



THIRTY-NINTH PARLIAMENT

REPORT 102

**STANDING COMMITTEE ON UNIFORM
LEGISLATION AND STATUTES REVIEW**

AQUATIC RESOURCES MANAGEMENT BILL 2015

Presented by Hon Kate Doust MLC (Chair)

August 2016

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Date first appointed:

17 August 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

‘6. Uniform Legislation and Statutes Review Committee

- 6.1 *A Uniform Legislation and Statutes Review Committee* is established.
- 6.2 The Committee consists of 4 Members.
- 6.3 The functions of the Committee are —
 - (a) to consider and report on Bills referred under Standing Order 126;
 - (b) on reference from the Council, to consider or review the development and formulation of any proposal or agreement whose implementation would require the enactment of legislation made subject to Standing Order 126;
 - (c) to examine the provisions of any treaty that the Commonwealth has entered into or presented to the Commonwealth Parliament, and determine whether the treaty may impact upon the sovereignty and law-making powers of the Parliament of Western Australia;
 - (d) to review the form and content of the statute book; and
 - (e) to consider and report on any matter referred by the Council.
- 6.4 In relation to function 6.3(a) and (b), the Committee is to confine any inquiry and report to an investigation as to whether a Bill or proposal may impact upon the sovereignty and law-making powers of the Parliament of Western Australia.’

Members as at the time of this inquiry:

Hon Kate Doust MLC (Chair)

Hon Phil Edman MLC

Hon Mark Lewis MLC (Deputy Chair)

Hon Amber-Jade Sanderson MLC

Staff as at the time of this inquiry:

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**REPORT OF THE STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES
REVIEW**

IN RELATION TO THE

REPORT ON THE AQUATIC RESOURCES MANAGEMENT BILL 2015

1 INTRODUCTION

- 1.1 On 29 June 2016 the Legislative Council referred the *Aquatic Resources Management Bill 2015* to the Standing Committee on Uniform Legislation and Statutes Review (Committee).
- 1.2 Pursuant to Legislative Council Standing Order 126(7), the Committee was initially required to report to the Legislative Council by 16 August 2016.
- 1.3 On 30 June 2016 the Committee sought leave of the Legislative Council to extend the date by which the Committee would report from 16 August 2016 to 22 September 2016.
- 1.4 This extension was granted on 30 June 2016.

2 REVIEW OF THE BILL

- 2.1 The Bill appears to have been referred to the Committee by the Minister for Fisheries on advice of Parliamentary Counsel. That advice was based on a good faith assessment that the Bill does give effect to a scheme of Uniform Law.
- 2.2 This Bill, however, does not arise from a new intergovernmental agreement (IGA). Rather, this Bill seeks to amalgamate two existing fisheries management Acts into a single scheme for the management of Western Australia's Aquatic resources. It does so by repealing the existing Acts (Part 17 of the Bill) and incorporating provisions with an equivalent effect into a single scheme.
- 2.3 The existing Acts implement a 1995 Offshore Constitutional Settlement (OCS) that was reached between the Commonwealth, States and Territories providing for the cooperative, nationally consistent, management of marine resources in Australian territorial waters. There has been no change to the OCS since that time.
- 2.4 The Explanatory Memorandum to the Bill provides an outline of the extent to which the Bill amalgamates and replaces the relevant provisions in the existing legislation.

2.5 Part 15 of the Bill gives effect to the OCS in an equivalent manner to that in Part 3 of the existing *Fisheries Resources Management Act 1994*. The Explanatory Memorandum is clear and concise on this point.

2.6 As a result, the Bill will continue to implement the existing 1995 Offshore Constitutional Settlement that was reached between the Commonwealth, States and Territories providing for the cooperative, nationally consistent, management of marine resources in Australian territorial waters.

3 NO INTRODUCTION OF A UNIFORM SCHEME

3.1 The Committee has had occasion to deal with similar legislative measures in previous Reports. Most recently, in Report 74 *Child Support (Adoption of Laws) Amendment Bill 2012* considered an amendment bill which touched on pre-existing uniform legislation. The Committee reaffirms the views we expressed in that Report and has determined to adopt a similar approach in the present occasion.

3.2 The Bill does not materially change the operation of an existing uniform scheme, implement an additional uniform scheme or implement a further, separate intergovernmental agreement, as is contemplated by SO126(7).

3.3 The Committee particularly notes Standing Committee on Procedure and Privileges Report No. 8, adopted by the House on 20 September 2006, observed that the practice of the Legislative Council in relation to amendment bills has been that if a uniform scheme has been implemented by a previous Act, then bills that propose further amendments to that uniform legislation do not stand referred to the Committee unless the particular bill implements additional uniform legislation.¹ The Procedure and Privileges Committee incorporated this approach into its 'Guidelines on the Practice on Bills Standing Referred'.²

3.4 As discussed above, the Bill falls within this category of bills.

3.5 Further, under its current Terms of Reference the Committee is restricted to considering matters of parliamentary sovereignty and law making powers – which would have been considered by the House at the time it considered the existing legislation and remain unchanged by this Bill. The Committee is of the view that there are no other issues in the Bill impacting upon the sovereignty and law-making powers of the Parliament.

¹ Standing Committee on Procedure and Privileges Report No. 8, November 2005, Appendix 3, p 34.

² Ibid.

Finding 1: The Committee finds that the Bill does not further impact upon the sovereignty and law-making powers of the Parliament beyond the impact of the existing legislation proposed by this Bill to be amalgamated and repealed.

3.6 The Committee respectfully returns the Bill to the House.



Hon Kate Doust MLC
Chair

23 August 2016