Amendment to be Moved on Behalf of the Government

(Circulated by authority of the Minister for Sustainability, Environment, Water, Population and Communities, the Honourable Tony Burke, MP)
Environment Protection and Biodiversity Conservation Amendment (Declared Fishing Activities) Bill 2012

OUTLINE
The purpose of the government amendment to the Environment Protection and Biodiversity Conservation Amendment (Declared Fishing Activities) Bill 2012 Act 1999 (Cth) is to:

- replace references to ‘fishing activity’ with ‘commercial fishing activity’ and ‘fishing activities’ with ‘commercial fishing activities’; and

- insert a definition of ‘commercial fishing activity’ to be a fishing activity that is engaged in for a commercial purpose, and, to avoid doubt, does not include an activity that constitutes recreational fishing within the meaning of subsection 212(2) of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act). Subsection 212(2) of the EPBC Act defines ‘recreational fishing’ to include fishing from a charter boat and fishing in a fishing competition.

FINANCIAL IMPACT STATEMENT
No financial impact.
NOTES ON AMENDED CLAUSES

Amendments (1) through (12), (14) through (39) and (41) – Insertion of reference to ‘commercial’

1. These amendments replace references to ‘fishing activity’ with ‘commercial fishing activity’ and ‘fishing activities’ with ‘commercial fishing activities’ throughout the Bill.

2. These changes clarify that only commercial fishing operations are intended to be the subject of interim and final declarations under the Environment Protection and Biodiversity Conservation Amendment (Declared Fishing Activities) Bill 2012 Act 1999 (Cth).

Amendments (13) and (40) – Insertion of definition of ‘commercial fishing activity’

3. Amendment (13) includes a definition of ‘commercial fishing activity’ in subsection 390SC(2).

4. Specifically ‘commercial fishing activity’ is defined to be a fishing activity that is engaged in for a commercial purpose, and, to avoid doubt, does not include an activity that constitutes recreational fishing (within the meaning of subsection 212(2)) of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act).

5. Subsection 212(2) of the EPBC Act subsequently defines ‘recreational fishing’ to include the following types of fishing:
   a. fishing from a charter boat (within the meaning of the Fisheries Management Act 1991), including fishing by the person in charge of the boat, the crew of the boat or any other person on the boat;
   b. fishing in a fishing competition (whether or not in a professional capacity);
   c. fishing that is undertaken primarily for:
      i. inclusion on a website, or in a film, video, television program or radio program; or
      ii. description or representation in a magazine, newspaper, book or other such document.

6. Amendment (40) is a consequential amendment to the definitions section of the EPBC Act (section 528) to cross-reference to the definition of ‘commercial fishing activity’ in subsection 390SC(2).

7. The combination of the above changes make clear that the amendments proposed under the Environment Protection and Biodiversity Conservation Amendment (Declared Fishing Activities) Bill 2012 Act 1999 (Cth) will not apply to recreational fishers nor charter boat operators.