

Passed by both Houses



New South Wales

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

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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, , 2008*



New South Wales

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

Act No , 2008

An Act to amend the *Fisheries Management Act 1994* and other legislation with respect to shark meshing; and for other purposes.

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 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- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.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):

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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):

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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*.