

ROCK FISHING SAFETY BILL 2016

First Reading

Bill introduced on motion by Mr David Elliott , read a first time and printed.

Second Reading

Mr DAVID ELLIOTT (Baulkham Hills—Minister for Corrections, Minister for Emergency Services, and Minister for Veterans Affairs) (16:23): I move:

That this bill be now read a second time.

I am pleased to introduce the Rock Fishing Safety Bill 2016. Rock fishing is one of Australia's most dangerous pastimes. In 2015-16, 10 people died while rock fishing in New South Wales, and over the past 10 years there have been, on average, eight rock fishing related deaths in New South Wales each year. Last year the Coroner held an inquiry into the circumstances surrounding nine tragic rock fishing deaths. This bill acts on the Coroner's recommendation that the Government introduce legislation making the wearing of life jackets mandatory while rock fishing. This bill delivers on the commitment of this Government to improve safety for rock fishers by requiring them to wear lifejackets in high-risk locations. In developing this legislation, the Government has consulted with a range of stakeholders. When I announced the intention of the Government to introduce this legislation, I also established the Rock Fishing Working Group to inform Government on appropriate high-risk locations where the law would operate and on other related matters such as the content of this bill.

The working group is comprised of Government and non-government stakeholders, including the Department of Primary Industries, Marine Rescue NSW, NSW Police Force, Transport for NSW, Office of Local Government, Surf Life Saving NSW, Royal Life Saving New South Wales, Local Government NSW, Recreational Fishing Alliance of NSW, and experts, including Associate Professor Rob Brander of the University of New South Wales and Associate Professor David Kennedy of the University of Melbourne. The working group has provided valuable advice during the development of this bill and the Government is grateful for their contribution. We hope that the working group will be able to continue its good work by guiding the implementation of this bill should it pass into law.

The bill creates two new offences. First, a person must not rock fish without a lifejacket at a high-risk rock fishing location. Secondly, a person must not permit a child in their care or supervision to rock fish in a high-risk rock fishing location. A child is defined as a person who is under 12 years of age. However, those offences are limited to specific types of fishing and to certain locations. The lifejacket requirements of the bill will only apply to rock fishing by means of a rod and line or handline, or assisting a person to take fish in that manner—for example, by using a handheld net to assist the person to land fish. The offences in the bill will not apply to broader legislative definitions of fishing or taking fish that are found in other statutes. Those definitions encompass fishing with, for example, large nets, or spear fishing, or collecting crustaceans from rocks. It is not proposed to regulate other types of fishing such as these as they are not commonly associated with rock fishing fatalities and near-drowning incidents.

A high-risk rock fishing location is defined as "naturally occurring rock platforms or other rock formations exposed to ocean swell" at a declared place. The Rock Fishing Working Group considered data on rock fishing fatalities and near drownings, and advised that while a small number of fatalities have occurred at manmade structures such as breakwalls, overwhelmingly, naturally formed rock platforms and formations were the places that were most dangerous. The Government has adopted their advice and limited the lifejacket requirements to naturally occurring rock platforms and rock formations within declared areas. The law will be trialled for 12 months in Randwick Local Government Area [LGA]. The Government is pleased to be able to partner with Randwick City Council to conduct the trial.

I am advised that there have been more rock fishing related deaths and near drownings in Randwick than in any other Local Government Area in New South Wales. Data from Surf Life Saving NSW has recorded 18 rock fishing related drownings and 23 near drownings in the Randwick LGA between 2004-05 and February 2015-16. However, I am also aware that Randwick City Council is proactive in working to make Randwick a safer place to rock fish, and to alert rock fishers to the dangers they face and encourage them to take precautions. Officers from the NSW Police Force, local council, National Parks and Wildlife Service, and Fisheries will be authorised officers for the purposes of the bill, and will be empowered to enforce the proposed offences. The proposed offences carry a maximum penalty of 50 penalty units, or a fine of \$100 if dealt with by way of a penalty notice.

The bill provides for a moratorium of 12 months from the time the bill commences. During that time, a person may not be convicted of, or be issued a penalty notice for, an offence under the bill. The moratorium provides time for rock fishers to learn about the lifejacket requirements and to obtain an appropriate lifejacket. The Government intends to use the 12-month moratorium period to run a community awareness and education campaign about the new laws, and about rock fishing safety more generally. If the Randwick trial is successful and further areas are declared, the bill also permits 12-month moratoriums to be declared by regulation at those places if required.

Once a moratorium has ceased and fines are issued in a declared area, any fine revenue that is collected must be paid into the Recreational Fishing (Saltwater) Trust Fund. The trust fund is established under section 235 of the Fisheries Management Act 1994. That Act permits money to be paid out of the fund for purposes such as taking measures to enhance marine fishing and ensuring compliance with laws relating to recreational marine fishing. Having fine revenue paid into the trust fund will allow that revenue to be put toward enhancing education and safety for rock fishers, and to assist in promoting compliance with the lifejacket requirements of the bill.

The bill is specific about the types of lifejackets that must be worn and how they must be worn to avoid the bill's penalties. These lifejacket requirements are closely modelled on those within the Marine Safety Act and Regulations. For adults, an appropriate lifejacket must meet level 50S or greater under the Australian standard AS 4578 or an equivalent standard that is recognised by Roads and Maritime Services. For a child under 12 years of age, an appropriate lifejacket must meet level 100 or greater under the same standard or equivalent.

To comply with the bill, a person who is rock fishing in a high-risk location must be wearing a lifejacket. It is not enough to be carrying the lifejacket or have it in a bag. Wearing a lifejacket also means having all closing or fastening devices such as zippers, buckles and tapes correctly secured as specified by the manufacturer. Lifejackets must also be the correct size for the wearer and in a good condition. If the life jacket is inflatable, it must not rely solely on oral inflation for buoyancy and must have been serviced at least every 12 months or at a longer interval if the manufacturer provides. I am advised that life jackets that meet the minimum requirement for adults can be bought for as little as \$20.

This law is about making rock fishing safer. It is about reducing unnecessary deaths and encouraging rock fishers to take simple measures to make sure they have a great day out, catch some fish and get home safely to their families and friends. We want lifejackets to become part of the gear that a rock fisher takes fishing. One would not leave home without a rod, line and tackle. Neither should one leave home without a lifejacket. I commend the bill to the House.

Debate adjourned.