

CONSULTATION | FISHERIES MANAGEMENT ACT 1994

Summary of proposed changes to the *Fisheries Management Act 1994* relevant to recreational fishing

May 2015

Purpose

The purpose of this paper is to summarise proposed amendments to the *Fisheries Management Act 1994* of particular relevance to recreational fishers for targeted consultation. Similar papers have been prepared for the commercial, charter and Aboriginal fishing sectors, with an additional paper covering environmental and other matters of potential interest to all stakeholders.

Other papers and draft Bill

All papers in this series are available on the NSW Department of Primary Industries (the Department) website at: www.dpi.nsw.gov.au/fisheries. Following is an overview of the papers available:

Commercial fishing stakeholder paper	Summarises proposed amendments of particular relevance to the NSW commercial fishing industry, including amendments to facilitate the implementation of a wide variety of reforms pursuant to the Independent Review of NSW Commercial Fisheries Management, Policy and Administration. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to the NSW commercial fishing industry</i> ".
Recreational fishing stakeholder paper This paper you are reading	Summarises proposed amendments of particular relevance to the recreational fishing sector, including amendments relating to bag limits, possession limits, consultation and managing/monitoring catches.
Charter fishing stakeholder paper	Summarises proposed amendments of particular relevance to the recreational charter fishing sector including amendments to facilitate reforming the current licensing/transfer arrangements and online transactions. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to the NSW charter fishing industry</i> ". Charter operators are also likely to be interested in the matters set out in the recreational fishing paper above.
Aboriginal fishing stakeholder paper	Summarises proposed amendments of particular relevance to the Aboriginal fishing sector including the establishment of an Aboriginal Fishing Trust fund. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to Aboriginal fishing</i> ".
Environmental and other issues paper	Summarises proposed amendments that may be of interest to all stakeholder groups on matters including declared diseases, dredging and reclamation work, as well as noxious fish and marine vegetation. The paper is titled " <i>Summary of proposed changes to the Fisheries Management Act 1994 relevant to environmental and other issues</i> ".

For further information on the proposed legislative changes, please refer to the Fisheries Management Amendment Bill, also available on the Department's website at: www.dpi.nsw.gov.au/fisheries

For hard copies of the above papers or the bill please phone (02) 9741 4784.

Have your say

The Department invites written submissions on the draft Bill, including the proposed amendments summarised. **The closing date for submissions is Friday 26 June 2015.** Send your submission to:

Mail: Fisheries Legislation, PO Box 7526, SILVERWATER NSW 1811

Fax: (02) 6391 4728

Email: legislation.consult@dpi.nsw.gov.au

More information

For more information on the proposed amendments relevant to recreational fishing contact Nick James, Manager Recreational Management on (02) 9741 4722.

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (May 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Published by the Department of Primary Industries.[OUT15/2985]

Table 1. Proposed amendments to the *Fisheries Management Act 1994* of particular relevance to recreational fishers

Summary of existing provision	Proposed amendment	Reason for proposal
Boat limits		
<p>At present, bag limits, which relate to the taking and possession of fish, apply on an individual “per person” basis.</p> <p>An exception is the current gemfish fishing closure which limits gemfish possession to a maximum of 10 gemfish per boat.</p>	<p>The proposed amendments would enable bag limits to also be applied on a “per boat” basis. A boat limit would set a maximum quantity of fish that may be held on a boat, regardless of how many people are on board. If a boat limit was exceeded the master of the boat would commit an offence.</p> <p>A boat limit could be applied to a species or class of fish and different boat limits could be applied to different classes of boats. For example, boats used for charter fishing could have a different boat limit to boats used for recreational fishing.</p> <p>The Minister would be required to consult any relevant advisory council or advisory group on proposals to create or change any future boat limits. Broader community stakeholder consultation would usually be undertaken also, such as through a discussion paper process.</p> <p>In consideration of the current gemfish fishing closure which limits gemfish catches to a maximum of 10 per boat, the proposed amendments include treating gemfish as a priority species of fish, so higher maximum penalties would apply for a boat limit contravention involving 20 or more gemfish.</p> <p>There are no current plans to introduce boat limits on other species.</p>	<p>The option of setting a boat limit (if needed) can help manage catches, particularly where boats are deliberately loaded with extra people including children to maximise take. Being able to apply a boat limit in such circumstances may lessen the need to lower individual bag limits.</p>
Possession limit orders		
<p>As summarised above, bag limits relate to the taking and possession of fish. A possession limit specifically refers to the maximum quantity of fish that a person may have in their possession. Possession limits are prescribed in regulation which means any new possession limit or change to an existing limit requires a regulation amendment. This process can take some time.</p>	<p>The proposed amendments also enable possession limits to be imposed, amended or revoked by an <i>order</i> of the Minister published in the NSW Government Gazette, or if required urgently, exhibited adjacent to the waters to which it applies or published on the Department’s website.</p> <p>Possession limit orders could be made for a period of up to five years.</p>	<p>Possession limit orders would enable more responsive resource management by offering a streamlined process for the urgent implementation, amendment or revocation of a possession limit.</p>

Summary of existing provision	Proposed amendment	Reason for proposal
Fishing closures – urgent amendment or revocation		
At present, the Act provides for the making of fishing closures which can conditionally or absolutely prohibit the taking of fish. There are also provisions for fishing closures to be implemented urgently.	The proposed amendments enable existing fishing closures to be amended or revoked urgently.	Fishing closures can remain in force for up to five years. If however the reasons for implementing a fishing closure change or no longer remain valid, the ability to urgently amend or revoke a closure reduces delays associated with current processes. In the case of fishing closure revocations (removing a closure) fishers can benefit through the earlier resumption of lawful fishing activities.
Shark finning		
At present, a fishing closure prohibits shark finning on board boats. The practice of shark finning on board boats has been prohibited in NSW since 1999.	The proposed amendments prohibit shark finning on board boats under the Act, instead of a fishing closure. Moving the shark finning prohibition into the Act does not otherwise change the effect of the prohibition or the maximum penalties that apply for offences.	Incorporating the shark finning prohibition in the Act will streamline administration by alleviating the need for the Department to re-make the shark finning fishing closure every five years, which is the maximum duration for a fishing closure.
Fishing determinations		
At present, the Act establishes an independent committee (the Total Allowable Catch Setting and Review Committee) to determine Total Allowable Catches (TAC) and fishing effort (TAE) for the commercial fishing sector only. Determinations are issued amongst commercial fishers in the form of quota.	A range of amendments are proposed. These include: <ul style="list-style-type: none"> • Enabling TAC and TAE to be determined for any fishing sector or part thereof, including the recreational fisheries sector. • Enabling the Secretary of NSW Trade and Investment to make TAC and TAE determinations for expedience (instead of the committee), but only if a relevant, robust and recent scientific assessment exists, and requiring the committee to make the determination would result in unnecessary duplication of that assessment. • Providing for a TAC or TAE to be allocated in full, in part, or not at all. TAC or TAE determinations may for example be used only to provide guidance in the management of fisheries. • Providing for TAC or TAE to be allocated to participants in one or more fisheries sectors. 	The proposed changes provide for a more holistic approach to the management of fisheries resources in NSW by enabling TAC and TAE determinations to be made for any fishing sector or parts thereof. Enabling the Secretary to make TAC and TAE determinations in certain circumstances will streamline the process and reduce the cost of determining TACs and TAEs.

Summary of existing provision	Proposed amendment	Reason for proposal
Amending references to specific councils, bodies and interest groups		
<p>At present, the Act contains a range of statutory consultation requirements and makes specific reference to:</p> <ul style="list-style-type: none"> • Ministerial advisory councils (such as the Advisory Council on Recreational Fishing) • Management Advisory Committees • Relevant commercial fishing bodies • Relevant recreational fishing bodies • Bodies representing indigenous interests • Bodies representing conservation interests. 	<p>The proposed amendments replace references to specific groups with generic references, including:</p> <ul style="list-style-type: none"> • Relevant advisory councils. • Relevant advisory groups. 	<p>The proposed changes support the new consultative arrangements recommended by the 2012 Independent Review of Commercial Fisheries Policy, Management and Administration. Using generic references as proposed will alleviate the need for the Act to be amended each time changes are made to the consultation arrangements or representative bodies.</p>