

Fisheries (Commercial Fisheries) Regulation 2019

Explanatory notes for SL 2019 No. 178

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries (Commercial Fisheries) Regulation 2019

Authorising law

Sections 7, 37, 49, 52, 62, 65, 80, 218, 223 of the *Fisheries Act 1994*
Section 20A of the *Statutory Instruments Act 1992*

Policy objectives and the reasons for them

The overarching policy objective of the *Fisheries (Commercial Fisheries) Regulation 2019* (Commercial Fisheries Regulation) is to provide for the effective management and utilisation of Queensland's commercial fisheries in accordance with the objectives of the *Fisheries Act 1994*.

Together with the *Fisheries (General) Regulation 2019* (General Fisheries Regulation), the Commercial Fisheries Regulation replaces the *Fisheries Regulation 2008* with the aim of delivering a more modern regulatory approach. The Commercial Fisheries Regulation also aligns with the *Queensland Sustainable Fisheries Strategy 2017-2027* (the Strategy) which was released in June 2017, and sets out clear targets to be achieved and a range of actions to deliver on these targets. This includes reviewing fisheries legislation to support a more responsive, evidence-based approach to fisheries management.

The *Fisheries Regulation 2008* (the expired Regulation) expired on 31 August 2019 under the automatic expiry provisions of the *Statutory Instruments Act 1992*.

The need for fisheries reform in Queensland was established by a number of reviews, starting with the review by MRAG Asia Pacific, an independent fisheries and aquatic resource company, in 2014. In 2016, the Government released the *Green Paper on fisheries management reform in Queensland* (the Green Paper) for consultation. The Green Paper outlined the issues facing Queensland's fisheries and priority areas for reform. The overwhelming message of the response was that all stakeholders wanted the management of fisheries to be reformed. Most stakeholders agreed that doing nothing

was not an option.

This feedback was used to inform the Strategy which was released by the Government in June 2017. It outlines the Government's vision for the future management of Queensland's fisheries and includes specific principles to be met and timed actions to review fishing rules and access; implement vessel tracking on commercial fishing vessels; set sustainable catch limits; manage ecological risks from fishing activities; and implement harvest strategies to manage our priority fisheries.

The Strategy included clear targets to be achieved and actions to deliver on these targets. It included the following actions relevant to legislative reform:

- Action 7.1 - Review fishing rules, regulations and access arrangements as part of developing harvest strategies for each fishery.
- Action 7.2 - Amend fisheries legislation to minimise regulation and ensure rules are clear and practical.
- Action 8.1 - Amend the fisheries legislation (*Fisheries Act 1994* and *Fisheries Regulation 2008*) in 2018 to clarify the roles of the responsible Minister and Fisheries Queensland, to ensure decision-making is at the appropriate level and is timely and evidence-based, and that rules can be changed via declaration as far as possible to ensure sufficient flexibility.

The Government also committed at the 2017 State election to "Review the *Fisheries Act 1994* and *Fisheries Regulation 2008* to create a legislative framework for recreational and commercial fishers that is contemporary, simple to understand reflective of community expectations". Commitments have also been made under the *Reef 2050 Long-Term Sustainability Plan* which can only be achieved by amendments to fisheries legislation.

In order to deliver on this election commitment and the more specific principles and commitments outlined in the Strategy, amendments to the *Fisheries Act 1994* and its subordinate legislation were required. The first stage of legislative reforms was delivered by the *Fisheries (Sustainable Fisheries Strategy) Amendment Act 2019*. Consequential amendments to the *Fisheries Regulation 2008* were made by the *Fisheries (Sustainable Fisheries Strategy) Amendment Regulation 2019* which commenced with relevant Act amendments in May 2019.

Replacement of the expired Regulation with the Commercial Fisheries Regulation and General Fisheries Regulation represents a further step in the reform process. The management arrangements in the expired Regulation were the result of many years of *ad hoc* amendments rather than strategic management, leaving it complex, inefficient and not effective in controlling effort and/or catch in most of Queensland's commercial fisheries. It did not support best practice fisheries management or modern regulatory approaches and, therefore, does not meet the needs of the Strategy or the community and would limit the effectiveness of harvest strategies to achieve agreed objectives and targets for Queensland's fisheries resources.

The general approach to relocating the provisions across the two instruments was to separate the matters that related only to commercial fishing and commercial fishing licence holders into the Commercial Fisheries Regulation and all other matters into the General Fisheries Regulation. This new approach will support an objective of the Strategy to standardise fishing rules and support compliance by making it easier to find the relevant provisions of fisheries subordinate legislation.

In June 2019, the Government released the *Discussion Paper on proposed changes to the Fisheries Regulation 2008* (the Discussion Paper) which outlined 102 proposed amendments. The General Fisheries Regulation, Commercial Fisheries Regulation and Fisheries Amendment Declaration 2019, which all commence on 1 September 2019, together implement 39 of the 102 proposals outlined in the Discussion Paper.

Consistent with the Directions Paper, the following amendments to commercial fishing rules are implemented in the Commercial Fisheries Regulation:

- supporting compliance by preventing the use of tender boats if there is no primary vessel nominated against the commercial fishing boat licence;
- aligning the quota year for Queensland's quota-managed fisheries by adjusting the Spanner Crab Fishery quota year;
- making access to all commercial fisheries through fishery symbols consistent by limiting the issue of C2 fishery symbols;
- clarifying the limited nature entry of commercial fisheries by restricting 'new' fishery symbols from being written on licences;
- enhancing the chance of survival for seagrass after taking bloodworms by clarifying how seagrass must be handled;
- increasing transparency for legitimate commercial fishing activities conducted from shore by requiring authority details to be displayed adjacent to land-based collection points;
- increasing the commercial spanner dilly crab possession limit to 85, and increasing the use of dillies to 50 for single crew vessels and 75 for vessels where there are at least two crew on board to ensure undersized spanner crabs can be appropriately handled; and

The most recent (2018) assessment of snapper stocks estimated spawning biomass to be between 10% and 45% of unfished levels. Models using line catch rate data estimated spawning biomass in 2016 to be as low as 10% to 23%, suggesting there had been no rebuilding of snapper stocks in Queensland, despite management changes put in place in 2011. This species is classified as 'depleted' in Queensland under the national Status of Australian Fish Stocks framework. This depletion is of significant concern, and necessitates an urgent government response while a longer term rebuilding plan can be established.

The following urgent sustainability action for commercial fishing are to be implemented in the Commercial Fisheries Regulation:

- prohibiting the use of net apparatus to take snapper.

The Government is still assessing feedback on other reforms proposed in the discussion paper and further amendments to fisheries subordinate legislation are being considered.

Achievement of policy objectives

The Commercial Fisheries Regulation achieves the policy objective of providing for the effective management and utilisation of Queensland's commercial fisheries by creating the following parts and schedules. The achievement of each specific policy objective is discussed as it arises within the parts and schedules.

Chapter 1: Preliminary

Chapter 1 provides for the short title of the Regulation and its commencement, and creates a dictionary in schedule 11. It also clarifies that unless the Commercial Fisheries Regulation provides otherwise, a term used in the Commercial Fisheries Regulation has the meaning given under the General Fisheries Regulation, including where a provision in the General Fisheries Regulation only aids in the interpretation of a term.

The Commercial Fisheries Regulation commences on 1 September 2019.

Chapter 2: Commercial fisheries

Chapter 2 establishes the commercial fisheries and is made up of 5 parts.

Part 1 includes a number of provisions that assist with interpretation including sections 4 and 5.

Section 4 provides that each commercial fishery is named and described in schedules 1 to 8, and that each schedule states the following for the fishery:

- the fishery symbol;
- the fishery area;
- what is authorised for a licence for each fishery symbol, including, for example, the fish that may be taken in the fishery and the way in which the fish may be taken;
- the permitted distance for an assistant fisher to be under direction of a commercial fisher for the fishery;
- the conditions about carrying out activities in the fishery that apply to a licence for each fishery symbol; and
- (if relevant) the conditions about carrying out activities in the fishery that apply to a quota authority or commercial fisher licence held by a person acting under the quota authority.

Section 5 provides, for information purposes only, the following general matters about the management and operation of commercial fisheries:

- that a person may take fish for trade or commerce in the fishery area of a commercial fishery under a licence on which the fishery symbol for the fishery is written;
- that a fishery symbol for a commercial fishery may be written only on a commercial fishing boat licence or a commercial harvest fishery licence; and
- that together with the General Fisheries Regulation, the Commercial Fisheries Regulation provides restrictions on the issue of commercial fishing boat licences and commercial harvest fishing licences and writing fishery symbols on these licences, and what is authorised under each fishery symbol once it is written on one of these licences, and what is a condition of each fishery symbol once it is written on one of these licences.

Part 2 provides the authorisations for commercial fisheries. Division 1 of part 2 provides information about what an authorised person acting under a licence on which a fishery symbol for a commercial fishery is written is authorised to do in the fishery under the licence. In particular, section 8 provides that an authorised person may only take fish:

- in the fishery area of a commercial fishery; or

- if a provision states that fish may only be taken in an area stated on the licence, the area stated on the licence; or
- if a provision states that fish may only be taken in a particular area within the fishery's area, the particular area.

Section 9 provides that an authorised person can only take the fish that the commercial fishery provision states may be taken and section 10 provides that fish can only be taken in the way the commercial fishery provision states they may be taken. Section 10 also provides that if a particular fishing apparatus is authorised to be used in a commercial fishery and it is silent on the number of apparatus that may be used, only one item of that type may be used, even if there is more than one person acting under the licence. Other provisions in division 1 and the provisions in division 2 relate to additional restrictions on the authorisation. For example, section 13 provides for a restriction on taking fish in more than one commercial fishery at a time, except where a provision explicitly provides for it.

Part 3 includes a number of provisions that relate to fishing priority, that is, the order in which fishers may fish, the duration of a fishing priority, and offences for interfering with ocean beach fishery flags and obstructing a commercial fisher from exercising a fishing priority.

Part 4 provides a number of conditions that apply to boats used in commercial fisheries about boat marks, including fixing and removing boat marks. For example, section 27 provides that the boat mark must be written in black on a yellow background, fixed to each side of the boat's hull, and if the boat has no deck or shelter at its front, fixed to a flat surface on the boat that can be viewed from above.

Part 5 includes section 31 which establishes an offence for persons to not write or mark particulars in or on documents or things legibly, visibly and in English.

Chapter 3: Licences

Chapter 3, part 1 provides the general parameters for activities carried out under commercial fisher licences, including what the holder of such a licence is authorised to do and general conditions for the licence. Division 1 of part 1 provides authorisations. Specifically, section 32 provides that a person who holds a commercial fisher licence may do any of the following under the licence:

- buy commercial fishing apparatus;
- possess commercial fishing apparatus;
- use commercial fishing apparatus, but only while using a commercial fishing boat under a commercial fishing boat licence authorising the use of the apparatus;
- take fish for trade or commerce, but only while using a commercial fishing boat under a commercial fishing boat licence;
- possess the fish;
- sell the fish; and
- process the fish.

Section 32 also provides that if a provision about a commercial fishery states a certain way or circumstance in which the above activities may be done, the holder must only do the thing in the way or circumstance prescribed.

Division 1 also includes provisions concerning what assistant fishers may do, and provides a meaning for 'under direction' for an assistant fisher generally, and a number of specific

meanings for 'under direction' for an assistant fisher, depending on the commercial fishery. For example, section 34 provides a meaning of under direction for the commercial trawl fishery (fin fish). It provides that an assistant fisher is under direction of a commercial fisher only if the assistant fisher and the commercial fisher are on the same boat or if on different boat the assistant fisher is on a tender boat that is not a trawler.

Conditions for the licence are stated in division 2 of part 1. For example, section 38 provides that a commercial fisher using a commercial fishing boat licence on which the fishery symbol M1, M2, T1, T2, T4, T5, T6, T7, T8 or T9 is written must not act in the same commercial fishery under more than one commercial fishing boat licence at the same time.

The objective of requiring authority details to be displayed adjacent to land-based collection points for commercial fishing activities conducted from shore is achieved in sections 40 (which applies to commercial fisher licences) and 52 (which applies to commercial harvest fishery licences), which both require the holder of the licence to display a notice that:

- is placed adjacent to the place on land from which the holder is acting under the licence; and
- identifies the type of licence and licence number the holder is operating under.

This section is a new requirement that was not provided for in the expired Regulation.

Part 2 of chapter 3 provides the general parameters for activities carried out under commercial fishing boat licences, including what the holder of a licence is authorised to do and the general conditions of the licence.

The objective of clarifying that a tender boat cannot be used unless a primary fishing boat is nominated against a commercial fishing boat licence is achieved in this part by section 41. Section 41 inserts an additional condition of the licence that provides that a tender boat may only be used if a primary commercial fishing boat has been identified in the licence, and that a tender boat may only be used as the primary boat if the person has notified the chief executive that it is being used as the primary boat. This section is a new requirement that was not provided for in the expired Regulation.

Part 2 also includes specific conditions regarding boat modification and replacement that apply to particular licences. For example, section 43 provides that the holder of an M1, M2, T1 or T2 licence may modify the boat identified on the licence only if the modification does not change the number of hull units for the boat, or if the modification does change the number of hull units, that the modification is approved under sections 44 and 45.

Part 3 of chapter 3 provides the general parameters for activities carried out under commercial harvest fishery licences, including what the holder of the licence is authorised to do and the general conditions of the licence. For example, section 48 provides that the holder of a commercial harvest fishery licence may, amongst other things, possess, sell and process fish. It also includes a number of provisions about a licence holder nominating other persons to take or sell fish and other species under the specific harvest fishery. For example, section 50 provides that the holder of an A1, B1, D, J1, JE, O, W1, W2 or Y licence may nominate up to 3 persons to take fish under the licence, and must give written notice to the chief executive of the nomination of each nominee.

Part 4 of chapter 3 establishes which licences a fishery symbol can be written on, places restrictions on writing fishery symbols on licences, and provides for moving fishery symbols to other licences. Part 4 also includes the conditions that apply generally to

licences with fishery symbols and what the holder of a licence on which a fishery symbol is written may do. For example, section 53 provides that only fishery symbols for a commercial fishery under schedules 2 to 8 can be written on a commercial fishing boat licence, and section 54 prohibits writing certain fishery symbols on a commercial fishing boat licence if a primary boat has not been identified in the licence.

To achieve the objective of limiting the number of licences with the fishery symbol 'C2' and clarify the limited entry nature of commercial fisheries, section 5 provides that all fishery symbols, including the 'C2' symbol, can only be written on a commercial fishing boat licence if the chief executive has approved a fishery symbol movement application or the licence is a replacement of a licence on which the symbol was written. Under the expired Regulation, the 'C2' symbol was automatically added to an additional licence if ITQ quota units were transferred to it and the chief executive could write a 'new' fishery symbol on a licence.

Chapter 4: Quota authorities

Chapter 4 applies to all the commercial fisheries that are managed using quota authorities.

Part 1 relates to effort units for T1 and T2 licence holders. Importantly, division 1 provides that each effort unit is a quota authority and is subject to the relevant quota entitlement. Division 1 also provides for how licence holders may use their effort units in an effort year and clarifies that this is the licence holder's entitlement. Generally, a licence holder may use their effort units in an effort year if they hold a T1 or T2 licence that is in force, and T1 licence holders can allow someone else to use their effort units. Section 66 provides a meaning for effort year that means the period from midday on 1 January to midday on 1 January in the next year.

Division 2 of part 1 relates to effort unit entitlements. Section 70 provides when effort units are used for an effort year. A correction has been made to the formula to reflect how effort units have always been used. Specifically, in subsection (3) the formula now reads $EU = 1 \times EUCF$. Under the expired Regulation, the formula read $EU = 1 \div EUCF$. Other sections in division 2 provide for when effort unit entitlements are considered used for an effort year, when a boat has been used on a fishing or steaming day, and that unused entitlements cannot be carried forward.

Division 3 includes two provisions that relate to usage notices. The first (section 72) requires the chief executive to give a usage notice to T1 licence holders in particular circumstances, while the second (section 73) introduces an additional condition for T1 licence holders if they receive a usage notice. The condition requires a T1 licence holder to ensure that every person acting under the licence is aware of the matters mentioned in the notice and, if the usage notice states that the fishing and steaming days are likely to be used in the next month, requires a person in control of a relevant boat under the T1 licence to use the AIVR system on each day the boat is to be used under the licence and obtain certain information before any person starts taking fish from the boat on the day.

Division 4 relates to evidentiary aids for use of entitlement. In summary, these provisions provide that if a boat location is detected or reported by vessel tracking equipment, it is evidence that the licence holder has used the boat for a whole fishing or steaming day unless an exception applies. The exceptions are provided for in sections 75-80. If a location is not detected or reported by/to vessel tracking equipment at all, section 82

provides that this absence is also evidence that the boat was used for a whole fishing or steaming day.

Part 2 relates to SM units and provides a meaning for 'SM year' and 'whole weight' of spanish mackerel in sections 83 and 84. It also provides that each SM unit is a quota authority and is subject to the relevant quota entitlement. Part 2 also includes a number of provisions about how licence holders use their SM units in an SM year and clarifies that this is the licence holder's entitlement. Sections 87 and 88 provide for when SM unit entitlements are considered used for an effort year and that unused entitlements cannot be carried forward. Section 89 provides that an unloaded fish notice is evidence that the licence holder has used part of their entitlement.

Part 3 relates to line units and provides a meaning for 'line year' and 'whole weight' for regulated coral reef fin fish in sections 90 and 91.

It also provides that each line unit is a quota authority and is subject to the relevant quota entitlement, and that the chief executive must not issue new line units. It also includes a number of provisions about how licence holders may use their line units in a line year and clarifies that this is the licence holder's entitlement. Sections 94 and 95 provide for when line unit entitlements are considered used for an effort year and that unused entitlements cannot be carried forward. Section 96 provides that an unloaded fish notice is evidence that the licence holder has used part of their entitlement.

Part 4 relates to ITQ units and provides that each ITQ unit is a quota authority and is subject to the relevant quota entitlement. To achieve the objective of adjusting the existing spanner crab fishery quota year, section 97 provides that 'ITQ year' generally means a period of one year starting on 1 July in a year and ending on 30 June in the next year. This differs from the expired Regulation, where the ITQ year meant a period of 1 year starting on 1 June in a year and ending on 31 May in the next year. However, as a transitional measure, section 122 provides that if spanner crabs are taken under an ITQ unit between 1 June 2019 and 31 May 2020, 'ITQ year' means the period of 1 year starting on 1 June 2019 and ending on 31 May 2020, or if spanner crabs are taken under an ITQ unit between 1 June 2020 and 30 June 2021, 'ITQ year' means the period of 1 year starting on 1 June 2020 and ending on 30 June 2021.

Part 4 also includes provisions about how licence holders may use their ITQ units in an ITQ year and clarifies that this is the licence holder's entitlement. Sections 100 and 101 provide for when ITQ unit entitlements are considered used for an ITQ year and that unused entitlements cannot be carried forward.

Part 5 includes a number of provisions that relate to T4-ITQ units. Specifically, it provides a meaning for T4-ITQ year, for how licence holders may use their T4-ITQ units in a T4-ITQ year and clarifies that this is the licence holder's entitlement. Sections 105 and 106 provide for when T4-ITQ unit entitlements are considered used for a T4-ITQ year and that unused entitlements cannot be carried forward.

Part 6 provides the common provisions about quota authorities. Section 107 inserts definitions of 'quota units' and 'quota units year' that apply for the purposes of part 6, which essentially capture SM units and years, line units and years, ITQ units and years, and T4-ITQ units and years. Section 108 provides that if the chief executive gives the holder of relevant units a notice about unused units for a relevant year, the notice is evidence of the unused entitlement under the relevant units. Division 3 relates to quota authority

certificates, and clarifies that an 'effort unit certificate', 'SM unit certificate', 'line unit certificate', 'ITQ unit certificate', and 'T4-ITQ unit certificate' are each a 'quota authority certificate', the content of quota authority certificates and what a quota authority certificate can be used as evidence of.

Division 4 relates to unit PINs and division 5 relates to fisher PINs. In summary, division 4 provides for what a unit PIN is, and how unit PINs may be changed. Similarly, division 5 provides for what a fisher PIN is, and how fisher PINs may be changed.

Division 6 of part 6 relates to the transfer of quota authorities. Essentially, division 6 provides that:

- only whole effort units can be transferred;
- the transferee is entitled to the unused entitlement of the transferor;
- the chief executive must give effect to the transfer;
- a fisher PIN may be required for particular transferees.

Section 117 provides that:

- an SM unit can only be transferred to another SM licence holder;
- a line unit can only be transferred to another RQ licence holder;
- a T1 effort unit can only be transferred another T1 licence holder; and
- a T2 effort unit can only be transferred to another T2 licence holder unless the holder gives half of the total effort units for the licence to a T1 licence holder, and gives notice to the chief executive that the T2 licence and the other half of the effort units are surrendered.

Chapter 5: Transitional provisions

Chapter 5 includes two transitional provisions that preserve certain matters from the expired Regulation. Specifically, the transitional provisions preserve existing nominees for commercial fishery authorities and as mentioned above, provide for ITQ years leading up to 1 July 2021.

Chapter 6: Amendment of Fisheries Quota Declaration 2019

Chapter 6 amends the *Fisheries Quota Declaration 2019* to insert a total quota entitlement for the spanish mackerel fishery for each SM year of 578.013 tonnes. By moving the quota entitlement for the spanish mackerel fishery to the *Fisheries Quota Declaration 2019*, it aligns the structure of provisions about the spanish mackerel commercial fishery with other Queensland quota managed fisheries. The amendment does not change the quota entitlement.

Schedule 1: Commercial Harvest Fisheries

Schedule 1 is made up of 14 parts, each of which provides for a different commercial harvest fishery.

Part 1: Aquarium fish fishery

Part 1, division 1 provides that the fishery symbols for the aquarium fish fishery are 'A1' and 'A2', that the fishery activities are comprised of fishing for and selling aquarium fish, and provides for the fishery area. Division 2 includes the authorisations for the fishery symbols, including what fish may be taken, where fish may be taken, and how fish may

be taken. It also includes a provision which clarifies the purposes for which fish taken under the licence may be sold.

Division 2 also includes additional provisions relating to authorisations for licences with the fishery symbol 'A1', and additional provisions relating to authorisations for licences with the fishery symbol 'A2'. For example, section 15 provides that fish taken under an 'A1' licence can only be sold by the licence holder or a nominee of the licence holder. Similarly, section 17 provides that fish may be taken only by an 'A2' licence holder or another person in the presence of an 'A2' licence holder, no more than 3 persons may take fish at the same time, and a person taking fish must not take or possess more than 10 fish or more than 2 fish of the same species. Division 3 provides that it is a condition for a licence on which either the 'A1' or 'A2' fishery symbol is written, that fish must not be taken for human consumption, and that only the boat identified on the licence and 1 other boat may be used to take fish in the same location.

Part 2: Sea cucumber fishery (east coast)

Part 2 provides that the fishery symbol for the sea cucumber fishery is 'B1', that the fishery activities are comprised of fishing for and selling sea cucumber, and provides the fishery area. Division 2 provides the authorisations for the licence, including that only sea cucumber can be taken under the licence and that the annual quota of sea cucumber that may be taken under the licence is the quota stated on the licence. Division 2 also includes a number of provisions concerning who may take sea cucumber, how sea cucumber may be taken, and selling sea cucumber.. Division 3 provides conditions of the licence, including that only the boat identified in the licence and 4 other boats may be used to take sea cucumber in the same location and that a boat, other than a boat identified in the licence, must not be longer than 7 meters.

Part 3: Coral fishery

Part 3 provides that the fishery symbol for the coral fishery is 'D', that the fishery activities are comprised of fishing for and selling coral and coral-like fish, and provides for the fishery area. It also provides the authorisations for the licence including the type of coral that may be taken under the licence, who may take coral, how coral may be taken, where coral may be taken, how coral may be sold and the annual quota of coral that may be taken under the licence.

Part 4: Eel fishery

Part 4 is made up of 4 divisions. Division 1 provides that the fishery symbol for the eel fishery is 'E', that the fishing activities are comprised of fishing for, processing and selling eels, and provides for the fishery area. Division 2 includes the authorisations for the fishery, including what eels may be taken (longfin eels and Southern shortfin eels), who may take eels, how eels may be taken and how eels may be processed or sold.

Divisions 3 and 4 both relate to eel traps and round eel traps, with division 3 focusing on the specifications of the traps, and division 4 focusing on how the traps should be used. For example, section 50 in division 3 provides that a trap when set must have a frame made of rigid material. Division 5 provides the conditions for the licence, and specifies in section 57 that a trap that is in use must be checked within 24 hours after being set.

Part 5: Shell fishery

Part 5 provides that the fishery symbol for the shell fishery is 'F', that the fishery activities are comprised of fishing for and selling molluscs, and provides for the fishery area. Division 2 provides a number of authorisations for the licence including what fish may be taken, who may take them, how they may be taken, and that a shell dredge must not be used if it has a mouth wider than 1.2 metres or teeth or prongs longer than 75mm. Division 3 provides that it is a condition of the licence that a primary boat longer than 20 metres must not be used.

Part 6: Shell grit fishery

Part 6 provides that the fishery symbol for the shell grit fishery is 'G', that the fishing activities are comprised of fishing for and selling shell grit, and provides for the fishery area. Part 6 also provides the authorisations for the licence including who may take shell grit, where within the fishery area shell grit may be taken and how it may be taken. For example, section 72 provides that a person can only take shell grit if they replace it with an equal volume of sand that has been lawfully obtained.

Part 7: Star sand fishery

Part 7 provides that the fishery symbol for star sand is 'H', that the fishery activities are comprised of fishing for and selling star sand, and provides for the fishery area. It also provides the authorisations for the licence including who may take star sand, where it may be taken within the fishery area and how it may be taken. For example, section 80 provides that star sand can only be taken by the licence holder.

Part 8: Trochus fishery (east coast)

Part 8 provides that the fishery symbol for the trochus fishery is 'J1', that the fishery activities are comprised of fishing for and selling trochus, and provides for the fishery area. It also provides the authorisations for the licence including who may take trochus, how trochus may be taken and that the quantity of trochus that may be taken must not be more than the quantity stated for the year on the licence. Section 89 states conditions for the licence, including that a boat other than a boat identified in the licence, must not be longer than 7 metres and that only the boat identified in the licence and 4 other boats may be used to take trochus in the same location.

Part 9: Juvenile eel fishery

Part 9 provides that the fishery symbol for the juvenile eel fishery is 'JE', that the fishery activities are comprised of fishing for and selling juvenile eels of the genus *Anguilla* only, and that the fishery area consists of Queensland waters. It also provides the authorisations for the licence including who may take eels, where within the fishery they may be taken and that they can only be taken in the way stated on the licence.

Part 10: Oyster fishery

Part 10 provides that the fishery symbol for the oyster fishery is 'O', that the fishery activities are comprised of fishing for and selling oysters, and provides for the fishery area. Part 10 also provides the authorisations for the licence including that only blacklip and milky oysters may be taken, who may take them, where in the fishery area they may be taken from and that they can only be taken in the way stated on the licence.

Part 11: Pearl fishery

Part 11 provides that the fishery symbol for the pearl fishery is 'P', that the fishery activities are comprised of fishing for and selling live pearl oysters, and provides for the fishery area. Division 2 of part 11 also provides the authorisations for the licence including that only live pearl oysters may be taken, for how they may be taken and how they may be sold. Division 3 states conditions for the licence, and provides that the licence holder may only sell live pearl oysters to a person acting under a development approval for a prescribed aquaculture development.

Part 12: Beachworm fishery

Part 12 provides that the fishery symbol for the beachworm fishery is 'W1', that the fishing activities are comprised of fishing for and selling beachworms, and provides for the fishery area. Part 12 also provides the authorisations for the licence including who may take beachworms, where within the fishery area beachworms may be taken, and how beachworms may be taken. For example, section 116 provides that beachworms may only be taken by hand.

Part 13: Bloodworm fishery

Part 13 provides that the symbol for the bloodworm fishery is 'W2', that the fishery activities are comprised of fishing for and selling bloodworms, and provides for the fishery area. Part 13 also provides the authorisations for the licence including that only bloodworms may be taken under the licence, who may take bloodworms and how bloodworms may be taken.

Section 122 achieves the objective of enhancing the chance of survival for seagrass after taking bloodworms by creating an obligation for persons to put back any seagrass that is disturbed or moved when taking bloodworms in an upright position in the same location from which it was disturbed or moved.

Part 14: Marine yabby fishing

Part 14 provides that the fishery symbol for the marine yabby fishery is 'Y', that the fishery activities are comprised of fishing for and selling marine yabbies, and provides for the fishery area. It also provides the authorisations for the licence including that only marine yabbies may be taken under the licence, who may take marine yabbies, how marine yabbies may be taken and where within the fishery area marine yabbies may be taken.

Schedule 2: East Coast Trawl Fishery

Schedule 2 includes provisions that relate directly to authorising and conditioning the fishery activities that may be carried out in the east coast trawl fishery. Part 1 provides:

- that the east coast trawl fishery is the activity of fishing using trawl nets (trawling);
- that the fishery symbols are 'M1', 'M2', 'T1', 'T2', 'T5', 'T6', 'T7', 'T8' and 'T9'; and
- for the fishery area, which is essentially all tidal waters off the east coast of Queensland.

Part 2 provides for the authorisations of the fishery, including what fish can be taken in the fishery, who may take the fish, and clarifies that for T1 and T2 licence holders, a person

may only take fish if the licence holder holds unused effort units for the effort unit year. The fish that may be taken under the fishery symbols are prawns, scallops, bugs other than Balmain bugs and squid (each the principal fish). A number of other fish may also be taken if they are taken incidentally while fishing for principal fish.

Part 3 prescribes conditions for M1, M2, T1 and T2 licences that relate to communication modes. Sections 8 and 9 require the licence holder to nominate a communication mode for the boat that is not vessel tracking equipment or the use of a radio, and take all reasonable steps when on the boat to ensure that they can be contacted by the chief executive or an inspector using the nominated method of communication.

Part 4 includes a number of conditions for particular east coast trawl fishery licences.

Division 1 describes the following particular areas with the fishery area:

- Brisbane River mouth area-north;
- Brisbane River mouth area-south;
- Brisbane River-Victoria Bridge to Juno Point area;
- Central area;
- Cleveland Bay area;
- Comboyuro Point to Caloundra Head area;
- Deep water net area;
- Facing Island area;
- Fisherman Island area;
- Fitzroy River mouth area;
- Great Sandy Strait area;
- Hervey Bay area;
- Keppel Bay area;
- Laguna Bay area;
- Llewellyn Bay area;
- Logan River area;
- M1 and M2 area;
- Moreton Bay (trawling);
- Northern area;
- Repulse Bay area;
- Sinclair Bay area;
- T1 area;
- T2 area;
- T5 area;
- T6 area;
- T7 area;
- T8 area;
- T9 area.

Division 2 prescribes conditions which apply to M1 and M2 licences and clarifies that permitted fish may only be taken in the M1 and M2 area of the east coast trawl fishery. Specifically, section 41 provides that fish may only be taken using beam trawl nets or otter trawl nets that comply with division 2. Sections 42-49 then provide specifics about trawl nets that must be met in order for the nets to be compliant. Other sections in the division require trawl nets to include or be used with BRDs and TEDs (unless the net is a try net), that the primary boat must not be longer than 14 metres and clarify when particular fishing apparatus or attachments can be possessed.

Division 3 prescribes conditions which apply to T1 licences and clarifies that permitted fish may only be taken in the T1 area. Section 56 provides that fish (other than scallops) may only be taken using beam trawl nets or otter trawl nets, and scallops may only be taken using otter trawl nets. Further, nets can only be used if the primary purpose is to take principal fish and if the net and its use comply with division 3. Sections 57-62 provide specifics about the physical characteristics of trawl nets that must be met in order for the nets to be compliant.

Division 3 also provides for the use of crab bags, a requirement for BRDs and TEDs to be used with nets (unless the net is a try net), that the primary boat must not be longer than 20 metres, and the use and possession of nets with fishing apparatus. For example, section 64 provides that if a beam, otter board or trawl sled (each a fishing apparatus) is

used with a net, the net may only be used if the trawl shoe of the beam, otter board or trawl sled is flat and smooth and no part of it, including anything attached to it, extends below the trawl shoe.

Division 4 prescribes conditions which apply to T2 licences and clarifies that permitted fish may only be taken in the T2 area. Specifically, section 71 provides that fish may only be taken using otter trawl nets and if the net and its use comply with division 4. Sections 72-76 then provide specifics about trawl nets that must be met in order for the nets to be deemed compliant. Other sections in the division require trawl nets to be used with BRDs and TEDs (unless the net is try net), provide for the use and possession of nets with fishing apparatus, provide for the use of crab bags and provide that the primary boat must not be longer than 20 metres.

Division 5 prescribes additional conditions which apply to T5 licences and clarifies that permitted fish may only be taken in the T5 area. Section 86 provides that in the Laguna Bay area, fish may only be taken using otter trawl nets while in other waters, fish may only be taken using beam trawl nets, and that irrespective of which net is used, the net and its use must comply with division 5. Sections 87-90 then provide specifics about trawl nets that must be met in order for the nets to be compliant.

Other sections in the division provide for the use of crab bags, provide that the primary boat must not be longer than 9 metres, and provide for the use and possession of nets with fishing apparatus. For example, section 91 provides that if a beam, otter board or trawl sled is used with a net, the net may only be used if the trawl shoe of the beam, otter board or trawl sled is flat and smooth and no part of it, including anything attached to it, extends below the trawl shoe. BRDs must be used with all nets in the fishery while TEDs must be used only with nets used in the Laguna Bay area.

Division 6 prescribes additional authorisations and conditions which apply to T6 licences and clarifies that permitted fish may only be taken in the T6 area. Section 98 provides that fish may only be taken using beam trawl nets and that the net and its use must comply with division 6. Sections 99-102 then provide specifics about trawl nets that must be met in order for the nets to be compliant.

Other sections in the division provide that the primary boat must not be longer than 9 metres and provide for the use and possession of nets with fishing apparatus. For example, section 103 provides that if a beam, otter board or trawl sled is used with a net, the net may only be used if the trawl shoe of the beam, otter board or trawl sled is flat and smooth and no part of it, including anything attached to it, extends below the trawl shoe. BRDs must be used with all nets in the fishery while TEDs must be used with nets other than in a river or creek.

Division 7 prescribes additional conditions which apply to T7 licences and clarifies that fish may only be taken in the T7 area of the east coast trawl fishery. Section 110 provides that fish may only be taken using beam trawl nets and that the net and its use must comply with division 7. Sections 111-114 then provide specifics about trawl nets that must be met in order for the nets to be compliant. Other sections in the division provide for the use and possession of nets with fishing apparatus, the possession of particular fishing apparatus or attachments, that the primary boat must not be longer than 9 metres, and that BRDs must be used with nets under division 7.

Division 8 prescribes additional conditions which apply to T8 licences and clarifies that fish may only be taken in the T8 area of the east coast trawl fishery. Section 121 provides that fish may only be taken using beam trawl nets and that the net and its use must comply with division 8. Sections 122-125 then provide specifics about trawl nets that must be met in order for the nets to be compliant. Other sections in the division provide for the use and possession of nets with fishing apparatus and provide that the primary boat must not be longer than 9 metres. BRDs must be used with all nets in the fishery while TEDs must be used with nets other than in a river or creek.

Division 9 prescribes additional conditions which apply to T9 licences and clarifies that fish may only be taken in the T9 area of the east coast trawl fishery. Section 133 provides that fish may only be taken using beam trawl nets and that the net and its use must comply with division 8. Sections 134-137 then provide specifics about trawl nets that must be met in order for the nets to be compliant. Other sections in the division provide for the use and possession of nets with fishing apparatus and provide that the primary boat must not be longer than 9 metres. BRDs must be used with all nets in the fishery while TEDs must, except in limited circumstances, be used with nets, other than in a river or creek.

Part 5 requires bycatch reduction devices (BRDs) to be used by certain licence holders. Section 144 provides the purpose of a BRD, while section 145 imposes a condition (the BRD condition) that requires licence holders to use a trawl net that meets the purpose of a BRD. Section 146 provides that if the BRD condition is met, the BRD is a 'recognised BRD'.

Divisions 3-5 of part 5 include a number of provisions about how the BRD condition can be met when using specific trawl nets for specific fish. Specifically, division 3 relates to BRDs for otter trawl nets used to trawl for prawns, division 4 relates to BRDs for otter trawl nets used to trawl for bugs other than Balmain bugs, and division 5 relates to beam trawl nets. The sections in these divisions contain requirements about the mesh size and opening sizes of nets to ensure the BRD condition is met.

Part 6 requires turtle excluder devices (TEDs) to be used by certain licence holders. Section 165 provides that the purpose of a TED is to allow turtles to escape immediately after being taken in a net, while section 166 imposes a condition (the TED condition) that requires all licence holders to use a trawl net that achieves the purpose of a TED. Section 166 and division 3 in part 5 contain requirements for TEDs that when satisfied, ensure the TED condition is met. Section 166 provides that if the TED condition is met, the TED is a 'recognised TED'.

Part 7 provides conditions about processing scallops for T1 licences. In particular, it provides that if processing a scallop involves more than sorting the scallop or removing half of the shell of the scallop, a person may process a scallop on a commercial fishing boat only if the processing takes place in the following waters (each of which is described in division 2) and the person in control of the boat is a commercial fisher:

- Tin Can Bay public wharf area;
- Parts of Hervey Bay;
- Burnett River from near Bundaberg to near Millaquin Sugar Mill;
- Area near Gladstone;
- Area near Yeppoon;
- Area near Bowen;
- Area west of Cape Cleveland;
- Area west of Magnetic Island;
- Part of North East Bay (Great Palm Island);
- Lucinda Services Jetty area.

Schedule 3: Commercial Line Fisheries

Schedule 3 is made up of four parts, each of which provides for a different commercial line fishery.

Part 1: Line fishery (other than Great Barrier Reef region)

Division 1 of part 1 introduces the line fishery (other than the Great Barrier Reef region) and provides that the fishery symbol is 'L1', and for the fishery area. Division 2 provides the authorisations of the licence including that fin fish other than spanish mackerel or regulated coral reef fin fish may be taken under the licence, that the fin fish may only be taken using fishing lines and other requirements about how the fish may be taken, and that the maximum permitted distance for an assistant fisher to be under direction of a commercial fisher is 5 nautical miles. Division 3 states conditions for the licence including that a primary boat must not be longer than 20 metres and that a tender boat must not be used more than 5 nautical miles from the primary boat.

Part 2: Line fishery (Great Barrier Reef region)

Division 1 of part 2 introduces the line fishery (Great Barrier Reef region) and provides that the fishery symbols are 'L2' and 'L3', and for the fishing area. Division 2 provides the authorisations of the licence including that fin fish, other than barramundi, spanish mackerel or regulated coral reef fin fish may be taken under the licence, that the fin fish may only be taken using fishing lines and other requirements about how the fish may be taken, and that the maximum permitted distance for an assistant fisher to be under direction of a commercial fisher is 5 nautical miles. Division 3 states conditions for the licence, including that a primary boat longer than 20 metres must not be used to take fish, that a tender boat must not be more than 5 nautical miles from the primary boat.

Part 3: Line fishery (Gulf of Carpentaria—spanish mackerel and other fin fish)

Division 1 of part 3 introduces the line fishery (Gulf of Carpentaria—spanish mackerel and other fin fish) and provides that the fishery symbol is 'L4', and for the fishery area. Division 2 provides the authorisations for the licence including that fin fish other than barramundi, black jewfish, blue threadfin, giant queenfish, king threadfin, scaly jewfish and silver javelin may be taken under the licence, that the fin fish may only be taken using fishing lines and other requirements about how the fish may be taken, and that the maximum permitted distance for an assistant fisher to be under direction of a commercial fisher is 10 nautical miles. Division 3 states conditions for the licence, including that a primary boat longer than 20 metres must not be used to take fish, that a tender boat must not be more than 10 nautical miles from the primary boat

Part 4: Line fishery (multiple hook—east coast)

Division 1 of part 4 introduces the line fishery (multiple hook—east coast) and provides that the fishery symbol is 'L8', and for the fishery area. Division 2 provides the authorisations for the licence, including that fin fish other than barramundi, snapper, spanish mackerel or regulated coral reef fin fish may be taken under the licence and how bottom set lines and drop lines may be used in the fishery, including the prohibition of using a bottom set line and drop line at the same time. Division 2 also provides that the maximum permitted distance for an assistant fisher to be under direction of a commercial fisher is 800 metres. Division 3 states conditions for the licence, including that a primary

boat longer than 20 metres must not be used to take fish and that a tender boat must not be more than 800 metres from the primary boat.

Schedule 4: Commercial Net Fisheries

Schedule 4 is made up of nine parts, each of which provides for a different commercial net fishery. The specific policy objective of prohibiting the use of net apparatus to take snapper is achieved by clarifying that the fishery activities of any commercial net fishery does not include fishing for snapper

Part 1: General netting and ocean beach fisheries

Part 1 introduces the general netting and ocean beach fisheries and provides for the following fisheries and symbols, each of which has a unique fishery area:

- the net fishery (general netting and ocean beach—area 1) for which the fishery symbol is 'K1';
- the net fishery (general netting and ocean beach—area 2) for which the fishery symbol is 'K2';
- the net fishery (general netting and ocean beach—area 3) for which the fishery symbol is 'K3';
- the net fishery (general netting and ocean beach—area 4) for which the fishery symbol is 'K4';
- the net fishery (general netting and ocean beach—area 5) for which the fishery symbol is 'K5';
- the net fishery (general netting and ocean beach—area 6) for which the fishery symbol is 'K6';
- the net fishery (general netting and ocean beach—area 7) for which the fishery symbol is 'K7'; and
- the net fishery (general netting and ocean beach—area 8) for which the fishery symbol is 'K8'.

The authorisations and conditions for all of these fisheries are the same and are provided in part 1, division 9. Subdivision 1 provides the authorisations while subdivision 2 provides conditions. Authorisations of the licence include that any fish, other than barramundi, regulated coral reef fin fish or snapper may be taken under the licence, and that fish may only be taken from 1 April to 31 August using a seine net. Other authorisations provide for who may take the fish, specifications for seine nets, and that assistant fishers must not be more than 800 metres from the commercial fisher. Conditions for the licence include that primary boats longer than 14 metres must not be used, and that tender boats must not be more than 800 metres from the primary boat.

Part 2: Net fishery (east coast no. 1)

Part 2 introduces the net fishery (east coast no. 1) and provides that the fishery symbols for the net fishery (east coast no. 1) are 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7', 'K8', 'N2', 'N4' and 'N10' and for the fishery area. Division 2 provides the authorisations for the fishery, including that the fishery activity is comprised of fishing for any fish other than barramundi, regulated coral reef fin fish or snapper. Section 41 provides that fish may only be taken using mesh nets or set pocket nets in the way stated in subdivisions 3-5. Assistant fishers must not be more than 800 meters from the commercial fisher. Subdivisions 3-5 include a number of provisions about the specifications required for mesh nets and set pocket nets.

Division 3 provides conditions for the licence, including requiring that nets are marked in a certain way. Other conditions provide that the primary boat must not be longer than 14 metres unless the licence has the 'N4' symbol on it (in which case it must not be longer than 16 metres) and that tender boats must not be more than 800 metres from the primary boat.

Part 3: Net fishery (east coast no. 2)

Part 3 introduces the net fishery (east coast no. 2) and provides that the fishery symbol for the net fishery (east coast no. 3) is 'N2' and for the fishery area. Division 2 provides the authorisations for the fishery, including that the fishery activity is comprised of fishing for any fish other than regulated coral reef fin fish or snapper. Section 62 provides for how fish may be taken and specifies that only set mesh nets should be used and how they are to be used. Other provisions prescribe how set mesh nets should be used in specific areas within the fishery area and that the maximum permitted distance for an assistant fisher to be from the commercial fisher is 800 metres.

Division 3 provides conditions for the licence, including nets must be marked, the primary boat must not be longer than 14 metres or 16 metres if the licence also has the 'N4' symbol on it; and tender boats must not be more than 800 metres from the primary boat.

Part 4: Net fishery (east coast no. 3)

Part 4 introduces the net fishery (east coast no. 3) and provides that the fishery symbol for the net fishery (east coast no. 3) is 'N4' and for the fishery area. Division 2 provides authorisations for the fishery, including that the fishery activity is comprised of fishing for any fish other than barramundi, regulated coral reef fin fish or snapper. Section 77 provides that fish may only be taken using set mesh nets or nets that are neither fixed nor hauled, and prohibits the setting of nets in particular areas such as in a marked navigation channel. Other provisions in division 2 provide for how mesh nets may be used in particular waters, and that the maximum permitted distance for an assistant fisher to be from the commercial fisher is 800 metres. Division 3 provides conditions for the licence, including that the primary boat must not be longer than 16 metres, that nets must be marked in a certain way, and tender boats must not be more than 800 metres from the primary boat.

Part 5: Net fishery (east coast no. 4)

Part 5 introduces the net fishery (east coast no. 4) and provides that the fishery symbol for the net fishery (east coast no. 4) is 'N10' and for the fishery area. Division 2 provides authorisations for the fishery, including that the fishery activity is comprised of fishing for any fish, other than barramundi, regulated coral reef fin fish or snapper. Section 91 provides that fish may only be taken by using a tunnel net and that a commercial fisher and at least one other fisher must be within 100 metres of the net while it is in use. Section 92 provides how a tunnel net may be used. Division 2 also provides that assistant fishers must not be more than 1700 metres from the commercial fisher. Division 3 provides conditions for the licence, including that the primary boat must not be longer than 14 metres, that nets must be marked in a certain way, and that tender boats must not be more than 1700 metres from the primary boat.

Part 6: Net fishery (Gulf of Carpentaria no. 1)

Part 6 introduces the net fishery (Gulf of Carpentaria no. 1) and provides that the fishery symbol for the net fishery (Gulf of Carpentaria no. 1) is 'N3' and for the fishery area. Division 2 provides the authorisations for the fishery, including that the fishery activity is comprised of fishing for barramundi, barred javelin, black jewfish, blue threadfin, king threadfin, queenfish, scaly jewfish (the specified fish) and other fin fish, excluding regulated coral reef fin fish, if the fish are taken while taking the specified fish. Division 2 also provides that fish may only be taken using a set mesh net, when fish may be taken, that bottom set nets must not be used in offshore waters, the use of set nets and that the maximum permitted distance for an assistant fisher to be from a commercial fisher is 5 nautical miles. Division 3 provides conditions for the licence, including that the primary boat must not be longer than 14 metres, and that set nets must be marked.

Part 7: Net fishery (no. 11)

Part 7 introduces the net fishery (no. 11) and provides that the fishery symbol for the net fishery (no. 11) is 'N11' and for the eastern N11 fishery area and Gulf N11 fishery area. Division 2 provides that authorisations for the fishery, including that in the eastern N11 fishery area, the fishery activity is comprised of fishing for barramundi, regulated coral reef fin fish or snapper and in the Gulf N11 fishery area, the fishery activity includes fishing for garfish, mullet or other fin fish excluding barramundi, regulated coral reef fin fish or snapper, but only if the fish are taken while taking garfish or mullet.

Division 2 also provides how fish may be taken, including, for example, a prohibition on the use of a power assisted device with a net in the Gulf N11 area. Division 2 also prescribes that fish can only be taken in the eastern N11 area by using cast nets or mesh nets, and in the Gulf 'N11' area using cast nets, mesh nets, scoop nets or seine nets, and provide for how the nets may be used and that assistant fishers must not be more than 800 metres from the commercial fisher in the eastern N11 area or 6 nautical miles in the Gulf N11 area. Division 3 provides the conditions for the licence, including that a primary boat must not be longer than 20 metres, that nets must be marked in the way specified, and that tender boats must not be more than 800 metres from the primary boat in the eastern N11 area or 6 nautical miles in the Gulf N11 area.

Part 8: Net fishery (Gulf of Carpentaria no. 3)

Part 8 introduces the net fishery (Gulf of Carpentaria no. 3) and provides that the fishery symbol for the net fishery (Gulf of Carpentaria no. 3) is 'N12' and for the fishery area. Division 2 provides the authorisations for the licence including that the fishery activity is comprised of fishing for barred javelin, black jewfish, blue threadfin, grey mackerel, king threadfin, queenfish, scaly jewfish, shark (other than white shark, sandtiger shark or speartooth shark) and other fin fish (excluding barramundi and regulated coral reef fin fish) but only if the other fin fish are taken while taking those fish that can be targeted in the fishery.

Division 2 also provides that fish may only be taken using a set mesh net and that a power assisted device may be used with the net in specific circumstances, how nets may be used, a prohibition on the use of a net in a barramundi (Gulf) regulated period, and that the maximum permitted distance for an assistant fisher to be under the direction of a commercial fisher is 6 nautical miles. Division 3 provides conditions for the licence including that nets must be marked that a primary boat must not be longer than 25 metres, and that a tender boat must not be more than 6 nautical miles from the primary boat.

Part 9: Net fishery (Gulf of Carpentaria no. 4)

Part 9 introduces the net fishery (Gulf of Carpentaria no. 3) and provides that the fishery symbol for the net fishery (Gulf of Carpentaria no. 4) is 'N13' and for the fishery area. Division 2 provides the authorisations for the licence including that the fishery activity is comprised of fishing for barred javelin, black jewfish, blue threadfin, grey mackerel, king threadfin, Queenfish, scaly jewfish, shark (other than white shark, sandtiger shark or speartooth shark) and other fin fish, excluding barramundi and regulated coral reef fin fish, but only if the other fin fish are taken while taking those fish that can be targeted in the fishery.

Division 2 also provides that fish may only be taken using a set mesh net and that a power assisted device may be used in specific circumstances. Division 3 then goes on to provide for how nets may be used, including a prohibition on the use of nets in a barramundi (Gulf) regulated period, and that an assistant fisher must not be more than 6 nautical miles from the commercial fisher. Division 3 provides conditions for the licence including that the primary boat must not be longer than 25 metres, that nets may only be used if they meet certain requirements, that nets must be marked, and that tender boats must not be more than 6 nautical miles from the primary boat.

Schedule 5: Spanish mackerel commercial fishery

Schedule 5 introduces the spanish mackerel commercial fishery. Section 1 inserts a definition of 'relevant line fishery' that applies for the purposes of schedule 1. Part 2 provides that the fishery symbol for the fishery is 'SM', that the fishing activity is comprised of fishing for Spanish mackerel, and provides for the fishery area. Part 3 includes a number of provisions relating to the authorisations under SM licences, including that spanish mackerel may only be taken using fishing line and with unused SM unit entitlements.

Part 4 provides conditions for licences with the 'SM' symbol written on them, including the use of primary and tender boats and permitted maximum distances for assistant fishers, and part 5 provides conditions for SM units and the commercial fisher licence if the person is acting under SM units held by another person. Section 14 inserts a number of definitions that apply for the purposes of the part and section 15 requires any notices given under the part to be given using the automated interactive voice response (AIVR) system or another way approved by the chief executive.

Divisions 2 and 3 of part 5 relate to prior notices for spanish mackerel. Specifically, division 2 provides the circumstances when a prior notice is to be given, when a prior notice must be given, what must be stated in the prior notice, a requirement to give replacement prior notice if the unloading particulars change, and the circumstances in which an amending or withdrawal of prior notice must be given. Division 3 provides the requirements for after the prior notice has been given, including the actions a person must take if the prior notice stated spanish mackerel will be unloaded, and the requirement to give a retained fish notice or a transshipment notice in certain circumstances. Additional requirements are also prescribed if the prior notice had stated that the fish were to be unloaded before leaving the unloading area for the landing place.

Division 4 includes provisions that relate to unloading spanish mackerel, including different requirements for when a prior notice has or has not been given, requirements for weighing unloaded spanish mackerel and the requirement to give an unloaded fish notice.

Schedule 6: Reef line commercial fishery

Schedule 6 introduces the reef line commercial fishery. Section 1 in part 1, inserts a definition of 'relevant line fishery' that applies for the purpose of the schedule and part 2 provides that the fishery symbol for the fishery is 'RQ' and for the fishery area. Part 3 provides the authorisations for the licence, including that the fishery activity is comprised of fishing for regulated coral reef fin fish other than regulated coral trout and red emperor if an 'L8' is also written on the licence, or any regulated coral reef fish if an 'L1', 'L2', or 'L3' is also written on the licence. Section 7 provides that regulated coral reef fin fish may only be taken or possessed if the holder holds for the fish, the relevant line units with unused entitlements for the line year.

Part 3 also provides that regulated coral reef fin fish may only be taken by line in the way fish may be taken in the relevant line fishery for the licence and the maximum permitted distance for assistant fishers to be under the direction of a commercial fisher (which differ depending on the combination of fishery symbols written on the licence). Part 4 provides conditions for the licence including fish identification requirements, primary and tender boat requirements (which differ depending on the combination of fishery symbols written on the licence), and when transshipping may occur. Generally, the requirement relating to fish identification is that the person in control of the boat must ensure the container that holds the fish is clearly and legibly marked with the type and number of fish contained inside the container.

Part 5 provides conditions for line units and the commercial fisher licence if the person is acting under line units held by another person. Section 15 inserts a number of definitions that apply for the purposes of the part and section 16 requires any notices given under the part to be given using the AIVR system or another way approved by the chief executive.

Divisions 2 and 3 of part 5 relate to prior notices for regulated coral reef fin fish. Specifically, division 2 provides the requirements for giving prior notice of regulated coral reef fin fish, including what must be stated in the prior notice, and division 3 provides the requirements for after the prior notice has been given, including the actions a person must take if the prior notice stated regulated coral reef fin fish will be unloaded. Division 4 includes provisions that relate to unloading regulated coral reef fin fish, including different requirements for when a prior notice has or has not been given, requirements for weighing unloaded regulated coral reef fin fish and the requirement to give an unloaded fish notice.

Schedule 7: Commercial crab fishery

Schedule 7 includes three parts, each of which provides for a different crab fishery area.

Part 1: Commercial crab fishery

Division 1 introduces the commercial crab fishery and provides that the fishery symbol for the commercial crab fishery is 'C1' and for the fishery area. Division 2 provides the authorisations for the licence, including that the fish that are authorised to be taken are crabs other than spanner crabs. Division 2 also authorises that crabs can only be taken using a crab pot, collapsible trap or dilly (each of which is an item of crab apparatus), and the number and the way crab apparatus must be used, including in particular waters. A maximum number of 50 crab apparatus can be possessed at the same time on a boat in the fishery area unless there is more than one C1 symbol is written on the licence that the commercial fisher is acting under. If the commercial fisher is acting under a licence on

which more than 1 C1 symbol is written on the licence, then 100 crab apparatus may be possessed on the boat. The maximum permitted distance for an assistant fisher to be under direction of a commercial fisher is 800 metres.

Division 3 provides conditions for the licence, including that the primary boat must not be longer than 14 metres, that tender boats must not be more than 800 metres from the primary boat, and that crab apparatus are marked in a certain way.

Part 2: Commercial spanner crab fishery (managed area A)

Division 1 introduces the commercial spanner crab fishery (managed area A) and provides that the fishery symbol for the commercial spanner crab fishery (managed area A) is 'C2' and for the fishery area. Division 2 provides the authorisations for the licence, including that spanner crabs may be taken under the licence. If a person is authorised to take spanner crabs under a licence on which fishery symbols 'C2' and 'C3' are written, the person can only fish under the 'C2' symbol if any crabs taken under the 'C3' symbol are first brought ashore to the mainland. Division 2 also provides that spanner crabs may only be taken using a specified number of dillies, and that a commercial fisher must not possess more than 85 dillies on a boat in the fishery area. The maximum permitted distance for an assistant fisher to be under the direction of a commercial fisher is 800 metres.

The objective of recognising that where there is at least two crew on board a commercial fishing vessel a larger quantity of undersized spanner crabs can be appropriately handled is achieved in section 20 which provides that a person acting under the licence must not use between 51 and 75 dillies at a time unless there are two crew or more on board the commercial fishing vessel. It also provides that up to 35 spare dillies can be carried on single crew vessels and up to 10 spare dillies can be carried on a dual crew vessel. This is an amendment to the expired Regulation where a commercial fisher could not possess more than 50 dillies, and could not use more than 45 dillies at a time.

Division 3 provides how dillies may be used and other requirements for dillies, including that a dilly's net must have only 1 layer of mesh and each mesh in the layer must be square or rectangular, and that the mesh size of the net must be at least 25mm. Division 4 provides conditions for the licence including that primary boats longer than 20 metres must not be used, the way dillies must be marked, and that a tender boat must not be longer than 7 metres or used more than 800 metres from the primary boat.

Part 3: Commercial spanner crab fishery (managed area B)

Division 1 introduces the commercial spanner crab fishery (managed area B) and provides that the fishery symbol for the commercial spanner crab fishery (managed area B) is 'C3' and for the fishery area. Division 2 provides the authorisations for the licence, including that the fishery activity is comprised of fishing for spanner crabs, and that a person authorised to take spanner crabs under a licence on which fishery symbols 'C2' and 'C3' are written can only fish under the 'C3' symbol if any crabs taken under the 'C2' symbol are first brought ashore on the mainland.

Division 2 also provides that spanner crabs may only be taken using a specified number of dillies and only if the dilly complies with certain requirements, that a commercial fisher must not possess more than 35 dillies on a boat in the fishery area, or use more than 30 dillies at the same time, and provides for where the fish can be brought ashore. The

maximum permitted distance for an assistant fisher to be under the direction of a commercial fisher is 800 metres. A daily quota entitlement of 16 containers of spanner crab is prescribed.

Division 3 provides the requirements that must be met for dillies to be used in the fishery, including that a dilly must have an area within its frame of no more than 1m² and a net drop below its frame of no more than 10cm. Division 4 provides conditions for the licence including that primary boats longer than 20 metres must not be used, the way dillies must be marked, and that a tender boat must not be longer than 7 metres or used more than 800 metres from the primary boat.

Schedule 8: Other commercial fisheries

Schedule 8 includes three parts, each of which provides for a different commercial fishery.

Part 1: Commercial crayfish and rocklobster fishery

Part 1 introduces the commercial crayfish and rocklobster fishery. Division 1 provides that the symbol for the commercial crayfish and rocklobster fishery is 'R' and for the fishery area. Division 2 provides the authorisations of the licence, including that the fish authorised to be taken under the licence are red champagne lobster and tropical rocklobster.

Division 2 also provides how the lobster may be taken, that the annual quota of fish that may be taken is the quota stated on the licence, and that an assistant fisher must not be more than 5 nautical miles from the commercial fisher unless the commercial fishery is fishing on a reef, in which case an assistant fisher must not be more than 5 nautical miles from the reef. Division 3 provides conditions for the licence, including that a primary boat longer than 25 metres must not be used, and that a tender boat must not be more than 5 nautical miles from the primary boat unless the primary boat is located on a reef, in which case a tender boat must not be more than 5 nautical miles from the reef.

Part 2: Commercial shark and ray fishery

Part 2 introduces the commercial shark and ray fishery. Division 2 provides that the symbol for the commercial shark and ray fishery is 'S'. Division 3 provides the authorisations of the licence including that the fish authorised to be taken under the licence are rays and shark, other than white shark, sandtiger shark or speartooth shark. Division 3 also provides how the fish may be taken. The fishery is prescribed for the purpose of differentiated regulated fish declarations contained in the *Fisheries Declaration 2019*.

Part 3: Commercial trawl fishery (fin fish)

Part 2 introduces the commercial trawl fishery (fin fish). Division 1 provides that the symbol for the commercial trawl fishery (fin fish) is 'T4', the fishery area. Division 2 provides the authorisations of the licence including that the fish authorised to be taken under the licence is red spot whiting or stout whiting, or any of the following fish if they are taken while taking red spot whiting or stout whiting:

- balmain bug;
- cuttlefish;
- goatfish;
- Moreton Bay bug;
- octopus;
- squid;
- threadfin bream;
- yellowtail scad.

Division 2 also provides for how fish may be taken, including the type of nets that may be used, and establishes an annual quota entitlement for goatfish and yellowtail scad that may be taken under a licence in a T4-ITQ year. Division 3 includes conditions for T4-ITQ units and the commercial fisher licence if the person is acting under T4-ITQ units held by another person. Notably, section 23 requires that the person must have T4-ITQ units with unused entitlements for the T4-ITQ year before taking or possessing fish. Section 26 inserts a number of definitions that apply for the purposes of the division and section 27 requires any notices given under the part to be given using the AIVR system or another way approved by the chief executive.

Subdivisions 2 and 3 of division 3 relate to prior notices for the fish. Specifically, subdivision 2 provides the requirements for giving prior notice of the fish, including what must be stated in the prior notice, and subdivision 3 provides the requirements for after the prior notice has been given, including the actions a person must take if the prior notice stated the fish will be unloaded. Subdivision 4 includes provisions that relate to unloading the fish, including different requirements for when a prior notice has or has not been given, requirements for weighing unloaded fish and the requirement to give an unloaded fish notice.

Schedule 9: Defined port areas

Schedule 9 lists the defined port areas that are relevant to commercial fisheries. Generally, defined port areas are specified areas where certain activities can be carried out in a less restrictive way than in non-defined port areas. For example, in most cases if the landing place of a vessel is within a defined port area, fish can be unloaded anywhere within a defined port area, but if the landing place of a vessel is not within a defined port area, the fish can only be unloaded in an area that is within 0.5 nautical miles of the landing place. Defined port areas have other similar purposes that apply throughout the Commercial Fisheries Regulation. The defined port areas are:

- Southport port area
- Brisbane port area
- Mooloolaba port area
- Tin Can Bay port area
- Urangan port area
- Bundaberg port area
- Gladstone port area
- Roslyn Bay port area
- Mackay port area
- Bowen port area
- Townsville port area
- Lucinda port area
- Mourilyan port area
- Innisfail port area
- Cairns port area
- Port Douglas port area
- Cooktown port area

Schedule 10: Effort unit conversion factor for boats

Schedule 10 lists the effort unit conversion factor for boats for the purpose of determining how many effort units for a fishing day are used. Section 70 provides that the formula for determining the number of effort units used on a fishing day is 1 multiplied by the effort unit conversion factor for the boat used. For example, if on any given day fishing occurs off a boat that has 19 hull units, the effort unit conversion factor for the boat is 23. Using the above formula, the effort units used on a fishing day is therefore 1×23 , which equates to 23 effort units for the fishing day.

Schedule 11: Dictionary

Schedule 11 is the dictionary for the Commercial Fisheries Regulation.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main purpose of the *Fisheries Act 1994* 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 consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Under the *Statutory Instruments Act 1992*, the expired Regulation could not be continued beyond 31 August 2019. Three alternatives in regard to the expiry of the expired Regulation were considered.

Alternative 1 – No regulation

Although no legislative intervention may be considered an alternative management mechanism, it raises serious difficulties. Fisheries resources are common property resources managed by the Queensland Government on behalf of the broader community. A regulatory approach to management of Queensland's fisheries is consistent with that used in other jurisdictions both nationally and internationally and remains the most appropriate means of ensuring the long-term sustainability of Queensland's fisheries resources.

There is a legitimate concern that where access to fisheries resources is unregulated, there is little incentive for fishers to use fish stocks responsibly which may lead to resource depletion or social and economic inefficiency. Ultimately it may also result in the collapse of the commercial fishing industry with regional economic consequent impacts in Queensland. Additionally, the failure to have regulations would be inconsistent with the objectives of the *Fisheries Act 1994*.

For these reasons, the alternative of 'no regulations' is considered an unviable option.

Alternative 2 – Replacing the expired Regulation with a single new instrument containing essentially the same provisions

Replacing the expired Regulation with a single new instrument containing essentially the same regulations is a viable option. However, splitting the regulations between two instruments was preferred because it differentiates those regulations that do not directly impact those who are not involved in commercial fishing. Failing to implement reforms to achieve the specific objectives would fail to deliver on the principles and commitments outlined in the Strategy or meet the expectation of the community for sustainable fisheries in Queensland.

Alternative 3 — Replacing the expired Regulation with the General Fisheries Regulation and Commercial Fisheries Regulation

Where the expired Regulation was all encompassing, the Commercial Fisheries Regulation and General Fisheries Regulation deliver a more strategic and modern regulatory approach to the management of Queensland's fisheries resources. In particular, the Commercial Fisheries Regulation and General Fisheries Regulation deal with different aspects of fisheries management.

Replacing the expired Regulation with the General Fisheries Regulation and Commercial Fisheries Regulation best meets the Government's commitments to "Review the Fisheries Act 1994 and Fisheries Regulation 2008 to create a legislative framework for recreational and commercial fishers that is contemporary, simple to understand reflective of community expectations".

Benefits and costs of implementation

The Commercial Fisheries Regulation contains matters that are relevant only to commercial fishing and commercial fishing licence holders. In particular, management arrangements specific to each commercial fishery are set out in a series of schedules to the Commercial Fisheries Regulation more clearly outlining requirements for specific fisheries. By making it easier to find the relevant provisions in fisheries subordinate legislation, and compare how different commercial fisheries are managed, this new approach will foster greater consistency in management across all commercial fisheries, improve compliance and minimise the risk of unnecessary restrictions and red tape in the future.

Implementing the fisheries reforms and urgent sustainability actions aligns with the Directions Paper and Strategy. They are intended to support the implementation of a modern and responsive management system for Queensland's fisheries that is transparent, consultative, and based on the best available data. Many of these changes set the framework to enable harvest to be managed effectively under harvest strategies. It is anticipated that the proposed changes will result in more resilient, sustainable fisheries; a better recreational fishing experience; a profitable commercial fishing sector; less regulatory burden generally; and improved stakeholder engagement.

In releasing the final Discussion Paper, a Supporting Impact Statement was also released outlining the objectives, summarising the consideration of options over the last 18 months, the benefits and impacts of the proposed changes and additional analysis of the more significant proposed changes. Most of the amendments implementing the initial fishery reforms will not have a significant impact on commercial fishers:

- Clarification of how seagrass must be handled will ensure that bloodworm fishers handle seagrass that they have disturbed during fishing activities in a way that enhances the chance of survival and therefore benefits the fishery in the future. It simply requires commercial fishers to apply best management practice and minimise the disturbance of seagrass while harvesting. There is no impact on access or harvesting levels.

- Limiting C2 fishery symbols will provide greater consistency between all commercial fisheries and is unlikely to have a significant impact on fishers. While no new C2 symbols would be issued, the existing C2 symbols, which are in excess of the current number of active fishing platforms, can still be transferred between commercial fishing licences. There is no impact on the quota unit value.

There are no new fees, offences or financial costs associated with the Commercial Fisheries Regulation other than those that existed under the expired Regulation.

The proposed amendments to implement urgent sustainability measures for snapper will impact some commercial fishers, in particular those taking snapper by net. However, the net catch of these species is small and consequently prohibiting it is unlikely to have a significant economic impact but will ensure the catch doesn't increase. As a guide over the last 10 years the average net-catch has been two tonnes with some better years up to four or six tonnes. Any cost associated with the urgent management action now is expected to be offset in the long-term when stocks are rebuilt to sustainable levels. Prohibiting the use of nets to take snapper is an important component of a suite of measures that aim to immediately limit and reduce fishing pressure to halt any further stock declines, protect the spawning stock, be consistent with a rebuilding strategy and apply the rebuilding strategy to all sectors based on their catch share.

Consistency with fundamental legislative principles

The Commercial Fisheries Regulation has been drafted with regard to, and is consistent with, the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (LSA). Any potential breaches of FLPs are addressed below.

Legislation should have sufficient regard to rights and liberties of individuals – LSA section 4(2)(a)

Consequences should be proportionate and relevant to the actions

Three offences that existed in the expired Regulation have been replicated in the Commercial Fisheries Regulation in sections 22, 23 and 31.

Section 22 (Interfering with ocean beach fishery flag) provides that it is an offence for a person, other than the commercial fisher or assistant fisher who has placed the ocean beach fishery flag, to remove or otherwise interfere with the ocean beach fishery flag.

Section 23 (Obstructing exercise of a fishing priority) provides that it is an offence to obstruct a commercial fisher in exercising a fishing priority, unless the person has a reasonable excuse.

Sections 22 and 23 replicate the offences that were prescribed in sections 240 and 241 of the expired Regulation. These sections are justified to reduce potential conflict because both acts involve interfering with a person's right to take fish for trade or commerce and affect a person's livelihood.

Section 31 (Particulars to be legible, visible and in English) replicates the offence that was prescribed in section 642 of the expired Regulation. It provides that it is an offence for persons to not write or mark particulars in or on documents or things legibly, visibly and in

English. The section is justified to detect unlawful activity which may severely impact sustainability of fisheries resources.

The maximum penalty of 20 penalty units for each of the three offences, has not been changed compared to the expired Regulation. The maximum penalty for each offence is of an appropriate level to reflect the seriousness of interfering with a person's livelihood.

Legislation should not, without sufficient justification, unduly restrict ordinary activity including the right to conduct business without interference

Authorisations and conditions of commercial fishing boat licences, commercial harvest fishery licences and fishery symbols

While the General Fisheries Regulation provides for the type of authorities that may be issued, including commercial fisher licences, commercial fishing boat licences and commercial harvest fishery licences, the Commercial Fisheries Regulation imposes the limits on what can be carried out under these licences as 'authorisations' and 'conditions'. The authorisations and conditions for these types of licences that apply generally are contained in chapters 2 and 3.

Additional authorisations and conditions apply to commercial fishing boat licences and commercial harvest fishery licences depending on what fishery symbols are written on the licence. The authorisations and conditions for commercial harvest fishery licences that only apply if a certain fishery symbol is written on the licence are contained in schedule 1. For example, if 'D' is written on a commercial harvest fishery licence, the authorisations and conditions contained in schedule 1, part 3 also apply to the licence. The authorisations and conditions for commercial fishing boat licences, that only apply if a certain fishery symbol is written on the licence, are contained in schedules 2-8.

A potential breach of FLPs arises because the authorisations and conditions that apply to commercial fisher licences, commercial fishing boat licences and commercial harvest fishery licences have the potential to unduly restrict the right to conduct business without interference. However, the authorisations and conditions imposed on these licences is justified on the basis that they support a sustainable commercial fishing industry.

Restriction on writing new fishery symbols on commercial fishing boat licences and commercial harvest fishery licences

Chapter 3, part 4 provides the following restrictions on writing fishery symbols on commercial fishing boat licences and commercial harvest fishery licences:

- Section 54: Restriction on writing a fishery symbol on a licence unless a primary commercial fishing boat is identified in the licence;
- Section 55: General restriction on writing fishery symbols on new licences unless it is because of a movement application or replacement of a licence;
- Section 56: Restriction on writing multiple fishery symbols;
- Section 57: Restriction on writing the 'N3', 'N12', and 'N13' symbols on certain licences;
- Section 58: Restrictions on writing certain east coast trawl fishery symbols;
- Section 59: Restrictions on writing particular east coast trawl fishery symbols on licences allowing the use of boats of particular types; and

- Section 60: Restriction on writing fishery symbols on licences allowing the use of boats of particular lengths.

The potential breach of FLPs arises because these restrictions on writing fishery symbols may be seen to unduly restrict the right to conduct business without interference. However, the restrictions are justified because they keep the entry to commercial fisheries limited which ensures the value of commercial fishing boat licences and commercial harvest fishery licences is maintained and supports a sustainable commercial fishery industry.

Quota fisheries

The Commercial Fisheries Regulation provides that the 'T1', 'T2', 'SM', 'CT', 'OS', 'RTE', 'ITQ' and 'T4-ITQ' fishery symbols are each quota fisheries. The effect of this is that for each of these fisheries there is a finite 'quota' that is distributed unequally amongst licence holders, and once licence holders have used their quota, they are no longer able to carry out the activities authorised under the licence for that fishery symbol. For example, if a person holds a quota for the SM fishery, once the person fishes their entire quota allocation, they are no longer allowed to take fish under that fishery.

This potentially breaches FLPs because it limits the total amount of fish that can be taken under certain licences, and consequently limits the portion of the total amount of fish that a single licence holder may take. However, this limitation is justified on the basis that without having a quota for the fishery, the species may become overfished and the longevity of the commercial fishery may become jeopardised.

Legislation should not reverse the onus of proof in criminal proceedings without adequate justification - LSA section 4(3)(d)

Provisions relating to evidentiary aids that existed in the expired Regulation have been replicated in chapter 4, part 1, division 4 of the Commercial Fisheries Regulation.

Section 74 provides that detection by vessel tracking equipment or manual reporting of a boat identified in a 'T1' or 'T2' licence at any time during a day in a prescribed area is evidence that the licence holder has used the boat for a whole fishing or steaming day and will result in a deduction of effort units. Section 82 provides for a deduction of effort units if there has not been any detection by vessel tracking equipment or manual reporting of a boat identified in a 'T1' or 'T2' licence at any time during a day.

Both of these sections also provide that the deduction of effort units will not apply if the licence holder satisfies the chief executive via written notice the boat was not used on the relevant day, which reverses the onus of proof and therefore potentially breaches an FLP. However, the reversal of the onus of proof is justified because the offences involve matters which would be within the defendant's knowledge and/or on which evidence would be available to them.

Legislation should allow the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons and if authorised by an Act - LSA, section 4(5)(e)

Section 81 of the Commercial Fisheries Regulation replicates section 392CD of the expired Regulation. It relates to section 74 which provides that detection by vessel tracking equipment or manual reporting of a boat identified in a 'T1' or 'T2' licence at any time

during a day in a prescribed area is evidence that the licence holder has used the boat for a whole fishing or steaming day and will result in a deduction of effort units. However, this automatic deduction does not apply if the licence holder satisfies the chief executive via notice that the boat was not used on the relevant day. Section 81 provides that one of the ways the notice may be given to the chief executive is using vessel tracking equipment, and that the chief executive may make guidelines about how to give the notice using vessel tracking equipment. The notice is taken to have been given using vessel tracking equipment if, to the extent they are relevant, the guidelines are complied with.

The potential breach of FLPs relates to whether the legislation has sufficient regard to the institution of Parliament by allowing the deduction of effort units to be dependent on a guideline that is not subject to Parliamentary scrutiny.

It is not mandatory that the chief executive make guidelines or that the licence holder complies with them but where a guideline is made it assists licence holders in complying with the notice requirements. This guideline approach is justified because it can facilitate internal and external reviews where the guidelines may be put into evidence to demonstrate that the licence holder complied with the notice requirements.

Additionally the guideline approach is justified because it would be overly burdensome on Parliament's time to consider changes to the guidelines each time they occur. It is more practical and timely for the chief executive to exercise administrative power to make and amend guidelines based on the chief executive's expertise and knowledge.

Consultation

Since the release of the Strategy in 2017, extensive consultation on fisheries reforms has been undertaken. 10 Fishery-specific working groups have met 41 times since late 2017 and the Sustainable Fisheries Expert Panel (the Panel) have met eight times. Both have been integral to the engagement approach on the fisheries reforms. A meeting communiqué has been published on Department of Agriculture and Fishery's website and promulgated via social media following each meeting.

In January 2019, the Government released the Directions Paper outlining reforms for the trawl, crab and east coast inshore fisheries. In June 2019, this was followed by a final Discussion Paper and Supporting Impact Statement released for consultation for four weeks, closing on 19 July 2019, seeking feedback from all stakeholders on proposed regulatory changes to implement the fisheries reforms. It outlined 102 proposed amendments focussing on:

- *Implementing the fisheries reforms – essential for long-term sustainability and profitability.* Proposed changes include matters that will apply across all sectors, and commercial fishing, charter fishing, recreational tidal and freshwater fishing sectors only (e.g. splitting fisheries in management regions, total allowable commercial catch limits, in-possession limits, general possession limits and boat limits).
- *Urgent sustainability actions – taking the pressure off snapper and pearl perch.* Proposed changes include seasonal closures and changes to size and in-possession limit for pearl perch.
- *Standardising fishing rules and supporting compliance.* Proposed changes include strengthening management of black jewfish, standardising reporting requirements, consolidating and clarifying vessel requirements, and standardising fishery closure provisions.

- *Reducing red tape and removing unnecessary restrictions.* Proposed changes include enabling online licensing transactions and removing unnecessary restrictions.

1245 responses were received along with more than 20,000 Net Free North campaign emails through World Wide Fund for Nature, and 3,000 campaign emails supporting the fisheries reforms and seeking changes to reduce the impact of commercial netting on protected species through Australian Marine Conservation Society. Of the 989 online survey responses, 272 were from commercial fishers, 619 were from recreational fishers and 22 were from charter fishers.

Overall, there was good support for the majority of the reforms being delivered initially, (39 of the total 102 that were proposed). Of these, only a small number are being progressed in the Commercial Fisheries Regulation.

For the following specific policy objectives, limited feedback was received:

- aligning the quota year for Queensland's quota-managed fisheries by adjusting the Spanner Crab Fishery quota year;
- making entry to commercial fisheries consistent (limited) by limiting the number of C2 fishery symbols issued;
- clarifying the limited entry nature of commercial fisheries;
- enhancing the chance of survival for seagrass after taking bloodworms by clarifying how seagrass must be handled;
- increasing transparency for legitimate commercial fishing activities conducted from shore by requiring authority details to be displayed adjacent to land-based collection points.

There was mixed feedback for the objective to increase the commercial spanner dilly crab limit to 75. Nine submissions were received, with five commercial fishers supporting the proposal. Dissenting feedback was inconsistent about whether the increase should be higher, lower or should not occur at all. The decision to increase the commercial spanner dilly crab limit to 75 plus 10 spares with two crew was made to provide the best balance between economic efficiency and sustainability while setting consistency gear rules for the fishery.

Some mixed feedback was provided on the objective to prevent the use of tender boats if no primary vessel was nominated against the commercial fishing licence. Some expressed concerns about an increase in difficulty of using tender boats and paperwork while other comments support the proposal. The intent is to ensure all fishing platforms are accounted for and managed and once a vessel is registered there should not be extensive ongoing paperwork.

In relation to the objective to support the recovery of Queensland's snapper stocks by prohibiting the use of net apparatus to take snapper, 80% of respondents supported this proposal while 14% did not (the remainder were unsure). The proposal was strongly supported by recreational fishers. There was some concern raised about the waste that may occur from discarding snapper that interacts with netting operations. Other comments suggested that instead of this proposal, the take of snapper should be managed by the total allowable commercial catch alone with one stakeholder concerned that the proposal limits flexibility in the fishery. The objectives of the urgent management action for snapper are to immediately limit and reduce fishing pressure to halt any further stock declines, protect the spawning stock, be consistent with a rebuilding strategy and apply the

rebuilding strategy to all sectors based on their catch share. In particular, prohibiting the use of net apparatus to take snapper will ensure catch using this method doesn't increase or impeded rebuilding of these stocks.

The Department of Agriculture and Fisheries consulted with the Office of Best Practice Regulation about proposed fisheries reforms and consultation process. It advised that some of the reforms in the Discussion Paper were likely to be assessed as having 'significant adverse' impacts under the *Queensland Government Guide to Better Regulation* and therefore would require further regulatory impact analysis. Most of the proposed changes that would be considered to have 'significant adverse' impacts (i.e. splitting fisheries up, setting sustainable commercial catch limits and allocating quota) are still being considered have not yet been progressed.

Given the comprehensive consultation process, commencing with the MRAG Review in 2014, followed by the Green Paper on fisheries reforms in 2016, release of the Strategy in 2017 triggering a detailed engagement process, along with the clear Government policy direction outlined in the Directions Paper, a full Regulatory Impact Statement (RIS) has not been prepared. A Supporting Impact Statement was prepared.

It is difficult to do the quantitative economic modelling required in a RIS, as currently there is insufficient data to model social and economic impacts. With the information currently available, a RIS would not be at a scale that would represent the diversity of fishing businesses that currently operate within our fisheries and therefore would not be a good indicator of impact. There is also a lack of industry reporting, or quantitative information or research to extrapolate any other meaningful insight into modelling the impacts. Recognising this, and to compensate for the inability to qualitatively model the impacts, the engagement process has been designed around working with individual fishers to better understand the impacts and to refine the proposed fishing rules to minimise impact on individual fishing businesses while still achieving the overall objectives.

In exempting the fisheries reforms from a more detailed RIS the Government commits to undertaking a Post Implementation Review, consistent with the *Queensland Government Guide to Better Regulation*, within two years of the commencement of the full suite of fisheries reforms (i.e. 1 July 2022). The Queensland Government has initiated a new study into the contribution Queensland's commercial fisheries, seafood processing sector and related businesses make to the State's economy and community generally. The outcomes of this research will help the Government to better understand and minimise the impacts of fisheries management on these sectors. It will also establish an important baseline that can be used to monitor the impact and benefit of the Strategy over the next 10 years.