

CABINET—SUBJECTS FOR CONSIDERATION, 16th October 19 89

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CABINET	SUBJECT	DOCKET
<div style="border: 1px solid black; padding: 5px; display: inline-block;">Not Relevant</div>		
No. 10.9 LATE	Bill for the Marine Environment Protection Act, 1989.	D.E.P. 104/1989
Decision	APPROVED	
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10-9

MINUTES forming ENCLOSURE to

DEP 104/89

TO THE PREMIER: FOR CABINET

BILL FOR THE MARINE ENVIRONMENT PROTECTION ACT, 1989

1. PROPOSAL

Approval is sought to introduce a Bill for an Act to provide for protection of the marine environment and to make consequential amendments to the Fisheries Act.

2. BACKGROUND

On 25th September 1989 Cabinet approved drafting amendments to the Coast Protection Act, in accordance with drafting instructions based on the White Paper on Control of Marine Pollution from Point Sources.

3. DISCUSSION

3.1 Counsel suggested that a wholly new Act be prepared, given the scope of the drafting instructions, the intention to cover diffuse sources relatively soon, and the time available to draft.

3.2 The Bill, as drafted, follows a fairly economical drafting style, designed to complement and reinforce other extant legislation, such as the Environment Protection (Sea Dumping) Act. It has also been drafted with the provisions of the proposed Water Resources Bill in mind.

3.3 The Bill otherwise is consistent with the White Paper, the approved drafting instructions and previous Cabinet directions.

3.4 In the process of drafting, the following points were noted:-

- * there is provision for members of the public to appeal a wide range of actions, provided they

can establish standing before the Court. The current precedent for this is the OPHIX Case (Conservation bodies with an interest in Wilpena Pound development)

- * members of the public would be advised of the issue of new licences, as well as amendments to conditions of licence, by advertisements in newspapers.
- * the guidelines for administration (mentioned in the White Paper) will be in the form of notices in the Gazette; which will cover such things as water quality criteria, definition of beneficial uses and objectives. This allows maximum flexibility to move to national consistency through recommendations which are currently being developed within ANZEC (Australian and New Zealand Environmental Council)
- * it is proposed that there be public consultation in developing the guidelines - as there is in other States.

3.5 SOCIAL JUSTICE

As stated in previous submissions, the "polluter pays" principle will be enacted. Provision has been made for the Court to award to the public costs incurred in preventing or rectifying damage arising from an offence, as well as compensation; in addition to the fine. There are also substantial powers for the Minister to order immediate action in an emergency, with costs to be charged to polluters.

As discussed above, there are also ample grounds for the public to appeal decisions.

3.6 COSTS and STAFFING

There are no changes from the previously approved arrangements

3.7 CONSULTATION

There have been further late submissions in response to the White Paper. The only ones which advocated any significant change to what had been proposed in the White Paper were submissions on behalf of oyster farmers, proposing that they be excluded from licensing. As the likely environmental effect of oyster farms is being assessed in Planning Appeals for Coffin Bay, it would be appropriate to consider oyster farms when those appeals have been determined - particularly the collective effect of oyster farms on each other.

3.8 INTERGOVERNMENTAL RELATIONS

State officers have agreed on arrangements for commencement of the Environment Protection (Sea Dumping) Act. All that remains is for the State to provide a memorandum on administration to the Commonwealth. There is no apparent impediment to having both Acts commence at the same time.

4 RECOMMENDATION

It is recommended that Cabinet:-

approve the draft Bill signed by Parliamentary Counsel, for introduction to Parliament on Wednesday, October 18 1989.



MINISTER FOR ENVIRONMENT AND PLANNING

Drafting instructions for Parliamentary Counsel

47 pages removed

Exempt clause 10(1) – legal professional privilege