

ITEM 2 ROCK FISHING SAFETY ACT 2016 - OPT-IN LEGISLATION

Rock fishing continues to be one of Australia's highest-risk sports and recreational pastimes. Since January 2021, six rock fishers have lost their lives at the rock platform known as Honeycomb Rocks at Port Kembla. Following the tragic events of 2021, Council has actively engaged with key stakeholders to implement strategies to reduce the likelihood of rock fishing tragedies occurring within the LGA. In addition, research has been undertaken to assess the best available mitigation strategies to reduce harm.

This research has confirmed that rock fishing safety needs to be pursued through a holistic multi-agency approach including education, engagement and communication, equipment and enforcement.

The *Rock Fishing Safety Act 2016* (Act) continues to remain the only available legislative means in New South Wales to have rock fishers mandated to wear an appropriate lifejacket when fishing at high-risk locations.

With consideration to the ongoing rock fishing fatalities occurring on our coastline, it is timely for Wollongong City Council to consult with stakeholders and our community on a proposal to opt-in on the *Rock Fishing Safety Act 2016*.

RECOMMENDATION

- 1 Council resolves to pursue stakeholder and community engagement for 28 days on Council's proposal to opt-in to the *Rock Fishing Safety Act 2016*, which would see areas within Wollongong LGA declared as high-risk rock fishing locations.
- 2 A subsequent report come forward to Council with the outcome of this engagement with a view to have Council resolve to request the Minister for Local Government to make a declaration under the *Rock Fishing Safety Act 2016* that the Wollongong LGA is an area where high risk rock fishing takes place.
- 3 For the purposes of the above declaration, the high-risk rock fishing locations within the Wollongong LGA are those described and identified on the map attached to this report.

REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 High-Risk Rock Fishing Areas

BACKGROUND

Since early 2021, a total of six rock fishers have tragically lost their lives at a popular rock fishing location on a rock platform below Hill 60, Port Kembla, located on Sydney Water land known as Honeycomb Rocks. Following the five deaths which occurred in January and February 2021, Council on 22 February 2021 resolved to have staff engage with key State Government agencies, including NSW Police and Randwick Council on their experiences and suggestions to improve the safety of rock fishers.

Since then, Council has actively engaged with key stakeholders including NSW Police, Marine Area Command, Surf Life Saving NSW, various NSW Government Departments, other coastal councils and land-based anglers in pursuing research into initiatives to reduce the likelihood of rock fishing tragedies occurring within the LGA as well as the immediate implementation of a range of strategies.

This included the installation of large multi-lingual shock signage in the Hill 60 Precinct warning of the hazards of rock fishing and recommending the wearing of life jackets.

In addition, Council has worked collaboratively with other agencies including NSW Police, Marine Area Command, DPIF and Surf Life Saving to deliver two onsite information and educational workshops in the Honeycomb Rock Precinct carpark in May and again in December 2021. Information from these workshops can be found at <https://wollongong.nsw.gov.au/explore/beaches/rock-fishing>.

Supporting these initiatives will be the installation of an emergency response beacon at Hill 60 by Surf Life Saving NSW. The beacon will allow emergency services to respond to incidents faster.

Council officers also continue to work with other councils through the NSW Local Government Coastal Safety Group on initiatives to reduce the frequency of rock fishing deaths. Metropolitan councils that had previously experienced repeated rock fishing tragedies, such as City of Randwick and Sutherland Shire Council, confirmed a decrease in incidents and deaths since they pursued opting into the legislation. It is evident from these ongoing discussions with councils that have opted into the Act that rock fishers' compliance to the wearing of life jackets varies between 50 to 90% and is heavily reliant on enforcement capabilities.

Whilst these councils note that compliance to life jacket wearing at locations is heavily dependent on the availability of NSW Police resources to enforce the legislation, it is also noted the key role the NSW Government can play with allocation of additional resources to pursue enhanced communication and education initiatives, that must start from the moment the NSW Government issues a recreational fishing licence.

Following the most recent rock fishing tragedy on 25 April 2022 at Honeycomb Rocks, Port Kembla, NSW Police (Lake Illawarra District) and Marine Rescue approached Council to give further consideration of opting-in to the Act. During this meeting NSW Police confirmed they will commit resources to lead enforcement activities should lifejackets be mandated through the Act. It is noted that where councils have opted in, the enforcement of the Act remains primarily reliant on the availability of NSW Police to pursue regular patrols or task focused enforcement events when resourcing permits.

What is the *Rock Fishing Safety Act 2016 (Act)*?

The Act only applies to councils who have opted into this legislation. The legislation gives councils and other enforcement agencies including the NSW Police, DPIF and National Parks and Wildlife Service, power to enforce the mandatory wearing of approved lifejackets by rock fishers within declared areas.

Specifically, the Act requires a person must not rock fish without a lifejacket at a high-risk rock fishing location. Secondly, a person must not permit a child in their care or supervision to rock fish in a high-risk rock fishing location. A child is defined as a person who is under 12 years of age.

A high-risk rock fishing location is defined in the legislation as 'naturally occurring rock platforms or other rock formations exposed to ocean swell within a declared area'. While a small number of fatalities have occurred at manmade structures such as break walls, these are not considered a high-risk rock fishing location. The Act has limited the lifejacket requirements to all naturally occurring rock platforms and rock formations within declared areas.

Enforcement options include the issuing of penalty infringement notices (PIN) with PIN's to be paid into the Recreational Fisheries (Saltwater) Trust. Opting in requires councils to undertake consultation with their communities and then to decide to opt into the process.

Following the decision of the Council to formerly opt-in the Minister needs to declare the areas, by Order, published in the Gazette.

Why opt-in?

Data indicates on average eight lives are lost each year in NSW due to rock fishing, and previous coronial inquiries recommend that life jackets be made mandatory in NSW. To date eight councils have formerly resolved to opt-in to the NSW Government's *Rock Fishing Safety Act 2016* to reduce the frequency of fatalities at high-risk rock fishing locations. Engagement with a number of these councils indicate a reduction in rock fishing related fatalities in these local government areas.

PROPOSAL

Council undertake community consultation for 28 days prior to considering the option to opt-in to the NSW *Rock Fishing Safety Act 2016*. The proposal would see areas within Wollongong LGA declared as high-risk rock fishing locations. The Act defines a high-risk rock fishing location as ‘a naturally occurring rock platform or other rock formation exposed to ocean swell within a declared area’.

The declaration would include a description and map that identifies the high-risk rock fishing locations (refer Attachment 1) and would be published on the NSW Government website and any other appropriate website, including the Wollongong City Council website.

CONSULTATION AND COMMUNICATION

Council has engaged with key stakeholders including NSW Police, Marine Area Command, Surf Life Saving NSW, various NSW Government departments, other coastal councils and land-based anglers. In addition, the Lord Mayor and staff recently met with NSW Police (Lake Illawarra District) and Marine Rescue to discuss the options available and the role of Police in enforcement.

As part of the proposal to have Council formally opt-in to the Act, Council would undertake a 28-day community engagement process to seek further feedback from stakeholder groups and the broader community.

Community engagement will include information on Council’s engagement website and signage at specific rock fishing locations. Feedback from the engagement will be collated and reported to Council, to inform their decision.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goal “We have a healthy community in a liveable city”. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2022	Operational Plan 2020-21
Strategy	4 Year Action	Operational Plan Actions
5.4.1 Partnerships continue to strengthen and achieve a safe, accessible and resilient community	Provide lifeguarding services at beaches (in partnership with SLSI) and Council pools	Aquatic Service Plan 2020-21

It specifically delivers on core business activities as detailed in the Aquatic Service Plan 2020-21.

RISK ASSESSMENT

Rock fishing is one of Australia's most high-risk pastimes. The Surf Life Saving NSW Coastal Safety Report 2021 notes that since 2004/05 that 19% of all drowning deaths in NSW are associated with rock fishing with an annual average of eight rock fishing related fatalities. Since January 2021 there have been six rock fishing related deaths in the Wollongong LGA. With each incident there are additional risks to tasked first responders, rescue and recovery teams.

Reducing the number of people who die while rock fishing is the key aim of the Act and supported by the Office of Local Government, NSW Police and State Government agencies, Surf Life Saving NSW and Surf Life Saving Illawarra. By ‘opting in’ together with active NSW Police support on enforcement, and multi-agency participation in deployment on communications and education, there is an anticipated likelihood of reducing rock fishing deaths in the city.

FINANCIAL IMPLICATIONS

Should Council decide to opt into the legislation it will be required to meet all costs associated with the installation of signage and production of targeted educational resources. The cost associated with public education and signage across all declared high-risk locations is estimated at \$60,000. It has been confirmed that an original 2018 grant offer of \$30,000 from the Department of Primary Industries (DPI)

for Council's opting into the legislation is no longer available, but DPI has educational materials available for dissemination.

The deployment of the signage and further enhanced educational resources would hence be reliant upon Council securing external grant funding associated with recreational fishing or identifying resources from Council's future Operational and Capital Works Budget, including signage maintenance.

Council's current water safety education programs will be updated and the use of Council staff during any joint exercises will be undertaken within current budget allocations.

CONCLUSION

Council has actively engaged with key stakeholders including NSW Police, Marine Area Command, Surf Life Saving NSW, various NSW Government departments, other coastal councils and land-based anglers, in pursuing research into initiatives to reduce the likelihood of rock fishing tragedies occurring within the LGA. Research indicates a range of measures are required to reduce the risk of fatalities for rock fishers along Wollongong's coastline. Many of these measures have been deployed and will continue to be delivered. The additional measure of compulsory wearing of lifejackets will be explored as a part of a community engagement process with final consideration to opt-in returning to Council.

