



Full Day Hansard Transcript (Legislative Council, 4 November 2014, Proof)

Proof

Extract from NSW Legislative Council Hansard and Papers Tuesday, 4 November 2014 (Proof).

MARINE ESTATE MANAGEMENT BILL 2014

Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra)
[5.29 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The purpose of this bill is to make provision for management of the New South Wales marine estate.

For the first time in New South Wales the Marine Estate Management Bill 2014 provides for strategic, balanced, coordinated management of the whole marine estate.

This bill represents a new era in the management of the marine estate in New South Wales.

For three years a considered, sensible approach to marine estate management has been under development and what we see here today in the bill is the fruits of that work.

In 2011 the Independent Scientific Audit of Marine Parks in New South Wales was commissioned by the New South Wales Liberal-Nationals Government, delivering on a key election commitment.

This audit was undertaken by an expert panel and found that management of the marine estate in New South Wales was lacking strategic direction and focus.

The marine estate is valued for its biodiversity and used for an extraordinary range of activities, but without proper management we are at risk of depleting our precious coastline and marine waters. It is our collective responsibility to avoid death by a thousand cuts.

So in February 2013 we released the response to that audit, which announced a new approach to robust, evidence-based management of the marine estate into the future.

Crucially, this new approach includes a thorough assessment process, which will consider social, economic and environmental impacts in the context of the entire marine estate.

The Minister for Primary Industries will administer the bill jointly with the Minister for the Environment.

Though recent reports would have you believe otherwise, marine parks have been jointly administered since the Marine Parks Act commenced in 1997. This has always been the case, and joint administration will continue under the bill.

This means Ministers can only make decisions jointly, including the declaration of marine parks.

Neither Minister has the power of veto. If there is a dispute, clause 80 of the bill clearly sees that the Premier resolves it.

The Primary Industries portfolio will take the lead on day-to-day administration of this Act, as has been the case for some time now.

Joint responsibility is a continuation of current arrangements and means that matters relating to the marine estate are appropriately considered from both a resource management and conservation perspective.

I am proud to see the Department of Primary Industries responsibly managing marine park operations, along with our other precious marine resources. The benefits of this include shared on-water capacity, equipment, knowledge and expertise.

Let us stop and ponder what has brought us to this point in time.

This bill addresses community concerns about how the State's six marine parks were established and managed by previous Labor governments.

The bill will provide the legislative architecture for the New South Wales Liberal-Nationals Government's vision for a healthy coast and sea, managed for the greatest well-being of the community, now and into the future.

The bill is underpinned by the following principles:

- best practice evidence-based decision-making;
- integrated management;
- effective management; and
- maximising community well-being.

Important projects such as assessing threats and risks to the entire marine estate and piloting new management planning approaches at the Batemans and Solitary Islands marine parks will be done within the new management framework the bill provides.

Stretching between the Queensland and Victorian borders for over a thousand kilometres and out to three nautical miles, the New South Wales marine estate is an area of about one million hectares of estuary and ocean.

Nearly 85 per cent of people in New South Wales live within 50 kilometres of the New South Wales coastline.

The bill provides the foundation for more strategic and efficient management of the marine estate into the future, through a strategy that will deliver better outcomes on the ground for coastal communities in New South Wales.

The marine estate community survey, completed earlier this year, emphasised that our coastline and marine waters support a wide range of values and commercial, recreational and cultural activities.

The marine estate is also valued for the environmental benefits it provides, as habitat to species including threatened plants and animals, as well as such ecosystem services as nutrient cycling and climate regulation.

I turn now to specific aspects of the bill. The bill is in eight parts, which relate to:

1. Preliminary matters including the objects and definitions.
2. Administration, which covers establishment of two advisory entities.
3. The Marine Estate Management Strategy.
4. Threat and risk assessment.
5. Marine parks and aquatic reserves.
6. Enforcement.
7. Finance.
8. Miscellaneous provisions.

I turn first to the objects and definition of the marine estate found in part one of the bill.

The objects of the bill are to:

- provide for the management of the marine estate consistent with the principles of ecologically sustainable development;
- facilitate economic, social, cultural, scientific and environmental opportunities;
- promote the coordination of functions by public authorities; and
- provide for a comprehensive, strategically managed system of marine parks and aquatic reserves.

The objectives of the Marine Estate Management Bill reflect the diversity of interests and the need to

balance these across the marine estate. The objects set out the New South Wales Liberal-Nationals Government's clear commitment to a more integrated approach to managing the marine estate, including marine parks and aquatic reserves.

This integrated approach will be more effective and transparent.

The strategy developed under the bill will relate to the whole of the marine estate, which is defined to include coastal waters, estuaries, lakes, lagoons, wetlands and adjacent coastal lands strongly influenced by ocean processes.

Importantly, adjacent coastal lands are included because they are the interface between marine waters and terrestrial land.

I turn now to part two of the bill, which enshrines the establishment of the Marine Estate Management Authority and the Marine Estate Expert Knowledge Panel in legislation.

This is about getting the right advice from the right people.

These two statutory advisory entities have been operating on an administrative basis for more than a year and already have a proven track record in providing independent, scientific and expert advice.

The authority and panel will play an important role in ensuring that management strategies for the marine estate properly balance social, economic and environmental outcomes.

Under the bill, relevant Ministers must seek to include on the panel members with expertise spanning ecological, economic and social sciences. This will ensure there is a wide breath of knowledge and experience on the panel.

Next I turn to the centrepiece of the new approach to management of the marine estate—the Marine Estate Management Strategy.

The marine parks audit identified that an overarching strategy for managing our valued coast and marine waters has been sadly lacking to date in New South Wales.

Accordingly, the bill provides for a whole-of-government strategy to coordinate management of the marine estate.

The strategy will set out the vision and management priorities for the marine estate, underpinned by a threat and risk assessment.

The bill requires that social, economic and environmental values must be clearly recognised in the strategy.

The advantage of this Strategy is that it will provide decision makers with relevant information and guidance for addressing the significant pressures across the marine estate.

Under the new Act, government bodies will have regard to the strategy when making decisions that may affect the marine estate.

In keeping with the New South Wales Liberal-Nationals Government's commitment to developing policies that make a real difference to communities, community consultation will be an essential step.

The bill requires that a draft strategy be publicly exhibited and that any community views be considered before the strategy is made.

Consultation with local land services is also required as we know that the use, management and condition of the land and soil resources in a catchment are directly relevant to water quality.

The bill requires that the strategy must be independently reviewed at least once every 10 years.

This timeframe will allow sufficient time for the strategy to be implemented and evaluated, but will also ensure the strategy is adapted as required so that it remains responsive to the threats and risks to the marine estate over the long term.

I turn now to part four of the bill, which requires assessment of threats and risks to the marine estate.

It will establish a foundation for the robust, scientific and evidence-based approach to marine estate management that is the hallmark of the New South Wales Liberal-Nationals Government's reforms.

The bill sets out a process for assessing social, economic and environmental threats and associated risks to values that the community derives from the marine estate.

This assessment must be undertaken at least once every 10 years and will be the product of extensive

community consultation.

The bill requires that threats and risks be both identified and prioritised. The assessment is expected to take into account cumulative threats, present threats and those that are expected to have impacts in the future.

Crucially, comprehensive threat and risk assessment will help us focus on the key issues for the marine estate.

I turn now to part five of the bill relating to marine parks and aquatic reserves.

The bill replicates the majority of the existing statutory provisions for the declaration, management and review of both marine parks and aquatic reserves.

It links marine parks and aquatic reserves with the Marine Estate Management Strategy and threat and risk assessments outlined for preceding parts of the bill.

The primacy of biodiversity conservation in these areas is unmistakably set out in the purposes of marine parks at clause 22, and the purposes of aquatic reserves at clause 33 of the bill.

Where consistent with biodiversity conservation, the secondary purposes under the bill will allow for other uses in marine parks and aquatic reserves.

These include resource use consistent with the principles of ecologically sustainable development, research, education, appreciation, enjoyment and Aboriginal cultural uses.

Marine parks and aquatic reserves are two spatial management tools focused on the conservation of biodiversity that can be used to deliver on the vision for the marine estate.

They do this by protecting a range of biological diversity, which contributes to better productivity of our land and water and thus benefits people and society.

Aquatic reserves will remain a flexible and responsive spatial management tool. These reserves can be focused on a specific component of biodiversity and can be applied to particular areas of the marine estate.

Where consistent with the strategy, the Minister for Primary Industries, with the Minister for the Environment, will be able to make declarations in order to conserve a specific component of biodiversity or ecological community that is important in a particular local area.

Where sensible and effective, the bill does include some changes to the existing legislative regime for marine parks and aquatic reserves, and I will go through these now.

These changes do not affect the fundamental role of marine parks and reserves as areas that help conserve biological diversity in the marine estate.

The first of these changes is that aquatic reserves and marine parks will now be managed under one Act—formerly aquatic reserves were managed under the Fisheries Management Act 1994, while marine parks were managed under the Marine Parks Act 1997.

This was inefficient and led to inconsistent management approaches.

Bringing marine parks and aquatic reserves together under a single piece of marine estate legislation makes sense.

I have already highlighted another important change—the establishment of the Marine Estate Management Authority to advise the New South Wales Government regarding marine estate management.

This has led to the abolition of the Marine Parks Authority.

As a statutory advisory entity, the Marine Estate Management Authority will not have the operational or decision-making powers of the Marine Parks Authority.

Ongoing responsibility for the Marine Parks Authority's operational functions now lies with the Minister for Primary Industries, jointly with the Minister for the Environment.

Sensibly, day-to-day management of marine parks will continue to be done by the Department of Primary Industries together with key marine and aquatic functions.

This ensures that, like the new legislative framework for the marine estate, core functions, operations and delivery are integrated and coordinated.

The next important change is that under the bill a marine park may now only be declared by the Governor or varied on the recommendation of the relevant Ministers following consideration of the strategy and any relevant threat and risk assessment.

This will ensure declarations are strategic and consistent with broader principles and priorities across the marine estate. The bill does not specify marine park planning criteria or principles. These will be set out in policy, as has been the case in the past, and fundamentally based on international marine protected area guidelines.

There have also been some changes to the way that plans are developed for marine parks and aquatic reserves to ensure that management planning for marine parks and aquatic reserves contributes to the strategic new approach.

To support integrated management, the bill provides for management plans to be made for marine parks and aquatic reserves.

The plans will be a single source of information for the community in relation to the values and uses of a particular park or reserve and must be published on the Department of Primary Industries' website.

Under the bill, the plans must be developed having regard to the strategy, any relevant threat and risk assessment and any submissions made by the community following a two-month public consultation period.

Two months is the minimum, and this consultation period can easily be extended by Ministers.

This is the only statutory requirement for consultation on plans and rules, but is envisaged as one step in more flexible and responsive engagement with stakeholders throughout management planning.

This multi-step approach to community engagement was recommended by the Marine Estate Expert Knowledge Panel, and is also outlined in the Marine Estate Management Authority's Community and Stakeholder Engagement Strategy.

The bill requires that management plans set out management objectives, identify threats and risks, and specify management actions and programs.

It is envisaged plans will be both strategic and operational in nature. They will not only describe a range of uses suitable within marine parks and aquatic reserves, they will also establish links between research projects and other programs aimed at improving management outcomes for our marine conservation areas.

While management plans will provide a broad outline of the management initiatives relevant to a marine park or aquatic reserve, regulatory controls will be included in management rules in regulations.

Under the bill, these rules in the regulations may provide for the classification of areas into zones to clearly set out permissible and prohibited uses in marine parks and aquatic reserves.

The community will be consulted on the range of uses that may be prescribed for a particular zone, with a mandatory two month consultation period built into the requirements for the making of management rules.

The bill continues the existing prohibition on mining in marine parks and aquatic reserves, as it is the view of the New South Wales Liberal-Nationals Government that these activities are incompatible with conservation outcomes, which are the primary purpose of marine parks and aquatic reserves.

Management plans and rules must be reviewed at least once every 10 years under the bill.

This timeframe is based on the period studies have shown we can sensibly assess the impacts of management arrangements on ecosystems, while providing a high degree of certainty for the community and local businesses.

Under the Marine Parks Act, reviews were also required every 10 years, plus an additional five-year review following initial declaration of a marine park.

For consistency, marine park closures and aquatic reserve notifications will now both be known as notifications under this bill. To date they have effectively been the same power by a different name in different Acts.

Notifications will allow the prohibition of specified activities within designated areas.

This will continue to provide a responsive tool for managing areas in marine parks and aquatic reserves.

Notifications will now simply be published on the Department of Primary Industries' website and

exhibited in a prominent place at the relevant area.

I turn now to part six of the bill, which provides for compliance and enforcement measures across marine parks and aquatic reserves.

All existing compliance and enforcement functions for marine parks and aquatic reserves have been included in the bill, with some improvements.

There are no new offences in the bill.

Compliance functions are presently carried out by marine park rangers. However, to increase efficiency and integration with existing processes, these functions will now be carried out by other authorised officers, primarily fisheries officers within the Department of Primary Industries.

This will allow for functional alignment, as these officers already carry out the bulk of compliance and enforcement work.

The bill allows for recovery of administrative costs associated with the issuing of notices relating to the removal of wrecked vessels and other property in marine parks and aquatic reserves.

Wrecked vessels and other property may create significant safety and environmental hazards.

Those who create such hazards should be held responsible for their actions, including for the associated costs so it will now be possible to recover those costs through civil proceedings if necessary.

I turn now to the Marine Protected Areas Fund established in part seven of the bill.

The bill abolishes the current fund, which only accommodated marine parks, and transfers any balance to the new fund.

The bill specifies that fund money is to now be expended on marine park and aquatic reserve administration, research and consultation.

The New South Wales Liberal-Nationals Government has made it clear, in its response to the Independent Scientific Audit of Marine Parks, that marine park advisory committees will continue to be vital sources of local and cultural knowledge.

The importance of these committees is recognised. However, it is also recognised that it is important not to overly constrain their role.

In order to allow a more adaptive and responsive community consultative committee model to develop, the bill does not provide a specific statutory role for the committees.

These community consultative committees will continue to provide advice on management of marine parks and also input on management issues across the marine estate as required.

The New South Wales Liberal-Nationals Government is committed to reducing red tape. The bill is expected to consolidate and streamline existing processes.

This includes new regulations that will reduce the types of permits required in marine parks and aquatic reserves by focusing on high-impact activities as informed by threat and risk assessment.

I turn now to the final part of the bill. Part eight of the bill includes transitional and savings provisions.

These will minimise issues arising from the implementation of the new legislative framework for managing the New South Wales marine estate.

Under the bill current zoning plans and operational plans for marine parks remain in force until such time as relevant management plans and rules can be finalised.

The start of the 10-year review period will commence on enactment of the bill. This means that the previous zoning plan review dates under the Marine Parks Act will no longer apply.

However, the New South Wales Government remains committed to setting a timetable for reviewing the existing plans for the other four marine parks after the completion of pilot management planning at Batemans and Solitary Islands marine parks.

At present there is a moratorium on declaring new marine parks. This remains strongly supported by the New South Wales Liberal-Nationals Government at this time.

Although the bill does not include a provision maintaining the moratorium, the bill provides confidence to the community that all future decisions about marine parks—including the establishment of new

parks—will be underpinned by the best and latest available science about the social, economic and environmental impacts of that decision.

The New South Wales Liberal-Nationals Government has undertaken targeted and robust consultation on the reforms the bill will legislate.

There is strong support in the community for establishing a legislative framework for a more balanced and considered approach to managing the marine estate.

The bill is consistent with the coastal reforms being led by my colleague the Minister for the Environment.

I would also emphasise that this Government stands by the principle that coastal land in New South Wales—its beautiful beaches, rock pools, dunes and estuaries—should be available for the use and enjoyment of all the people of New South Wales now and in the future.

This bill will deliver long term benefits to New South Wales, its people, regions and industries. It introduces sensible reforms that will facilitate strategic, coordinated, sustainable management of the marine estate that will realise benefits for the people of New South Wales for years to come.

I commend the bill to the House.