

Fisheries (East Coast Trawl) Amendment Management Plan (No. 1) 2016

Explanatory notes for SL 2016 No. 119

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries (East Coast Trawl) Amendment Management Plan (No. 1) 2016

Authorising law

Sections 32, 34 and 36 of the *Fisheries Act 1994* (the Act).

Policy objectives and the reasons for them

The subordinate legislation aims to:

- ensure modifications to trawl gear used in the east coast trawl fishery do not put ecologically sustainable development at risk;
- allow scallop fishers to add value to their catches; and
- improve efficiencies with the use of scallop square mesh cod end bycatch reduction devices (BRDs).

The *Fisheries (East Coast Trawl) Management Plan 2010* (the plan) generally regulates trawl fishing in eastern Queensland, where prawn, bugs and scallops are the principal target species. The plan's objectives are to provide for the use, conservation and enhancement of the community's fisheries resources by managing the fishery in a way that seeks to apply and balance the principles of ecologically sustainable development and promote ecologically sustainable development.

One of the ways of achieving these objectives is by restricting the fishing apparatus used in the fishery. The plan provides a number of restrictions on trawl gear that may be used in the fishery. However, it currently does not provide restrictions on the use of trawl sleds, otter boards or beams which are used with otter trawl and beam trawl nets when catching prawns.

Trawl sled and otter board designs have remained largely unchanged for decades and the specific type or size of the boards or sleds being used can vary greatly between vessels and different parts of the fishery. One purpose of sleds and otter boards is to keep the mouth of a trawl net open. They also keep the nets in contact with the sea bed. Trawl nets often have

chains hung below the footrope to disturb the prawns as the net is towed along the seabed, making the prawns jump into the mouth of the oncoming net.

Otter boards are used solely in otter trawl. The sheer force of the water on the angled board forces each board sideways until the net is spread and held open. Sleds are sometimes used in conjunction with otter boards to keep otter trawl nets open. Sleds are also used for beam trawl. Generally, two sleds are connected by a rigid pole, or beam, that holds them apart and keeps the net open for fishing.

In recent years, some trawler operators have used spikes or other plough-like attachments that protrude below the base (*shoe*) of trawl sleds and otter boards to achieve better net contact with the sea bottom. These are currently being used by only a small number of trawler operators but the number is increasing and the types of attachments being used is changing.

Trawl operators using these attachments believe they increase prawn catch rates and also allow the overall weight of trawl sleds to be reduced saving fuel and improving safety. However, other trawl operators are concerned about the reputational risk for the industry with a likely poor public perception about the devices and the environmental impacts they may cause.

There are also concerns that the modified trawl gear could be used in the Great Barrier Reef Marine Park. Current reports indicate that trawl gear modifications, which include attachments resembling “chines” and “ploughs”, are being used in the deep water component of the eastern king prawn fishery (South Eastern Queensland waters) with the likelihood that this modified gear could eventually be used in the Great Barrier Reef Marine Park.

The intent of the subordinate legislation is to prohibit the use of spikes and other attachments before their use becomes widespread in the fleet. Increased prawn catches as a result of the attachments could present a sustainability issue in the longer term. The most recent quantitative stock assessment undertaken on eastern king prawns estimated that the current level of biomass was sufficient to sustain current catches. Any significant increase in total catch could lead to overfishing. Another concern is the potential damage to the seabed. At this stage, the impact from the use of spikes or other attachments has not been quantified, however, damage to the seabed is potentially occurring when these attachments are used.

The prohibition is consistent with the precautionary principle as defined in the *Fisheries Act 1994* - that, if there is a threat of serious or irreversible environmental damage, lack of scientific certainty should not be used as a reason to postpone measures to prevent environment degradation, or possible environmental degradation, because of the threat.

The subordinate legislation will also allow scallop fishers to add value to their catches by processing scallops to the extent of half-shelling on board the vessel. The plan currently prohibits commercial trawl fishers from processing scallops on board a vessel outside the waters in schedule 3 of the plan. Half-shelling involves removing half the shell of a scallop leaving the other half with the meat of the scallop.

The subordinate legislation will also improve efficiencies in the use of the scallop square mesh cod end Bycatch Reduction Devices (BRDs). There are a number of BRDs recognised for use in the fishery. BRDs have been shown to be highly effective in reducing bycatch without negatively impacting on the volume of catch. However, fishers have raised a concern with the current specifications of the scallop square mesh cod end BRD.

The current specifications for cod end length refer to a minimum measurement in the number of *bars* counted. Bar measures are often used by commercial fishermen and by net manufacturers with the number of bars counted from knot-to-knot along the length of the cod end. The maximum length of a square mesh cod end is limited by the practical considerations of trawler equipment configurations that have evolved over time. For example, the cod end cannot be too long or this will inhibit effective release of product from the cod end to the sorting tray at the end of a trawl. Given the current measurement is in bars counted, larger mesh sizes make the cod end longer. This limits the use of larger mesh sizes resulting in reduced bycatch. The intention is to allow fishers to use scallop square mesh cod end BRDs that have greater mesh size irrespective of the number of bars thereby increasing efficiencies with their use by increasing catch of desirable product and reducing bycatch.

The subordinate legislation also corrects a reference in section 61 of the plan to an unrelated provision.

Achievement of policy objectives

The subordinate legislation will prohibit attachments which protrude from the shoe of trawl sleds, otter boards or beams that are used to deploy otter and beam trawl nets; allow partial processing of scallops to half-shell form whilst on a vessel in waters outside schedule 3 of the plan; and Change the specification for the square mesh cod end used in the fishery from 33 bars long to 1.5m when stretched.

The subordinate legislation also corrects a reference in section 61 of the plan to correctly refer to section 62A which provides escape hole requirements for a turtle excluder device as intended.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main purpose of the Act which is to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to: apply and balance the principles of ecologically sustainable development; and promote ecologically sustainable development.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

The plan currently regulates the trawl gear and matters related to processing scallops in the fishery. The policy objectives can only be achieved by amending the plan.

Benefits and costs of implementation

The amendments to prohibit the use of attachments on the shoe of trawl sleds and otter boards are intended as a precautionary measure to ensure sustainability in the fishery. While a specific

assessment of the impacts from the use of these attachments has not been carried out, their continued or increased use is likely to have a detrimental effect on prawn stocks and marine habitats. The amendment is likely to have minimal impact on the industry as only some minor use of the attachments has been reported at this stage.

The amendment to allow scallop fishers to partially process scallops will potentially generate a greater economic return for their catch.

The amendment to change the unit of measurement for the length of a scallop square mesh cod end BRDs will encourage the use of larger scallop square mesh cod end mesh sizes by fishers who wish to do so. This will improve efficiencies in the industry for those fishers. However, fishers who choose not to use larger mesh sizes will not be affected by the changes.

Consistency with fundamental legislative principles

The subordinate legislation does not raise any issues regarding fundamental legislative principles.

Consultation

Consultation has been undertaken with a diverse group of stakeholders about the changes to prevent the use of attachments to trawl gear that may cause damage to the sea bed and risk overfishing stocks.

Early discussions between staff of Fisheries Queensland (within the Department of Agriculture and Fisheries) and trawler operators in Mooloolaba resulted in operators agreeing to voluntarily cease using spikes on their sleds. Despite this voluntary agreement, their use has continued.

Consultation occurred on the issue of attachments to trawl gear with the Queensland Seafood Industry Association, Department of Primary Industries (New South Wales) and the Great Barrier Reef Marine Park Authority (GBRMPA). Fisheries Queensland has also received submissions from other stakeholders including individual trawl operators and the Australian Marine Conservation Society (AMCS).

The Queensland Seafood Industry Association has opposed the practice of using attachments on trawl sleds and otter boards or beams. It is understood to be supportive of a prohibition on the use of attachments due to concerns with overfishing prawn stocks, the potential impacts on the seafloor and the adverse perception of this trawling practice within the community. In addition to the industry peak body, some trawl operators have provided their own written submissions while others have contacted the department directly.

The Department of Primary Industries (New South Wales) has advised there has been no reported use of trawl spikes or similar attachments in New South Wales to date. They are following the issue in Queensland and have asked to be kept informed about Queensland's response.

The GBRMPA is supportive of this amendment. Whilst GBRMPA has not developed a specific approved position or policy with respect to the use of this modified trawl gear, the Sustainable

Fishing section of the GBRMPA believes that the use of such attachments would be high-impact to marine habitats.

The AMCS provided a detailed written submission which lists their main concerns as environmental damage and sustainability of prawn stocks.

Changes to allow the half-shelling of scallop were suggested by some trawler operators in discussions with department staff.

The change to the way the scallop square mesh cod end length is measured was suggested by some trawl operators in discussions about the implementation of square mesh cod end BRDs and practical limitations caused by the current length measurement provisions.

The Office of Best Practice Regulation has been consulted in relation to assessment under the Regulatory Impact Statement (RIS) guidelines and it advised that the proposed amendments would not benefit from further analysis under the RIS guidelines.