) to ensure that any fishing activities carried out in designated fisheries are carried out in accordance with the full requirements of other relevant regulatory controls, including the sustainable management strategies contained in any management plans applying to the fisheries.

6 Fisheries and their environmental assessment

- (1) The application of Part 5 of the *Environmental Planning and Assessment Act 1979* in respect of commercial or recreational fishing activities being carried out or proposed to be carried out in each designated fishery is suspended, and is taken always to have been suspended, until the suspension ceases by operation of this section.
- (2) The Minister for Fisheries is to obtain an environmental impact statement in respect of fishing activities being carried out or proposed to be carried out in each designated fishery by the date specified in Schedule 1 in relation to the designated fishery as if Part 5 of the *Environmental Planning and Assessment Act 1979* had not been suspended by this section (and in so far as that Part would require an environmental impact statement to be obtained if it were not so suspended).
- (3) The Minister for Fisheries is required to consult the Resource and Conservation Assessment Council about the environmental impact statement and is to ensure that any submissions made by the Council are included in the statement.
- (4) After obtaining any such environmental impact statement and complying with section 112 (1) (a)–(c) of the *Environmental Planning and Assessment Act 1979*, the Minister for Fisheries is required to seek the approval of the Minister for Urban Affairs and Planning under Division 4 of Part 5 of that Act in respect of the fishing activities to which the statement applies.
- (5) For that purpose, Division 4 of Part 5 of the *Environmental Planning and Assessment Act 1979* is taken to apply to fishing activities to which the Minister for Fisheries has granted approval or proposes to grant approval as if:
- (a) the Minister for Fisheries were the proponent of the fishing activities, and

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- (b) a reference in Division 4 of Part 5 of that Act to a determining authority carrying out an activity were a reference to the Minister for Fisheries granting an approval in relation to the activity. 1
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- (6) When the Minister for Urban Affairs and Planning determines in accordance with Division 4 of Part 5 of the *Environmental Planning and Assessment Act 1979* whether or not the fishing activities to which an environmental impact statement applies may be carried out, the suspension of Part 5 of the *Environmental Planning and Assessment Act 1979* in relation to those activities ceases. 5
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- (7) Fishing activities carried out in accordance with this Act in a designated fishery during the suspension of Part 5 of the *Environmental Planning and Assessment Act 1979* in relation to the fishing activities are taken to have been carried out in compliance with that Part. 11
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- (8) If there is a change in the fishing activities approved by the Minister for Fisheries, after the Minister for Urban Affairs and Planning grants an approval in respect of those activities under Division 4 of Part 5 of the *Environmental Planning and Assessment Act 1979*, Part 5 of that Act (including Division 4 of Part 5, as modified by subsection (5)) applies. 16
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- 7 Scope of environmental assessment** 22
- (1) An environmental impact statement obtained for a designated fishery is to include an assessment of the following: 23
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- (a) recreational and commercial take in the fishery (including species, age distribution, season and quantities), 25
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- (b) harvesting methods (including impacts on ecosystems and threatened species), 27
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- (c) significant impacts of land use and pollution on waterway catchments and fishery habitats and stock, 29
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- (d) alternative management approaches, including best practice for harvesting and relevant land based sources of pollution and other adverse impacts, 31
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- (e) conservation areas to safeguard ecosystems and fish stocks, 34
- (f) indigenous fishing rights. 35

- (2) If a management plan for a designated fishery is prepared after the commencement of this Act, the management plan is to be prepared in conjunction with the environmental impact statement for the fishery. In particular, the Minister for Fisheries is to ensure that the management plan takes account of the information, conclusions and recommendations in the environmental impact statement.

8 Public consultation

- (1) An environmental impact statement for a designated fishery, and any management plan for the fishery that is prepared after the commencement of this Act, is to be publicly exhibited, and is to be the subject of public consultation, in accordance with:
- (a) the requirements of section 113 of the *Environmental Planning and Assessment Act 1979* (Publicity and examination of environmental impact statements), and
 - (b) the requirements (if any) of the Minister for Urban Affairs and Planning.
- (2) An environmental impact statement is to be exhibited with the management plan (if any) prepared for the fishery (or any proposed amendments to that management plan), and any associated species impact statements.
- (3) This section:
- (a) applies in addition to any consultation requirements that apply in respect of a management plan under the *Fisheries Management Act 1994*, and
 - (b) does not prevent the Minister for Fisheries from undertaking more extensive public consultation.

9 Review of state of fishery

- (1) It is taken to be a condition of any approval granted by the Minister for Urban Affairs and Planning under Division 4 of Part 5 of the *Environmental Planning and Assessment Act 1979* in respect of a designated fishery that the state of the fishery be reviewed every 5 years after the approval is first given.
- (2) The Minister for Fisheries and the Minister for Urban Affairs and Planning are to establish a panel to conduct such a review.
- (3) Members of the panel are to be appointed jointly by the Ministers.

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- (4) A majority of the members of the panel must be persons who are independent of government and who have expertise in fisheries management, habitat conservation and ecologically sustainable development. 1
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- (5) The panel is to report to the Minister for Fisheries and the Minister for Urban Affairs and Planning on the outcome of the review. 5
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- (6) The Minister for Fisheries is to cause a copy of the report to be tabled in each House of Parliament within 60 sitting days after receiving the report. 7
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- (7) The term of office and remuneration of members of the panel and the quorum, voting method and other procedures of the panel are to be determined jointly by the Minister for Fisheries and the Minister for Urban Affairs and Planning. 10
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- 10 Review of Act** 14
- (1) The Minister for Fisheries is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. 15
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- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act. 18
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- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years. 20
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Schedule 1 Timetable

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	(Section 6)	2
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Designated fishery	Date for completion of EIS	4
Estuary general restricted fishery	30 July 2002	5
Estuary prawn trawl restricted fishery	30 July 2002	6
Ocean hauling restricted fishery	30 July 2002	7
Ocean fish trawl restricted fishery	1 December 2003	8
Ocean prawn trawl restricted fishery	1 December 2003	9
Ocean trap and line restricted fishery	1 December 2003	10
Abalone share management fishery	1 December 2003	11
Lobster share management fishery	1 December 2003	12
A designated fishery not otherwise referred to in this Schedule	1 December 2003	13 14