



Fisheries Management Amendment Bill.

Second Reading

The Hon. IAN MACDONALD: I move:

That this bill be now read a second time.

This bill introduces a number of minor but important amendments to the Fisheries Management Act 1994. In broad terms, these changes support ongoing implementation of share management in our fisheries, give effect to a government election commitment to increase penalties for illegal commercial fishing and introduce minor changes that will greatly improve practical administration of the Act. Specifically, the bill defines the concept of a commercial fishing business. This will allow for recognition of current fishing operations and reinforce current controls on fishing effort as share management is progressively implemented. It provides for the catch history associated with a fishing business to be retained for future use, should this be required, in conjunction with a share management plan. To create a fairer and more flexible charging scheme, it provides for management charges and community contributions to be levied in accordance with individual shareholdings and at a rate specified in a management plan.

The bill also simplifies the current arrangements for a fisher to nominate another fisher to operate a fishing business on his or her behalf. It provides for commercial fishing licences, fishing boat licences, and charter fishing boat licences to be issued for longer than the current one-year period. It also provides better protection of important fish habitat by improving the current definition of "harm" to marine vegetation. A number of minor changes that increase the efficiency of general administration of the Fisheries Management Act are also introduced.

Before I discuss the specifics of each amendment I would like to set the context for these changes. As many honourable members know, the seafood industry in New South Wales is worth \$500 million dollars to the State's economy and employs about 4,000 people. The commercial fishing sector of the industry is an important and highly valuable part of the economy of many New South Wales coastal communities. To ensure commercial fishing is conducted in a sustainable manner it is carefully managed against environmental, economic and social objectives. Management tools available under the Fisheries Management Act include fisher and boat licensing arrangements, controls on the types of fishing gear, fishing closures and mechanisms to cap the number of fishers in a fishery. The Act also provides for additional incentives that encourage fishers to adopt the most modern fishery management practices, particularly through the allocation of property rights or shares in a fishery. Share management has been available for use as a management tool since the current Act was proclaimed in 1995. It gives fishers greater security of access to a fishing resource and provides a real incentive for fishers to protect their fishery.

Until recently, abalone and lobster fisheries were the only two of the State's significant commercial fisheries that were administered as category 1 share management fisheries. The shares held by fishers working in abalone and rock lobster fisheries are automatically renewed every 10 years—they are issued in perpetuity. Moreover, compensation must be paid if the fishery is removed from the Act as a share management fishery. Recently I announced that the remaining major commercial fisheries had been included in the schedule to the Act as category 1 share management fisheries. This is a significant development for the many hard-working people in these fisheries. It is a change that will give the overwhelming majority of the State's commercial fishers the highest available level of security over their resource.

Commercial fishers have shown their willingness over many years to help develop and implement fishery management changes, and that they are good environmental managers. Issuing category 1 shares significantly upgrades the level of tenure fishers have over their access rights to the resource and provides an appropriate incentive to manage their fisheries in a sustainable way. This change provides an important incentive for fishers to make decisions in the long-term best interest of a fishery. The level of permanency and asset security provided by this change significantly improves current arrangements. It is important that honourable members are aware that the move to category 1 share management, and the changes proposed in this bill come after very thorough consultation with the commercial fishing industry. At each step along the way the proposed share management changes and the Act amendments have been discussed with industry advisory bodies. As recently as 23 March, for example, almost 30 members of the fishing industry and other key stakeholders met in Parliament House to discuss the draft bill. I had occasion to meet with them at that time. Ideas and suggestions raised in that forum have been incorporated into the bill.

I will turn now to the specific amendments in this bill. First, a procedural amendment introduces a definition of a fishing business into the Act. A definition is currently contained in the regulation to the Act, but this amendment is necessary to ensure the concept remains legally consistent with other share management provisions of the Act. The term "fishing business" as currently used refers to all the various components of a fishing business, including the boat or boats, fishing gear, and validated catch history. The concept of fishing business is now well established within the industry and is used as a basis for managing overall levels of commercial fishing activity.

The bill makes it clear that the individual components of a fishing business, including the boat, fishing gear, and the validated catch history, cannot be sold individually, except in accordance with agreed policy or regulation. The bill also allows the validated catch history to be preserved for future use if necessary for more precise species or effort-based management programs. Validated catch history will also be able to be used to create a new class of shares in the future, where provided for by a share management fishery management plan.

Another important amendment concerns fishing business nominations. The Act provides that fishing business owners can allow others to fish on their behalf only if the department is advised and approves the nomination of that person—a very bureaucratic and cumbersome process. Under the proposed amendment, they will be able to do this much more quickly than is currently the case. Fishers will be issued with a card that lists their fishing entitlements. They can then give this card to another licensed fisher who can work the fishing business on their behalf, and then simply notify the department that this has occurred.

Limiting the number of active fishers by the nomination process means that only one fisher can work the business at any one time, which greatly reduces the risk of an increase in fishing pressure. Some of our more sensitive fisheries, like the estuary general fishery, have chosen not to have this scheme and have a strict owner-operator only policy to limit fishing pressure from inexperienced operators in their fishery. The new arrangements will provide greater flexibility, as well as administrative and operational efficiencies.

The bill also introduces a practical proposal for new supporting plans. A supporting plan is a vehicle for the creation of generic rules that apply across two or more shared-management fishery management plans. Some examples of supporting plans that would ensure that common provisions appeared in just one place, and not in multiple plans, are: for a structural adjustment share trading scheme whereby, for example, minimum shareholding rules will aim to control fishing pressure for new entrants to the industry; for a uniform penalty point scheme for serious offences which can lead to licences being suspended or cancelled and, in some severe cases, shares cancelled; and for cost recovery, where we are developing a scheme that moves away from the current flat charges to one that better reflects the different levels of access that fishing businesses have.

When a section of a supporting plan is amended, the change will affect all fisheries identified as being subject to that section of the plan. Using supporting plans therefore enables us to make fishery management plans a simpler document, requiring less revision as only one document would need to be amended: the supporting plan. It is important to note that a supporting plan will apply only where the share management plan says that it applies; it cannot override a provision of a share management plan.

Another issue addressed in the bill is the community contribution and industry management fees paid by fishers. The Government is supportive of diversified fishing businesses and arrangements that encourage operators to move to fisheries where stocks are more abundant and take fishing pressure off other stocks. At present the Fisheries Management Act provides that fishery management charges and the community contribution are levied at the same rate, irrespective of the number of fisheries a fisher can work in. This practice creates a financial disincentive for fishers to operate in more than one fishery.

The proposed amendments will allow arrangements that encourage fishers to remain or become diversified. For example, the management charge could be set so there is a fee for the first fishery a shareholder operates in, with a reduced fee for each additional fishery. Having the same charge for every fishery would discourage fishers from maintaining diversified operations. A practical example of how this might operate can be found on the Clarence River, where I spent some time recently looking at new net designs that substantially reduce the by-catch of fin fish in the prawn trawl fishery.

Many Clarence River prawn trawl operators work in the prawn trawl fishery during the summer months when prawns are abundant, and move into the estuary fishery to catch fish like bream, whiting and mullet when prawns are scarce. This diversification takes pressure off the prawn resource while still providing fishers with a relatively steady income stream. In the winter months many of them diversify again into the ocean beach haul fishery to catch sea mullet for the export market.

The Government believes we must have a charging system that does not penalise fishers for being diversified and, in fact, that charging systems should be capable of being structured so they actually encourage diversification. The proposed arrangements will allow management fees and community contributions to be set in accordance with the provisions of a share management plan, and thereby to better reflect the circumstances of individual fishers.

I turn to the amendments concerning fishery management strategies. Before final shares are issued, management strategies and environmental impact statements must be prepared for significant commercial fishing activities. These environmental impact statements are required under the New South Wales Environmental Planning and Assessment Act. So far, fishery management strategies have been finalised for the estuary general fishery, the ocean hauling fishery, and the estuary prawn trawl fishery. Strategies for the abalone, lobster, ocean trap and line fishery, and the ocean trawl fishery are well under way.

The bill makes minor changes in relation to fishery management strategies to reduce bureaucracy and provide for the timely uptake of new information. One amendment will allow provisions in new or revised fishery management

strategies to apply to existing strategies when this is necessary. For example, this means that when we find out something new about a fish stock that is common to more than one fishery and should therefore be recognised in another strategy, we can adopt this change simply, with minimum administrative effort and cost. Industry has suggested that to ensure transparency there should also be a provision to co-ordinate actions under various strategies and set priorities for these strategies. The bill provides for this to occur.

I now turn to charter boat, commercial fishing boat and commercial fishing licences. Amendments in the bill will provide for longer term licensing arrangements. At present licences are issued for one year or less, and renewed annually. To reduce administration cost, the proposed changes to the Act will make it clear that licences can be issued for more than 12 months. The bill implements one of the Government's election commitments: the commitment to increase penalties for unlicensed commercial fishing.

Illegal commercial fishing is a matter of great concern to many commercial fishers and the community in general. For example, on the North Coast there are reports of 50 kilogram catches of garfish being taken by unlicensed fishers in scoop nets, and on the Hunter River large catches of prawns being taken in illegal trawl nets. However, as well as undermining the viability of a commercial fishery, illegal commercial fishing also usually operates outside food safety regulations, which creates a very real public health risk. The bill will ensure that individuals who fish on a commercial scale without a licence will be subject to a maximum penalty of \$110,000. For corporations the maximum fine will be \$220,000.

I now address the amendments concerning harm to marine vegetation. At present sections 204 to 205B of the Fisheries Management Act deal with the protection of certain marine vegetation. Those provisions contain a definition of "harm" to these types of marine vegetation, and prohibit anyone harming such vegetation without a permit. However, the current definition of "harm" does not cover harm to vegetation caused by deliberate alteration of the environment. Consequently, people are not restricted from making certain changes to the environment that harm vegetation such as mangroves and seagrass, which are important fish nursery and habitat areas.

Honourable members may be aware of the significance of mangroves and seagrasses to juvenile fish as nurseries for future stocks. Without mangroves and seagrass areas, many of which have already been lost, stocks of fish and other marine species will be further depleted. The shading of seagrass by structures such as jetties that are sometimes built across seagrass beds is one example of the type of activity that this amendment is directed towards. The actual construction work may do very little harm to the seagrass, but the resultant shading from the structure will eventually kill it.

To make sure this type of outcome is subject to controls and prevented when necessary, an amendment to the current definition of "harm" is proposed. I point out that the proposed amendment does not impact on any developments that have already been subject to an approvals process. Finally, the provisions in the Act dealing with overdue management fees and payments, and associated interest, will be amended to make it clear that interest will be charged only after a reasonable sum has accrued. This is commonsense and will avoid the costly exercise of sending out bills for small amounts of interest that cost more than they raise.

The bill, although brief, brings important changes to the legislation. These changes will help implement real changes to the State's commercial fishing industry. The bill is the product of close consultation with commercial fishers and the seafood industry over the past year, and the fishing industry is supportive of the proposals contained in it. I commend the bill to the House.

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