

Passed by both Houses



New South Wales

Fisheries Management Amendment (Enforcement Powers) Bill 2022

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2022



New South Wales

Fisheries Management Amendment (Enforcement Powers) Bill 2022

Act No _____, 2022

An Act to amend the *Fisheries Management Act 1994* regarding enforcement powers of fisheries officers.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Fisheries Management Amendment (Enforcement Powers) Act 2022*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 **Amendment of Fisheries Management Act 1994 No 38**

[1] **Section 4 Definitions**

Omit section 4(1), definition of *premises*. Insert instead—

premises includes the following—

- (a) land or a place, whether built on or not,
Example— Land or a place could include a beach, trail, track, wharf, jetty, rock platform, riverbank and a similar location.
- (b) a structure or building.

[2] **Section 255A**

Insert after section 255—

255A Other power to search for or examine things

- (1) A fisheries officer may search for or examine a thing if the fisheries officer—
 - (a) has reason to believe the thing is connected with a fisheries offence, or
 - (b) considers it necessary for the purpose of investigating, monitoring or enforcing compliance with the Act.
- (2) A fisheries officer may require a person to give a thing in the possession of or under the control of the person to the fisheries officer for examination, if the fisheries officer has reason to believe a thing in the person's possession or under the person's control is connected with a fisheries offence.
- (3) The person must give the thing to the fisheries officer immediately or within a period the fisheries officer allows.
- (4) To avoid doubt—
 - (a) the functions referred to in subsections (1) and (2) may be exercised anywhere, including on premises or elsewhere, and
Note— Section 254 provides that this Part does not authorise entry into any part of premises that is being used for residential purposes except with the consent of the occupier or under the authority of a search warrant.
 - (b) if the thing given to a fisheries officer under subsection (2) is a bag or container, the fisheries officer may break open and search and examine the bag or container.
- (5) A person who fails, without reasonable excuse, to comply with a requirement of a fisheries officer made under subsection (2) is guilty of an offence.
Maximum penalty—50 penalty units.
- (6) In this section—
thing includes fish, fishing gear and other equipment, but does not include a person.
- (7) A fisheries officer must not exercise a function under this section in relation to a suspected fisheries offence committed by an Aboriginal person unless the fisheries officer has taken reasonable steps to determine—
 - (a) whether the fishing concerned was the carrying out of Aboriginal cultural fishing, and
Note— *Aboriginal cultural fishing* is defined in section 4(1).

- (b) whether the fishing concerned was the exercise of native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth.