Environment Protection and Biodiversity Conservation Amendment (Declared Fishing Activities) Bill 2012

(Amendments to be moved by Mr Bandt)

(1) Schedule 1, item 1, page 3 (line 7), before Chapter 5B insert:

Chapter 5AA—Oversize Fishing Vessels

Part 15AA—Oversize Fishing Vessels

Division 1 Prohibition

390SAA Civil penalty—fishing activity using an oversize fishing vessel

A person must not engage in fishing activity using an oversize fishing vessel in a Commonwealth marine area.

Civil penalty:
(a) for an individual—5,000 penalty units;
(b) for a body corporate—50,000 penalty units.

Note: If a body corporate is found to have contravened this section, an executive officer of the body may be found to have contravened section 494.

390SAB Offence—fishing activity using an oversize fishing vessel

(1) A person commits an offence if:
(a) the person takes an action; and
(b) the action is taken in a Commonwealth marine area; and
(c) the action is a fishing activity using an oversize fishing vessel.

Penalty: Imprisonment for 7 years or 420 penalty units, or both.
Note 1: If a body corporate is found to have committed an offence against this section, an executive officer of the body may be found to have committed an offence against section 495.

Note 2: Subsection 4B(3) of the Crimes Act 1914 lets a court fine a body corporate up to 5 times the maximum amount the court could fine a person under this subsection.

(2) Strict liability applies to paragraph (1)(b).

Note: For strict liability, see section 6.1 of the Criminal Code.

390SAC  What is a fishing activity using an oversize fishing vessel?

(1) A fishing activity using an oversize fishing vessel is a fishing activity using a vessel capable of processing and storing more than 2,000 tonnes of biomass.

(2) A fishing activity means an activity that constitutes fishing.

10A  Section 528

Insert:

Fishing activity using an oversize fishing vessel has the meaning given by subsection 390SAC(1).

[definition]