

Queensland



Explanatory Notes for SL 1999 No. 55

Fisheries Act 1994

FISHERIES (GULF OF CARPENTARIA INSHORE FIN FISH) MANAGEMENT PLAN 1999

Short Title

Fisheries (Gulf of Carpentaria Inshore Fin Fish) Management Plan 1999.

Authorising law

The management plan is made under the provisions of the *Fisheries Act 1994* (“the Act”), in particular section 32.

Policy objectives of the management plan and the reasons for them

The policy objectives of the management plan are to—

- (a) maintain inshore fin fish stocks at sustainable levels;
- (b) protect spawning target species;
- (c) minimise unintended adverse effects of fishing on protected wildlife;
- (d) provide a viable commercial net fin fish fishery that gives economic and social benefits to the local, regional and State economies;
- (e) provide a recreational fishery that gives economic and social benefits to the local and regional economies; and

- (f) satisfy the traditional or customary fishing needs of Aborigines and Torres Strait Islanders.

These objectives have been adopted to assist the Queensland Fisheries Management Authority (QFMA) in delivering fisheries management consistent with the principles of ecologically sustainable development. Section 25(4) of the Act defines this as development—

- (a) carried out in a way that maintains biodiversity and the ecological processes on which fisheries resources depend; and
- (b) that maintains and improves the total quality of present and future life.

Ways in which the objectives are to be achieved by the management plan and why this is reasonable and appropriate

The policy objectives will be achieved by the management plan by continuing certain provisions that are presently in the *Fisheries Regulation 1995* (“the Regulation”) such as the following(

- (a) regulated fish declarations; and
- (b) management arrangements for the commercial fishery such as spawning and area closures, minimum legal fish sizes and fishing apparatus restrictions.

In addition, the management plan includes new fisheries management provisions such as the facility for combining N3 fishery symbols on primary commercial fishing boat licences.

These arrangements are considered to be reasonable and appropriate ways of achieving the plan’s objectives.

Consistency of the management plan with the policy objectives of the authorising law

The management plan provides for a range of management measures to ensure the sustainability of Gulf of Carpentaria inshore fin fish resources. It was developed through a clearly defined process involving an expertise based QFMA, a community and industry expertise based advisory committee and through public consultation.

Through this process the following objectives of the Act will be met—

- (a) sustainability of fisheries resources, through the application of management measures available under the plan and current fisheries legislation;
- (b) achieving optimum community, economic and other benefits by ensuring the interests of all stakeholders are reflected in the plan; and
- (c) equity in access through the selective application of input and output controls provided under the Act including, licensing powers, temporal and spatial based fishing closures and fishing apparatus controls.

Consistency with other legislation

The proposed legislation is not inconsistent with the policy objectives of other legislation.

Alternatives

The alternatives for achieving the policy objectives are—

- (a) no regulation;
- (b) self regulation; or
- (c) retaining current arrangements as reflected in the Regulation.

These alternatives are not considered to be effective in meeting the policy objectives of the management plan for a number of reasons.

These reasons are explained in detail in the regulatory impact statement.

Assessment of the benefits and costs of implementation

Extensive consideration is given to the benefits and costs of implementing the management plan in the regulatory impact statement.

Fundamental legislative principles

The management plan is consistent with fundamental legislative

principles as set out in the *Legislative Standards Act 1992*.

The plan does not extinguish the right for Aborigines and Torres Strait Islanders to take, use or keep fisheries resources in accordance with Aboriginal tradition or under Island custom.

Consultation

There has been significant consultation undertaken in relation to the management plan including the release of a regulatory impact statement that allowed the public to make submissions on a draft management plan.

There has also been extensive consultation in relation to the proposed management plan through the fisheries management planning process. This process involves extensive consultation with all stakeholders through a clearly defined process involving an 'expert based' QFMA and its community and industry based Tropical Fin Fish Management Advisory Committee (TropMAC). These stakeholders include—

- (a) Commercial Fishers;
- (b) Recreational Fishers;
- (c) Indigenous Fishers;
- (d) Professional Fishing Guides Association;
- (e) Sunfish;
- (f) Queensland Seafood Marketers Association;
- (g) Queensland Commercial Fishermen's Organisation; and
- (h) Conservationists.

Results of consultation

In the main, there is agreement from a majority of key stakeholder groups in relation to the management plan.

The Queensland Commercial Fishermen's Organisation supports the plan.

Sunfish, which is the peak organisation representing recreational fishers in Queensland, supports the plan.

Also, the QFMA, Environment Australia and the Department of Primary Industries support the plan.

As a result of submissions received by the QFMA to both the regulatory impact statement and the draft management plan which were released for public comment, the following amendments were incorporated in the final management plan—

- (a) a number of proposed limitations on numbers of various fin fish that may be taken and possessed by recreational fishers (bag limits) were amended in response to submissions from both commercial and recreational fishers;
- (b) the proposed provisions allowing the combination of 'N3' fisher symbols was omitted from the plan as a result of consultation with commercial fishers as this proposal was not supported;
- (c) the area of the fishery described under the 'N3' fishery symbol was amended from within 8 nautical miles of the mainland shore or the shore of an island to within 7 nautical miles of the mainland shore or the shore of an island as a result of consultation with commercial fishers in order to avoid an overlap with the area under the 'N9' fishery symbol;
- (d) the area of the fishery described under the 'N9' fishery symbol was amended from between 6 nautical miles and 25 nautical miles of the mainland shore to between 7 nautical miles and 25 nautical miles of the mainland shore excluding the waters within 7 nautical miles of the shore of an island, as a result of consultation with commercial fishers in order to avoid an overlap with the area under the 'N3' fishery symbol;
- (e) various amendments to the conditions relating to the use of nets in the range of commercial fisheries were made as a result of consultation with commercial fishers and enforcement officers;
- (f) the fin fish permitted to be taken under the 'N6' fishery symbol were restricted to target species of mullet and garfish following consultation with commercial and recreational fishers in order to better reflect the actual nature of the fishery (ie, fishing for bait) and the fish species actually taken;
- (g) closed waters declarations for both commercial and recreational

fishing in the Pine River and Pine River Bay areas were added to the management plan as a result of consultation with commercial and recreational fishers; and

- (h) proposed closed waters declarations in respect of the Kirke River and the Love River were omitted from the management plan as a result of consultation with commercial fishers.

Other amendments that were carried out between the draft management plan and the final management plan were of an editorial nature or were required to ensure compliance with current drafting practices.

NOTES ON PROVISIONS

Section 1 sets out the short title of the management plan.

Section 2 provides for the commencement of section 19 and schedule 3, section 2 on 29 January 2000. These provisions prohibit the possession of fin fish in part of Pine River Bay for recreational fishers and close part of the Pine River Bay for the taking of fish in trade or commerce. The commencement of these provisions is delayed in order to allow for reallocation of access to fin fish in these areas between commercial and recreational fishers to occur following a reduction in the number of 'N3' fishery symbols in the fishery due to the operation of an industry buy-back scheme and therefore minimise the displacement of commercial fishing effort to other areas.

Section 3 describes the fishery to which the plan applies by reference to schedule 1.

Section 4 sets out the objectives of the plan and by reference to schedule 2 outlines how the objectives will be achieved and how the achievement of the objectives is to be measured and reviewed.

Section 5 indicates that aids to interpretation and definitions of words used throughout the plan are outlined in schedule 4.

Section 6 declares a series of closed seasons for barramundi throughout the fishery. This section attracts section 77 of the Act which makes it an offence for a person to unlawfully contravene a closed season declaration. The closed seasons for barramundi coincide with its spawning seasons.

Section 7 provides limited exemptions to the prohibition outlined in section 6.

Section 8 provides that certain waters of the South Mitchell River are closed waters all year every year for the taking or possessing of any fin fish by anybody. This section attracts section 77 of the Act which makes it an offence for a person to unlawfully contravene a closed water declaration.

Section 9 provides that the waters listed in schedule 3 of the plan are waters closed all year to the taking of fin fish, for trade or commerce, using nets. Under Schedule 3 there are certain waters in which the use of any net is prohibited and other waters in which the use only of set mesh nets is

prohibited.

Section 10 provides that certain offshore waters are closed to fishing under the 'N9' fishery symbol unless the provisions under part 5, division 6, subdivision 3 of the plan are complied with. These sections relate to the installation of VMS equipment and entering 'N9' waters from 'N3' waters.

Section 11 provides for exemptions to the closed waters provisions in sections 8, 9 and 10.

Section 12 provides that part 4, division 1 (sections 12 to 15) applies to everybody, that is, both recreational fishers and those engaged in commercial fishing. These sections deal with certain fin fish declared to be regulated by size and/or number.

Regulated fish provisions attract the operation of section 78 of the Act which makes it an offence to take, possess or sell regulated fish, or to attempt to disguise that a fish is a regulated fish.

Section 13 provides that to be a regulated fin fish under this division, a fin fish must have been taken from waters closed pursuant to part 3 of the plan (ie sections 8, 9 and 10). Possessing such a fin fish is prohibited.

Section 14 lists fin fish regulated by size.

Section 15 provides that mangrove jack are regulated by number.

Section 16 provides that part 4 division 2 (sections 16 to 19) applies only to recreational fishers.

Section 17 lists fin fish regulated by number.

Section 18 provides that black jewfish are regulated by size and number.

Section 19 provides for a "catch and release" declaration for particular waters within Pine River Bay.

Section 20 provides part 5 (sections 20 to 75) only applies to persons taking fin fish in trade or commerce.

Section 21 provides that only persons who are commercial fishers, assistant fishers or operating under a crew licence and fishing under a primary licence with an 'N3', 'N6', 'N7', or 'N9' fishery symbol on it may take fish for trade or commerce in the fishery.

'N3', 'N6', 'N7' and 'N9' are current symbols on existing licences and

each symbol represents a type of fishing that may be carried out by the licence holder. The fishing in the fishery authorised by these symbols was previously set out in Schedules to the Regulation. They are now carried over to the management plan and each type of symbol is dealt with separately in the plan.

Section 22 outlines certain restrictions applying to the writing of fishery symbols on primary licences by the QFMA.

Section 23 provides that part 5, division 3 (sections 23 to 35) applies only to a person acting under a primary licence with the 'N3' fishery symbol written on it. The 'N3' fishery symbol is a net fishery symbol allowing fishing within the waters described in section 24.

Section 24 describes the area of tidal waters which make up the 'N3' fishery symbol.

Section 25 describes where fin fish may be taken within the 'N3' fishery area.

Section 26 lists the fin fish that may be taken within the 'N3' fishery area.

Section 27 limits the manner of taking of fin fish to the use of set mesh nets in the 'N3' fishery area.

Section 28 restricts the manner of use of set mesh nets within the 'N3' fishery area.

Section 29 prohibits the use of set mesh nets in the 'N3' fishery area during a closed season for barramundi.

Section 30 describes the requirements for using set mesh nets in rivers and creeks within the 'N3' fishery area.

Section 31 describes the requirements for using set mesh nets on foreshores within the 'N3' fishery area.

Section 32 describes the requirements for using set mesh nets in offshore waters within the 'N3' fishery area.

Section 33 describes the requirements for marking set mesh nets used in the 'N3' fishery area.

Section 34 sets the greatest length for a primary boat used in the 'N3'

fishery area.

Section 35 sets the permitted distance for an assistant fisher to be under the direction of a commercial fisher in the 'N3' fishery area.

Section 36 provides that part 5, division 4 (sections 36 to 48) applies only to a person acting under a primary licence with the 'N6' fishery symbol written on it. The 'N6' fishery symbol is a net fishery symbol allowing fishing within the waters described in section 37.

Section 37 describes the area of tidal waters which make up the 'N6' fishery area.

Section 38 describes where fin fish may be taken within the 'N6' fishery area.

Section 39 lists the fin fish that may be taken within the 'N6' fishery area.

Section 40 limits the taking of fin fish to the use of cast, mesh, scoop or seine nets in the 'N6' fishery area.

Section 41 restricts the manner of use of set mesh nets within the 'N6' fishery area.

Section 42 describes the requirements for using cast nets within the 'N6' fishery area.

Section 43 describes the requirements for using scoop nets within the 'N6' fishery area.

Section 44 describes the requirements for using mesh nets on foreshores or in rivers and creeks within the 'N6' fishery.

Section 45 describes the requirements for using mesh nets in offshore waters within the 'N6' fishery area.

Section 46 sets the greatest permitted length for a primary boat used within the 'N6' fishery area.

Section 47 sets the greatest permitted distance that a tender boat may be from its associated primary boat within the 'N6' fishery area.

Section 48 sets the greatest permitted distance for an assistant fisher to be under the direction of a commercial fisher in the 'N6' fishery area.

Section 49 provides that part 5, division 5 (sections 49 to 59) of the plan

applies only to a person acting under a primary licence with the 'N7' fishery symbol on it. The 'N7' fishery symbol is a net fishery symbol allowing fishing within the waters described in section 50.

Section 50 describes the area of tidal waters which make up the 'N7' fishery symbol area.

Section 51 describes where fin fish may be taken within the 'N7' fishery symbol area.

Section 52 lists the fin fish that may be taken within the 'N7' fishery area.

Section 53 limits the taking of fin fish to the use of mesh or seine nets in the 'N7' fishery area.

Section 54 restricts the manner of use of set mesh nets within the 'N7' fishery area.

Section 55 prohibits the use of nets in the 'N7' fishery area during a closed season for barramundi.

Section 56 describes the requirements for using nets within the 'N7' fishery area.

Section 57 sets the greatest permitted length for a primary boat used in the 'N7' fishery area.

Section 58 sets the greatest permitted distance that a tender boat may be from its associated primary boat within the 'N7' fishery area.

Section 59 sets the greatest permitted distance for an assistant fisher to be under the direction of a commercial fisher in the 'N7' fishery area.

Section 60 provides that part 5, division 6 (sections 60 to 75) of the plan applies only to a person acting under a primary licence with the 'N9' fishery symbol written on it. The 'N9' fishery symbol is a net fishery symbol allowing fishing within the waters described in section 62.

Section 61 describes the meaning of the term "authorised length" within the 'N9' fishery area. Authorised length refers to the maximum length of net that may be used under the 'N9' fishery symbol.

Section 62 describes the area of tidal waters which make up the 'N9' fishery area.

Section 63 describes where fin fish may be taken within the 'N9' fishery area.

Section 64 lists the certain fin fish that may be taken within the area of the 'N9' fishery area.

Section 65 limits the taking of fin fish to the use of set mesh nets and outlines the requirements for using power assisted devices with those nets in the 'N9' fishery area.

Section 66 prohibits the use of nets in the 'N9' fishery area during a closed season for barramundi.

Section 67 provides that the purpose of part 5, division 6, subdivision 3 is to prescribe additional conditions applying to primary licences with the 'N9' fishery symbol on them.

Section 68 provides that a holder of primary licence with the 'N9' fishery symbol on it must install and maintain electronic vessel monitoring system (VMS) equipment on his or her boats, and that details about the boats and the equipment must be included in the register of authorities kept by the QFMA under the section 73 of the Act.

Section 69 outlines conditions for the maintenance and use of VMS equipment mentioned under section 68.

Section 70 imposes a requirement on the person in control of a boat that enters the waters of the 'N3' fishery from the waters of the 'N9' fishery to notify the QFMA or the Queensland Boating and Fisheries Patrol of the entry and to provide certain details regarding the purpose of the entry.

Section 71 describes the requirements for using nets within the 'N9' fishery area.

Section 72 describes the requirements for marking nets used in the 'N9' fishery area.

Section 73 provides that a primary boat used in the 'N9' fishery must not be longer than 20 m.

Section 74 sets the greatest permitted distance that a tender boat may be from its associated primary boat within the 'N9' fishery area.

Section 75 sets the greatest permitted distance for an assistant fisher to be under the direction of a commercial fisher in the 'N9' fishery area.

Section 76 provides that part 6 of the plan (sections 76 to 87) applies only to the taking or possession of fin fish by recreational fishers.

Section 77 provides that only certain fishing apparatus – “recreational fishing apparatus” may be possessed and used by recreational fishers.

Section 78 provides that recreational fishing apparatus may be used or possessed in the fishery’s waters.

Section 79 provides that any fin fish may be taken with recreational fishing apparatus if it is used in compliance with sections 80 to 83.

Section 80 limits the use of hooks by a recreational fisher.

Section 81 deals with cast net dimensions.

Section 82 deals with scoop net dimensions.

Section 83 deals with seine net dimensions and use.

Section 84 places an obligation on the person in control of a boat to limit the number of fishing lines that may be used from that boat.

Section 85 outlines the requirements for using commercial fishing boats for recreational fishing purposes. A commercial fisher conducting recreational fishing must signal his/her intent to do so by covering the commercial boat mark.

Section 86 provides for certain requirements for recreational fishers when dealing with fish once taken. These requirements exist for enforcement reasons in order that a fisheries inspector can readily identify the type and number of fin fish possessed by a recreational fisher.

Section 87 provides that requirements additional to section 86 apply in relation to spotted grunter bream possessed by recreational fishers.

Section 88 provides that the plan does not limit Aboriginal or Torres Strait Islander rights to take, use or keep fin fish.

Section 89 provides that the QFMA must conduct a review of the plan and provides for the timing of QFMA’s review of the plan.

Section 90 sets out the mandatory consultation procedures for a review of the plan.

Section 91 describes the process that must be followed in order to amend or repeal the plan.

Section 92 lists certain offences related to the fishery that are considered to be serious fisheries offences for the purposes of the Act. For offences that have been declared serious, the QFMA may, under section 67(1)(b) of the Act, consider suspension or cancellation of authorities held by persons convicted of such offences.

Section 93 provides for certain criteria to apply to the suspension of authorities held by persons convicted of serious fisheries offences, including various periods of suspension associated with the holder's first, second and third or subsequent convictions.

Section 94 provides for an offence relating to VMS equipment installed under the plan.

Section 95 makes provision for the continuation of licences and approvals in force prior to the commencement of the plan.

Section 96 provides for the early expiry of sections 95 and 96 of the plan.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Primary Industries.