



New South Wales

Fisheries Management and Planning Legislation Amendment (Shark Meshing) Act 2008 No 86

Contents

| | Page |
|---|------|
| 1 Name of Act | 2 |
| 2 Commencement | 2 |
| 3 Amendment of Fisheries Management Act 1994 No 38 | 2 |
| 4 Amendment of planning legislation | 2 |
| 5 Repeal of Act | 2 |
| Schedule 1 Amendment of Fisheries Management Act 1994 | 3 |
| Schedule 2 Amendment of planning legislation | 4 |



New South Wales

Fisheries Management and Planning Legislation Amendment (Shark Meshing) Act 2008 No 86

Act No 86, 2008

An Act to amend the *Fisheries Management Act 1994* and other legislation with respect to shark meshing; and for other purposes. [Assented to 19 November 2008]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Fisheries Management and Planning Legislation Amendment (Shark Meshing) Act 2008*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedule 1 [4] commences on a day to be appointed by proclamation.

3 Amendment of Fisheries Management Act 1994 No 38

The *Fisheries Management Act 1994* is amended as set out in Schedule 1.

4 Amendment of planning legislation

The *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* are amended as set out in Schedule 2.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Fisheries Management Act 1994

(Section 3)

[1] Section 4 Definitions

Insert “a Government Department,” after “includes” in the definition of *public authority* in section 4 (1).

[2] Section 220ZFB

Insert after section 220ZFA:

220ZFB Defences relating to joint management agreements

It is a defence to a prosecution for an offence against:

(a) this Division or the regulations under this Division, or

(b) Part 2 or 7 or the regulations under those Parts,

if the accused proves that the act or omission constituting the alleged offence was authorised by, and done in accordance with, a joint management agreement.

[3] Section 221W Contents of joint management agreements

Insert after section 221W (2):

- (3) A joint management agreement under this Act and a joint management agreement within the meaning of the *Threatened Species Conservation Act 1995* may be combined into a single document if both agreements deal with the same subject-matter.

[4] Schedule 1A Designated fishing activities

Omit clause 5.

[5] Schedule 7 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Fisheries Management and Planning Legislation Amendment (Shark Meshing) Act 2008

Schedule 2 Amendment of planning legislation

(Section 4)

2.1 Environmental Planning and Assessment Act 1979 No 203

[1] Section 115G Definitions

Insert in alphabetical order:

shark meshing means the placing of nets around beaches or other waters to protect the public from sharks.

[2] Section 115I Application of Division to designated fishing activities

Omit section 115I (2) (b). Insert instead:

(b) shark meshing,

[3] Section 115RA

Insert after section 115R:

115RA Shark meshing

- (1) Despite section 115I, this section applies to shark meshing that:
 - (a) is the subject of both a joint management agreement under Division 8 of Part 7A of the *Fisheries Management Act 1994* and a joint management agreement within the meaning of the *Threatened Species Conservation Act 1995*, and
 - (b) is not a designated fishing activity.
- (2) The provisions of this Part (other than this section) do not apply to or in respect of shark meshing to which this section applies.
- (3) Shark meshing to which this section applies cannot be declared to be a project to which Part 3A applies.
- (4) Shark meshing to which this section applies cannot be made subject to a requirement for development consent under Part 4.
- (5) An environmental planning instrument cannot prohibit or otherwise regulate shark meshing to which this section applies.

[4] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Fisheries Management and Planning Legislation Amendment (Shark Meshing) Act 2008

2.2 Environmental Planning and Assessment Regulation 2000

Clause 244B

Omit the clause. Insert instead:

244B Fishing activities and shark meshing

- (1) For the purposes of the definition of *activity* in section 110 (1) of the Act, a fishing activity carried out at any time before 1 April 2009 pursuant to a fisheries approval issued or renewed for a period of not more than 12 months is prescribed not to be such an activity.
- (2) For the purposes of the definition of *activity* in section 110 (1) of the Act, shark meshing carried out at any time before 1 April 2009 is prescribed not to be such an activity.
- (3) This clause does not apply to or in respect of aquaculture, within the meaning of the *Fisheries Management Act 1994*.

[Agreement in principle speech made in Legislative Assembly on 22 October 2008
Second reading speech made in Legislative Council on 12 November 2008]

BY AUTHORITY