



New South Wales

Fisheries Management Amendment (Aboriginal Fishing) Bill 2017

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Fisheries Management Act 1994* to enable payments to be made out of the Aboriginal Fishing Trust Fund established under that Act, to provide assistance to Aboriginal communities in relation to cultural fishing and commercial fishing activities. The assistance is proposed to be provided through grants and loans, and the acquisition of fishing assets for the use and benefit of Aboriginal communities. This Bill also makes ancillary and consequential amendments.

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 to the proposed Act.

Schedule 1 Amendment of Fisheries Management Act 1994 No 38

Schedule 1 [9] inserts proposed section 237B into the *Fisheries Management Act 1994* (the *principal Act*) to enable the Minister for Primary Industries to approve an Aboriginal fishing assistance program (a *program*), being a program for the purpose of providing assistance to Aboriginal communities in relation to Aboriginal cultural fishing and commercial fishing or fishing-related activities. These programs may provide for the making of grants or loans to Aboriginal persons and entities, the acquisition of *fishing assets* (being shares in a share

management fishery, operational items or operating equipment necessary to the function of fishing operations, and any other thing the regulations may prescribe) by the Minister for the benefit of Aboriginal communities and access to, or the use of, those fishing assets by Aboriginal persons and entities. The Minister is to obtain and have regard to the advice or recommendations of any relevant advisory council on Aboriginal fishing before approving a program.

Assistance provided under a program may be subject to such terms and conditions as the Minister thinks fit. Loans may be subject to interest or interest free, and may be secured or unsecured.

Schedule 1 [9] inserts proposed section 237C to enable the Rural Assistance Authority, constituted under the *Rural Assistance Act 1989*, to enter into loans under a program on behalf of the Minister, and to administer loans under a program, if so authorised by the Minister.

Fishing assets acquired under a program are to be held by the Fisheries Administration Ministerial Corporation (the *FAMC*), constituted under the principal Act. **Schedule 1 [2]** makes an ancillary amendment to confer on the FAMC the proposed functions of the Minister in relation to fishing assets. Access to, or the use of, fishing assets acquired under a program may be subject to the payment of a fee.

Schedule 1 [9] inserts proposed section 237D to provide for various exemptions relating to the FAMC as the holder of shares in a share management fishery under a program. The proposed section disapplies a provision in the principal Act for forfeiture of shares for certain offences, in relation to shares so held by the FAMC. The proposed section also exempts the FAMC from liability as a shareholder for certain contraventions of management plans by persons it may nominate under the principal Act to take fish on its behalf in the fishery in which it holds shares, from liability to pay to the Secretary of the Department of Industry (the *Secretary*) the value of any fish caught by a person so nominated in excess of its shareholder allocation and from liability as a shareholder to pay any community contribution or management charge.

Schedule 1 [6] expressly authorises payments to be made out of the Aboriginal Fishing Trust Fund (the *Fund*) for the costs of providing a program.

Schedule 1 [3] (in relation to proposed paragraphs (a1)–(a4)) makes a consequential amendment to require payment into the Fund of certain money received or recovered under a program (including in respect of loans and grants, and the proceeds of any sale of, or fees for access to or use of, a fishing asset).

Schedule 1 [3] (in relation to proposed paragraph (a5)), **[4] and [5]** clarify and broaden the scope of payments that may be made into the Fund by expressly including any money advanced by the Treasurer, any grant or donation of money, and any money appropriated by the Parliament of the Commonwealth, for the purposes of the Fund.

Schedule 1 [1] and [8] make consequential amendments to cross-reference definitions.

Schedule 1 [7] makes a consequential amendment to broaden the type of advisory council that the Minister is to consult (if relevant) in connection with expenditure from the Fund.

Schedule 1 [10] makes a consequential amendment to broaden the scope of an existing provision to enable the Secretary to recover money due or payable under the principal Act as a debt due to the Crown.