

Fisheries Legislation Amendment Regulation 2020

Explanatory notes for SL 2020 No. 236

made under the

Fisheries Act 1994

Marine Parks Act 2004

Rural and Regional Adjustment Act 1994

Statutory Instruments Act 1992

General Outline

Short title

Fisheries Legislation Amendment Regulation 2020

Authorising law

Sections 13, 32, 33, 49, 54, 56, 65, 65A, 68B, 70C, 77A, 80, 82, 118, 120, 218, 223 and schedule 1 of the *Fisheries Act 1994*

Section 21 of the *Marine Parks Act 2004*

Section 44 of the *Rural and Regional Adjustment Act 1994*

Section 20A of the *Statutory Instruments Act 1992*

Policy objectives and the reasons for them

A need for changes to the management of our fisheries was established through numerous reviews since 2014. The overwhelming message from all stakeholders is that they wanted the management of Queensland's fisheries to be improved. Most stakeholders agreed that doing nothing was not an option, and that changes would be required to ensure sustainability, and reliable access to fisheries resources, and for future viability of our commercial fishing industry.

The *Queensland Sustainable Fisheries Strategy 2017-2027* (the Strategy), which was released by the Government in June 2017, outlined the Government's vision for the future management of Queensland's fisheries. The Strategy includes specific principles to be met when reviewing fishing rules and access to fisheries resources, and the implementing of harvest strategies to manage our priority fisheries.

Following extensive consultation, the Queensland Government released the *Discussion Paper on proposed changes to the Fisheries Regulation 2008* (the Discussion Paper) in 2019 which outlined 102 proposed amendments across all fishing sectors. A number of these proposals, for recreational fishing and urgent sustainability actions for scallop,

snapper and pearl perch have already been implemented through changes to fisheries legislation on 1 September 2019.

Before the remainder of the proposed changes in the Discussion Paper could be fully considered for implementation, the novel Coronavirus (COVID-19) impacted on the viability of the fishing industry. The commercial fishing industry was one of the first industries to be impacted by COVID-19 with the loss of key export markets initially early in 2020. Subsequently, Australia imposed domestic restrictions in response to COVID-19, further affecting the Queensland's fishing industry through the loss of domestic markets.

Despite the easing of restrictions in Queensland and support provided to the commercial fishing industry from across government, the commercial fishing industry continues to face significant economic hardship due to the reduced demand in the hospitality and tourism markets, and the disruptions to freight services to key international, Sydney and Melbourne wholesale markets.

The implementation of the remaining proposals outlined in the Discussion Paper have been considered with priority given to those changes that:

- will support the commercial fishing industry's economic recovery from COVID-19 by reducing red tape and streamlining requirements;
- are necessary to implement harvest strategies and meet the conditions of the Commonwealth Wildlife Trade Operation (WTO) approvals under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act); and
- clarify existing fishing rules to support ongoing fishing efficiency and compliance.

Economic recovery through red tape reduction and streamlining requirements

The Amendment Regulation will implement changes to support the commercial fishing industry's economic recovery through red tape reductions and streamlining measure to:

- enable processing at sea in the Gulf of Carpentaria for certain species while still combating the black marketing of black jewfish;
- clarify possession of crab and lobster meat to allow business diversification;
- increase incidental shark catch limits for commercial line fishers;
- amend and clarify various definitions (e.g. measuring of fish requirements);
- amend a number of fishery areas to normalise long term management arrangements;
- clarify specifications for bycatch reduction devices so as to maintain United States accreditation approvals;
- standardise trawl fishery closure times to midday to better align with existing fishery operations;
- increase the number of crab pots allowed in blue swimmer crab fishery;
- clarify primary and tender boat requirements to make them be consistent across fisheries and remove unnecessary restrictions;
- permit fishing in both the coral and aquarium fisheries to better align with existing fishery operations and support diversification;

- remove permitted distance requirements for assistant fishers (tender) to be under the direction of a commercial fisher now that vessel tracking is in place on all commercial fishing vessels; and
- Implement harvest strategies and meet the conditions of WTO approvals

Management regions and adjustable commercial catch limits are critical to implementing effective harvest strategies as they enable fisheries management to better control fishing pressure on different fish stocks or parts of a fishery to ensure sustainability and meet fishery objectives. Implementation of harvest strategies is a condition of a number of WTO approvals. A number of significant changes are achieved by the Amendment Regulation to implement harvest strategies and meet the conditions of the Commonwealth WTO approvals under the EPBC Act to:

- establish new management regions for the Queensland crab, east coast inshore and east coast and Moreton Bay trawl fisheries. The existing fishery symbols (C1, T1, T2, M1, M2, N1, N2, K, N10, N11, N12) that provide access to these fisheries will not be restricted. However, commercial fishers will need to comply with the catch or effort limits and fishing rules that apply to each of these new management regions;
- allocate Individual Transferable Quota (ITQ) for the commercial crab fishery and east coast inshore fishery for seven species: mud crab, blue swimmer crab, barramundi, king threadfin, grey mackerel, school mackerel and whiting. Allocating ITQ for these species means that individual fishers are allocated a share of the stock based on their historical catch of the species (i.e. their catch history). Once allocated, ITQ can be traded through normal market-based processes. Currently, there is no limit on many major target fish species, no certainty for commercial fishers to allow business planning, and significant competition and conflict on the water. As long as commercial fishers comply with the new ITQ arrangements and sustainability catch limits, they still have the opportunity to supply quality locally caught seafood to Queenslanders.
- regionalise the existing east coast trawl effort units to four new management regions. Trawl fishers will still have exactly the same number of nights (or effort units) that they hold now, but, from 1 September 2021, the effort units can only be used in the trawl management region to which they relate. This is necessary to manage fish stocks on a regional basis. To minimise the impact of the reallocation, unused (or inactive effort units) will be allocated to the four trawl regions based on a nomination process.
- allocate new effort units for use in the Moreton Bay trawl region. Currently, Moreton Bay trawl fishers are permitted to fish during Monday to Friday every week on an input control management basis. Issuing effort units for this trawl region ensures that all trawl fisheries on the east coast are managed consistently to control the amount of trawl fishing based on sustainable effort limits. The allocation of effort units for the Moreton Bay trawl region is based on historical catch. Given historical catch levels are below the estimate for maximum economic yield (around 8,500 units) these additional units will be allocated equally between M1 and M2 licence holders (i.e. 50% to M1 and 50% to M2) which represents the historical use of the fishery by the two different fleets.

A key area of change that the Amendment Regulation will implement is new streamlined reporting requirements (including logbooks, weight notices, and cash disposal records) that will apply consistently to all commercial species with a catch limit (i.e. ITQ or prescribed commercial catch). This includes some separate changes for trawl fishers who will be required to complete a catch disposal record, similar to records required for other

commercial species with a catch limit, along with existing logbook requirements. An improved quality of commercial fishing reporting will ensure the information used to assess the status of our fish stocks and ensure future management decisions is consistent, accurate and reliable.

The other changes that Amendment Regulation implements to achieve the objective *Implement harvest strategies and meet the conditions of WTO approvals* is to:

- establish shark form requirements for the East Coast to meet conditions of WTO approvals;
- allow fishing in multiple crab fisheries at the same time now that all crab fisheries are managed through ITQ and support diversification;
- prohibit the use of net apparatus to take crab;
- amend maximum mesh size and ply ratings for certain net fisheries to minimise the impact of fishing on the broader ecosystem;
- permit the commercial use of lift nets in certain fisheries; and
- require bycatch reduction devices in the mud crab fishery to minimise the impact of fishing on the broader ecosystem.

Clarify existing fishing rules to support ongoing fishing efficiency and compliance

A number of changes in the Amendment Regulation clarify a number of existing fishing rules to complement the changes to the commercial fisheries and support best practice fisheries management through harvest strategies. Where possible, a balance between limiting the use of certain gear, activities or access to species has been offset with more flexible arrangements which allow commercial fishers to innovate and adjust their fishing activities to gain a better return on investment. Changes include:

- creating a single commercial fishing licensing framework in Queensland;
- standardising and streamlining quota administration (existing species) for all commercial fisheries;
- enabling online licencing transactions;
- aligning vessels measurement requirements with marine safety legislation to remove ambiguity and streamline vessel requirements for businesses needing to comply with multiple regulatory frameworks;
- allowing court discretion to address third time offences; and
- amending the existing black jewfish closed area (Hay Point) to apply to all fishing to better combat black marketing.

Collectively, the changes achieved by the Amendment Regulation will contribute to a modern and responsive system of fisheries management that is transparent, consultative and based on the best available information. The result will be more sustainable fisheries that support more diversified and resilient fishing businesses; commercial fisheries in Queensland that retain WTO approvals to support economic recovery through a range of market options; and, longer term, a profitable commercial fishing sector and improved stakeholder engagement based on best practice management.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by amending by the *Fisheries (Commercial Fisheries) Regulation 2019* (Commercial Fisheries Regulation) and the *Fisheries (Commercial Fisheries) Regulation 2019* (General Fisheries Regulation).

The Amendment Regulation also achieves the policy objectives by amending the *Fisheries Declaration 2019* (Fisheries Declaration) made under the *Fisheries Act 1994*. The Act provides that the chief executive may make a fisheries declaration, but section 20A of the *Statutory Instruments Act 1992* also enables it to be amended by regulation.

The Amendment Regulation also makes a number of consequential amendments to subordinate legislation made under the *Marine Parks Act 2004* and *Rural and Regional Adjustment Act 1994*.

The achievement of the policy objectives is discussed as it arises within the chapters of the subordinate legislation, which contain the amendments. Further detail on how the legislation has been amended to achieve the objectives can be found in the section 'Notes on provisions' below.

Chapter 2 Amendments commencing on notification

The provisions in Chapter 2 of the Amendment Regulation commence on notification with changes prioritised to assist economic recovery from COVID-19 through red tape reduction and streamlining fisheries management requirements.

Part 1 Amendments to the *Fisheries (Commercial Fisheries) Regulation 2019*

The Amendment Regulation makes the following changes to the Commercial Fisheries Regulation to achieve the objective of *reducing red tape and streamlining requirements to support economic recovery*:

- allow for transshipment in the D, R, RQ, SM and T1 fisheries as a new authorisation of primary commercial fishing licences with related standardised reporting requirements to remove inconsistencies between commercial fisheries in relation to the use of carrier boats;
- update the T5, T7 and T9 beam trawl fishery areas to align with longstanding access provided through general fisheries permits that can no longer be issued for these purposes;
- amend the T4 stout whiting fishery area to provide greater clarity around the existing defined fishery area;
- permit the use of lift nets under the N11 fishery symbol to allow commercial fishers to minimise bycatch and target species more effectively;
- streamline vessel measurement requirements, generally, by prohibiting the use of primary boats longer than 25 metres, and prohibiting tender boats longer than 10 metres in most commercial fisheries except trawl and Gulf of Carpentaria fisheries which will retain their existing more restrictive requirements;
- remove the restriction on fishing under more than one primary commercial fishing licence in the same fishery at the same time;

- permit fishing in both the coral and aquarium fisheries to support diversification by removing the restriction on taking fish in more than one fishery (A1 and D);
- clarify the amounts of crab apparatus to be used in the commercial crab fishery, including increasing the number of pots allowed in offshore waters in the blue swimmer crab fishery;
- specifying the number of chain links required for bigeye bycatch reduction devices in the east coast trawl fishery to ensure the devices function effectively; and
- clarify the meaning of 'under direction' for assistant fishers.

Part 2 Amendments to the *Fisheries Declaration 2019*

The Amendment Regulation makes the following changes to the Fisheries Declaration to achieve the objective of *reducing red tape and streamlining requirements to support economic recovery*:

- allow a commercial fisher with a 'C1', 'C2' or 'C3' fishery symbol to process crab if the person has a Safe Food Queensland accreditation to operate a business for trade or commerce to sell or process fisheries resources, possesses the crab meat on land to sell or process for the business. This will provide flexibility to the strict rules relating to the possession of crab meat which are in place to deter illegal activities relating to size limits and the taking of female crabs;
- clarify the northern rocklobster and sea cucumber regulated waters by amending the description of the regulated waters to specify 'tidal waters';
- clarify the regulated periods for some fisheries and species to correct minor errors, made when the *Fisheries Regulation 2008* was replaced earlier in 2019, that inadvertently lengthened the no-take periods;
- provide for an exception to the use and possession of trawl nets in the scallop ranching area if the boat is travelling through the waters and the nets are stowed and secured;
- remove the schedule of 'defined port areas' from the Commercial Fisheries Regulation so that a reference to a 'defined port area' means a reference to a defined port area as determined by Maritime Safety Queensland in schedule 2 of the *Transport Infrastructure (Ports) Regulation 2016*, to minimise confusion about requirements; and
- clarify the closure dates of the northern rocklobster regulated waters and Fraser Island (Indian Head-Waddy Point) regulated waters to correct administrative errors in writing the seasonal fishery times.

The Amendment Regulation also makes the following changes to the Fisheries Declaration to achieve the objective to achieve the objective of *clarifying existing fishing rules to support ongoing fishing efficiency and compliance*:

- prohibit the take and possession of all fish in the Dalrymple Bay and Hay Point regulated waters to minimise the risk of incidental take while fishing for other species and ensure effective compliance with recent sustainability actions for black jewfish in these waters and consistency with the existing closure in place by the port authority;
- clarify the take period for blue swimmer crab caught in Moreton Bay for trade or commerce under a M1, M2 or T5 symbol, by amending the entry for blue swimmer crab to provide a day limit of 100 crabs for each continuous period of fishing of 24

hours, or part of 24 hours for a person taking the fish;

- prescribe requirements for the possession of scaly jewfish to recognise that fishers in the Gulf of Carpentaria operate differently from fishers on the east coast and to ensure that the product can be easily identified;
- clarify that no recreational in-possession limit applies to freshwater prawn; and
- exclude particular species of ray from the prescribed measurement requirements because their rounded head shape makes it difficult to comply.

Part 3 – Amendment of *Fisheries (General) Regulation 2019*

The Amendment Regulation makes the following changes to the General Fisheries Regulation to achieve the objective of *clarifying existing fishing rules to support ongoing fishing efficiency and compliance*:

- streamline vessel measurement requirements, generally, by requiring that the way the length, breadth and depth of commercial vessels (including charter vessels) is measured is aligned with the way vessels are measured under the National Standards for Commercial Vessels. It will also minimise confusion about the measurement of vessels between fisheries and marine safety legislation and improve compliance;
- clarify when a fishing operation starts and ends, the person who is the ‘commercial fisher in control of a fishing operation’, when a boat or fish lands, a landing place for a boat or a fish;
- clarify the definition of aquaculture by excluding particular activities as being aquaculture activities which consequently do not require an aquaculture licence;
- allow the chief executive to issue a filleting permit for spanish mackerel fishery to align this fishery with the coral reef line fishery and remove the need for the chief executive to issue a general fisheries permit to allow for filleting in the spanish mackerel fishery to align with current operating practice; and
- prescribe an offence under section 38BA of the *Great Barrier Reef Marine Park Act 2004* (Cth) as a serious fisheries offence for all commercial fisheries, where previously it only applied to the east coast trawl fishery and coral reef fin fishery. Broadening the offence in this way recaptures the intent of the existing offence relating to the use of tender boats which was deleted by previous amendments.

Chapter 3 Amendments commencing 1 January 2021

The provisions in Chapter 3 of the Amendment Regulation commence on 1 January 2021 and focus on improving the administration of commercial fisheries and clarifying existing fishing rules to support ongoing fishing efficiency and compliance.

Part 1 Amendments to the *Fisheries (Commercial Fisheries) Regulation 2019*

The Amendment Regulation makes the following changes to the Commercial Fisheries Regulation to achieve the objective of *clarifying existing fishing rules to support ongoing fishing efficiency and compliance*:

- removes the existing 300Kw main engine restriction which applies in the east coast trawl fishery;

- aligns boat modification and replacement for M2 licences with the rest of the Moreton Bay trawl fishery;
- removes the tender boat distance limits in relation to primary boats to simplify how tender boats can be used, given vessel tracking is a requirement for all commercial fishing boats in Queensland. Commercial fishers will still need to comply with marine safety requirements which may restrict these activities; and
- renames 'commercial fishing boat licences' to 'primary commercial fishing licences' to better capture the essence of the licence and align the licence name with how it is colloquially referred to by industry.

Part 2 Amendments to the *Fisheries Declaration 2019*

The Amendment Regulation makes the following change to the Fisheries Declaration to achieve the objective of *clarifying existing fishing rules to support ongoing fishing efficiency and compliance*:

- replaces the definition of 'authorised boat for the regulated coral reef fin fish.

Part 3 – Amendment of *Fisheries (General) Regulation 2019*

The Amendment Regulation makes the following changes to the General Fisheries Regulation to achieve the objective of *clarifying existing fishing rules to support ongoing fishing efficiency and compliance*:

- removes the ability for the chief executive to issue commercial harvest fishery licences and carrier boat licences as a consequence of establishing a single primary commercial fishing licence type to consistently manage both hand-harvest and wild capture fisheries; and
- provides the court with more flexibility to determine periods of licence suspension when considering the offending circumstances, and provides for cancellation of a licence if the person has been convicted of a serious fisheries offence three or more times.

Chapter 4 Amendments commencing 1 September 2021

The provisions in Chapter 4 of the Amendment Regulation commence on 1 September 2021 and implement the necessary changes to implement harvest strategies and meet the conditions of WTO approvals as well as clarifying existing fishing rules to support ongoing fishing efficiency and compliance.

Part 1 Amendments to the *Fisheries (Commercial Fisheries) Regulation 2019*

The Amendment Regulation makes the following changes to the Commercial Fisheries Regulation to achieve the objective of *implementing harvest strategies and meeting the conditions of WTO approvals*:

Crab Fisheries

- establish management regions for the commercial crab fishery by creating the Mud crab Gulf of Carpentaria management region, Mud crab east coast management region, and the Blue swimmer crab management region in the Commercial Crab fishery to establish management regions for the commercial crab fishery;

- insert new provisions that provide for the allocation of C1-ITQ units, which are necessary to establish the new ITQ fishery for mud crab and blue swimmer crab, including:
 - meaning of C1-ITQ year;
 - references to prescribed crab and prescribed crab management region;
 - entitlement under a C1-ITQ unit;
 - when a C1-ITQ unit entitlement is used for a C1-ITQ year;
 - no carrying forward of unused entitlement;
- prohibit the taking of crabs using commercial netting apparatus to prevent the taking of crabs in the commercial net fisheries;

East Coast Inshore Fishery

- create five separate regions numbered one to five to establish management regions for the commercial net and commercial line fisheries commonly known as the east coast inshore fishery;
- insert new provisions that provide for the allocation of ENL-ITQ units, which are necessary to establish new ITQ species within east coast inshore fishery for barramundi, king threadfin, grey mackerel, school mackerel and whiting, including:
 - meaning of ENL-ITQ year;
 - references to prescribed net ITQ fish, prescribed net management region and ENL-ITQ licences;
 - entitlement under an ENL-ITQ unit;
 - when an ENL-ITQ unit entitlement is used for a ENL-ITQ year;
 - no carrying forward of unused entitlement;
- require tunnel net apparatus and crab apparatus to meet minimum escape vent requirements to align these bycatch reduction devices with best practice standards;
- reduce the maximum allowable mesh size from 215mm to 178mm for the N2 fishery symbol to minimise the risk to protected species;
- require mesh nets to be made of monofilament of no more than 0.5mm in diameter in the N1, N2 and N4 net fisheries, for netting in nearshore and offshore parts of the fishery, to minimise the risk to protected species;

East Coast and Moreton Bay Trawl Fisheries

- provide for the allocation of new effort units for the Moreton Bay trawl region based on historical fishing effort and an equal split between M1 and M2 which align with historical access to this fishery by the respective fleets;
- provide for the re-allocation of existing T1 and T2 effort units across all trawl regions, other than the Moreton Bay trawl region, based on historical use of used effort units and a nomination process for unused effort units; and
- clarify what is a condition versus an authorisation in the east coast trawl fishery to align this fishery with the other commercial fisheries.

The Amendment Regulation makes the following changes to the Commercial Fisheries Regulation to achieve the objective of *clarifying existing fishing rules to support ongoing fishing efficiency and compliance*:

- enable more online licensing transactions for applications seeking to move a fishery symbol from one licence to another;
- increase the hull unit restriction in the east coast trawl fishery from 70 to 120 hull units, and providing new effort unit conversion factors for boats with hull units from 71-120;
- provide for consistent management of authorisations, conditions and requirements across all commercial fisheries and to reduce red tape and improve compliance by relocating the ITQ units for existing hand-harvest fisheries (sea cucumber, coral, shell grit, trochus, crayfish and rocklobster) from commercial harvest fishery licences to the Commercial Fisheries Regulation, and clarify the meaning of a hand-harvest ITQ entitlement means and when it is considered to be used:
 - meaning of hand-harvest ITQ year;
 - meaning of whole weight of red champagne lobster and tropical rock lobster;
 - references to prescribed hand-harvest ITQ fish and hand-harvest ITQ licences;
 - entitlement under an a hand-harvest ITQ unit;
 - when a hand-harvest ITQ unit entitlement is used for a hand-harvest ITQ year;
 - no carrying forward of unused entitlement;
- provide that the maximum number of persons who can physically take fish in each hand-harvest fishery is as follows;
 - for the aquarium fish and coral fisheries—3
 - for the sea cucumber fishery—6
 - for the trochus fishery—10
 - for the crayfish and rocklobster fishery—1 person per boat for each primary commercial fishery licence
 - for the eel fishery—1
 - for the shell grit and star sand fisheries—only the licence holders
 - for all other hand-harvest fisheries—2;
- require commercial crab apparatus to be checked at least every 7 days after being set. Unchecked crab apparatus pose significant issues in Queensland waters, including ghost fishing and increased chances of harmful interactions with threatened species; and
- consolidate and standardise all reporting requirements including a standard reporting process for the existing and new ITQ and prescribed commercial catch species, standard catch disposal record requirements for existing and new ITQ, trawl caught and prescribed commercial catch species and standardising a logbook reporting requirements for all commercial fisheries. This also includes inserting a new authorisation of primary commercial fishing licences which clarifies when the retention of product is allowed.

Part 2 Amendments to the *Fisheries Declaration 2019*

The Amendment Regulation makes the following changes to the Fisheries Declaration to achieve the objective to achieve the objective of meeting the *implementing harvest strategies and meeting the conditions of WTO approvals*:

- amend the form requirements for shark to prohibit the filleting of sharks in east coast commercial fisheries to address issues relating to the identification of filleted shark, while still allowing for other common forms of processing at sea to continue (e.g. gutting). Note this amendment is to ensure the east coast inshore fishery meets its Commonwealth issued WTO accreditation which allows for export of products taken in the fishery;
- relocate provisions concerning the northern trawl region, central trawl region, southern inshore trawl region, southern offshore A trawl region, southern offshore B trawl region and Moreton Bay trawl region from the Fisheries Declaration to the Commercial Regulation so as to establish management regions for the east coast trawl fishery under the Commercial Regulation, consistent with other commercial fisheries, and to provide for the management of the east coast and Moreton Bay trawl fisheries;
- prohibit the filleting of certain ITQ and prescribed commercial catch species taken in east coast commercial fisheries by amending the form requirements for these species while still allowing for other common forms of processing at sea to continue (e.g. gutting); and
- provide for an exception to the use and possession of trawl nets during the closure period in the central and northern trawl regions if the person in control of the boat has given notice to the Queensland Fishing Boating and Fisheries Patrol that the possession or use of the trawl net is for testing purposes.

The Amendment Regulation makes the following changes to the Fisheries Declaration to achieve the objective of *clarifying existing fishing rules to support ongoing fishing efficiency and compliance*:

- amend the incidental shark catch limits (excluding hammerhead shark) to increase the maximum number of shark that can be taken under certain line fishery symbols without an 'S' symbol from 4 to 10, and so minimise the discarding of sharks caught by commercial line fishers;
- prohibit the filleting of certain ITQ and prescribed commercial catch species taken in east coast commercial fisheries by amending the form requirements for these species while still allowing for other common forms of processing at sea to continue (e.g. gutting);
- clarify the period when vessel tracking equipment must be working properly on a primary boat; and
- amend the information requirements to provide that the information requirements for the wholesale sale of fisheries resources will be satisfied if the seller is a commercial fisher who took the fish and the seller gives the buyer a copy of the catch disposal record made by the seller.

Part 3 – Amendment of *Fisheries (General) Regulation 2019*

The Amendment Regulation establishes new fees for allocated ITQ (in the Queensland crab and east coast inshore fisheries) and ITE (in the Moreton Bay trawl region) consistent with other output control managed fisheries.

Amendment of other legislation

The Amendment Regulation also amends the following subordinate legislation to reflect the new licence types and make other consequential amendments:

- *Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004*;
- *Marine Parks (Great Sandy) Zoning Plan 2017*;
- *Marine Parks (Moreton Bay) Zoning Plan 2019*; and
- *Rural and Regional Adjustment Regulation 2011*.

The amendments include:

- amending all references from ‘commercial harvest fishery licences’ and ‘commercial fishing boat licences’ to ‘primary commercial fishing licences’; and
- amending all references from ‘schedule 1’ of the Commercial Fisheries Regulation to ‘schedule 7A’.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main purpose of the *Fisheries Act 1994* 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

A number of alternatives were considered in the implementation of the objectives of the Amendment Regulation.

Fisheries Management

A number of alternatives, on a fishery specific basis, were considered as part of initial consultation on issues, objectives and options in March 2018. The alternatives in regard to changing commercial fisheries management are summarised below.

Alternative - No commercial fishing changes (status quo management)

Although no legislative intervention may be considered an alternative mechanism, it would mean there would be no changes implemented for the management of commercial fisheries, and the objectives of the Strategy would not be achieved. Queensland's fisheries face significant ecological, social and economic sustainability risks if the current management arrangements are continued. Over time, more stocks may become depleted, competition between and within sectors may result in further adverse fishing rules or closures, and administration of the system would become more complex and cumbersome.

The commercial fishing industry has been significantly affected by COVID-19 due to the loss of key export and domestic markets in early 2020. Notwithstanding the recent industry support package and easing of movement restrictions in Queensland, the commercial fishing sector continues to face economic hardship because of reduced hospitality and tourism markets and disruptions to freight. Queensland's current fisheries management arrangements are based on approaches developed in the late 1970s that are complex, cumbersome, inflexible and time consuming for commercial fishers to manage.

Investment and increased fishing effort warnings (investment warnings) let potential investors, current fishers and boat owners know that any increases in fishing effort, catch or investment in a fishery made after the release of an investment warning may not be recognised in any future management arrangements for that fishery. Investment warnings are imposed when changes are likely to occur in a fishery, are not revoked until those changes have been finalised, and often constrain the ability of industry participants to access commercial finance and invest in the industry. An investment warning has been in place for all Queensland commercial fisheries since 6 March 2014 and cannot be removed until foreshadowed changes to commercial fisheries regulations have been finalised.

These issues are restricting efficiencies, stifling innovation and adding to the economic hardship as the industry recovers from COVID-19.

There are 18 commercial fisheries in Queensland that have WTO approvals, subject to conditions, under the EPBC Act. These allow commercial fishers to incidentally interact with protected species (e.g. dolphins) when fishing for target species (e.g. fish and prawns) and export their catch. However, this does mean there are a number of timed conditions that need to be met. If action, including regulatory changes, are not taken there is a risk that WTO approvals could be revoked. Since consultation on the management options in 2018 and 2019, there are now four fisheries at risk in 2020 of losing WTO approval (affecting 738 fishing businesses with a GVP of \$148.0 million) and a further seven fisheries in 2021 (affecting 459 fishing businesses with a GVP of \$134.2 million).

For these reasons, no regulatory intervention has not been considered an option.

Other alternatives - Management options considered

A number of management options were identified, specific to each of the fisheries, were considered through public consultation in March 2018 and are summarised below:

East Coast Inshore Fishery options considered	East Coast Trawl Fishery options considered	Queensland Crab Fisheries options considered
<ul style="list-style-type: none"> • Splitting the fishery up – proposed management regions. • Individual transferable commercial quotas (ITQs). • Total allowable commercial catches with regional triggers. • Individual transferable effort units (ITEs) for commercial fishers. • Review size and possession limits (all sectors). • Gear technology. • Temporary or flexible spatial closures. • Better education and training. 	<ul style="list-style-type: none"> • Splitting the fishery up – proposed management regions. • Individual transferable catch quota. • Individual transferable effort units (ITEs) allocated to management regions. • Regional total allowable effort caps. • Allocate individual licences to a management region. • Limit the allowable nights per month a boat can fish in each region. 	<ul style="list-style-type: none"> • Splitting the fishery up – proposed management regions. • Individual transferable quotas (ITQs). • Individual transferable effort units (ITEs) for commercial fishers. • Splitting the fishery up – proposed management units. • Symbol amalgamation. • Pot unitisation. • Review recreational fishing rules. • Review blue swimmer crab caught by the trawl sector.

There was an eight week consultation period and as a result of the feedback and submissions received by the Department of Agriculture and Fisheries (DAF), further refinements of options with the fishery working groups and the Sustainable Fisheries Expert Panel, the Queensland Government released a Directions Paper in January 2019, outlining fisheries reforms for managing each of the priority fisheries (trawl, crab and east coast inshore fisheries) to support finalising consultation and legislative processes to move towards implementation.

The most significant part of the proposed changes is implementing management regions with catch or effort limits and applying fishing rules to each of these new management regions, so DAF consulted with each commercial fishing licence holder affected by the proposed reforms with individual indicative allocations. The indicative allocations allowed the commercial fishers to better understand and provide feedback on the potential impacts and how the allocation approaches could be improved.

The allocation approaches are based on maintaining a fisher's relative economic position – because it ensures that those fishers who have a demonstrated reliance on the resource are allocated a larger share compared to those fishers who have not caught significant amounts of product over the years or have only recently joined the fishery and do not have a demonstrated history of participation. This means that if a fisher does not receive any allocation or a small allocation, it is likely that he or she does not hold an eligible licence or his or her licence does not have the same amount of fishing history recorded against it as another fisher's licence. This is the most common approach to fisheries allocation nationally and internationally and has been legally supported over the last three decades. A number of changes were made to the allocation approaches based on the feedback from fishers to assist in minimising impacts.

A number of changes were made to refine the proposed management of each of these fisheries as a result of the various consultation stages and feedback received. This is discussed under the section 'Consultation' of these Explanatory Notes.

Preferred management options

It is recognised that the Amendment Regulation covers important matters that are necessary for the sustainable and responsible management of Queensland's fisheries resources. The Amendment Regulation incorporates the preferred options (a tiered management approach to ITQ; competitive commercial catch limits and catch monitoring for the east coast Inshore fishery; ITQ for the crab fisheries; regionalisation of existing ITE for the east coast trawl fishery; and new ITE for the Moreton Bay trawl fishery) as they best achieve the objectives set for each fishery.

The proposed changes will only apply ITQ to seven species out of the hundreds in Queensland. For the majority of fisheries, catch limits will be similar to the current level of catch and will still provide seafood and support jobs. ITQ has been successfully used here in Queensland (e.g. coral trout, spanish mackerel, tropical rock lobster), in Commonwealth fisheries and elsewhere internationally and was a clear recommendation from the MRAG review into fisheries in 2014. In other fisheries, moving to quota management has resulted in healthier fish stocks and better profitability.

The preferred options align with the principles of the Strategy and were narrowed down based on stakeholder feedback through a range of consultative processes. Importantly, the preferred options will enable effective harvest strategies to be implemented and enable Queensland's commercial fisheries to meet conditions of WTO approvals.

Throughout the extensive consultation processes on fisheries management reform in Queensland, it has been clear that there is significant scope to simplify, standardise and rationalise arrangements. The preferred option also address these issues by prioritising red tape reduction and streamlining requirements to assist the economic recovery of the commercial fishing industry along with a number of other administrative improvements, clarifications and further removal of unnecessary restrictions once harvest strategies are implemented.

The Strategy makes it clear there is an important place for a sustainable and viable commercial fishing industry in Queensland, but gone are the days of unlimited commercial catch. While reform means significant change, there are benefits. Fishing will be less of a risk to our ecosystems and our fish stocks will be healthier, more resilient and able to better support a range of fishing pursuits. Commercial fishers will have increased certainty of access; reduced competition for the resource; continued access to export markets; and a more positive investment environment. Queenslanders will benefit from continued supply of fresh, sustainable seafood products and greater confidence that our fisheries are sustainably managed.

Proposals in the Discussion Paper deferred or not proceeding

A number of proposed changes outlined in the Discussion Paper were initially considered and implemented on 1 September 2019. This included a number of changes for recreational fishing and to address sustainability issues for scallop, snapper and pearl perch. Some proposals were already deferred or determined that they are no longer required at that stage. In addition, the following proposals have also been deferred or

determined that they are no longer required:

- Proposal 2 to introduce a requirement for a Commercial Fishing Boat Licence and relevant fishery symbol to hold new individual quota units. Consultation on this was strong, with 69% of the 965 respondents supporting the change. While there is support for this proposal, it would create different rules for different quota species and may restrict trading value in the future. This proposal will not be progressed and existing quota rules will be applied.
- Proposal 8 to introduce tagging of commercially caught mud crab is not being implemented through regulation at this stage. Consultation feedback was mixed on the operational readiness of a tagging system in Queensland. Given this, it is intended to trial tagging for 12 months, from 1 September 2020, to refine the proposal before considering implementation via either a commercial fishing authority condition or regulation.
- Proposal 22 to establish best management practice (BMP) accreditation of commercial fishing operators is not being progressed through regulation at this time. At this stage, work will focus on developing BMPs for commercial netting in Queensland, ideally through the independent Fisheries Research and Development Corporation (FRDC) research and project grants program in 2020-21, before considering implementation of an accreditation scheme.
- Proposal 23 to introduce individual fisher accountability for protected species interactions. A small number, less than ten, of written submissions were received from all stakeholder groups regarding this proposal. Commercial respondents generally did not support this proposal, as it would not account for accidents and provided no certainty for fishers. Recreational respondents and conservation groups generally supported this proposal. Given minor amendments can be made to the existing licensing system to clarify that a commercial fishing licence can be show caused if an individual fisher cannot comply with the Bycatch and Protected Species Management Plan for the fishery, it is recommended not to progress this change at this stage.
- Proposal 25 to amend the use of river set nets under the N2 fishery symbol is being deferred. To effectively deliver this change and ensure it is enforceable, further regional consultation with local fishers and Queensland Boating and Fisheries Patrol is required. The recommendation from the East Coast Inshore Working Group is that, once the proposal to regionalise the fishery is implemented and regional harvest strategy workshops are established, this would be an appropriate forum to work through these matters.
- Proposal 29 to introduce new arrangement for charter fishing operations in line with the Charter Fishing Action Plan 2018-2021. While policy and legislative work is complete, given the impact of COVID-19 on this sector, it is proposed to defer consideration and implementation to support economic recovery initially.
- Proposal 31 to allow offshore charter fishers to fish during the coral reef fin fish spawning closure is not being progressed. Consultation feedback did not support this change and there is strong community sentiment that spawning closures should apply to all fishers to ensure sustainability of our fish stocks. A general fisheries permit (GFP), issued prior to the 1 September 2019 regulatory changes, remains in place for the 10 affected charter operators. This will provide a reasonable transition, until 30

December 2022, to adjust their business operations. GFPs cannot be issued contrary to a regulation.

- Proposal 38 to prohibit the use of lightweight recreational crab pots apparatus. While there was general support, there will be costs associated with replacing apparatus and restricting crab apparatus compliance to a weight (to allow modification of current light-weight crab apparatus). It would require at least a 12 month period where lightweight apparatus is removed from retailers followed by a phasing out of use which would be better progressed once businesses and the community have normalised following COVID-19, consequently this proposal has been deferred.
- Proposal 71 to introduce a spawning closure for certain coral species is not being progressed. This will be addressed through the new Coral Fishery Harvest Strategy, under development, as a decision rule. This would mean that if catch of *Scolymia spp* expands, the harvest strategy will trigger a spatial closure to provide the necessary catch controls for this species based on actual harvesting behaviour.
- Proposal 76 to require vessel tracking requirements to apply to all offshore charter fishing vessels. While policy and legislative work is complete, given the impact of COVID-19 on this sector it is proposed to defer consideration and implementation to support economic recovery initially.
- Proposal 78 to introduce an offence to purchase fish from someone who does not hold an authority. While there was general support for this proposal, advice through drafting is that there is not a sufficient head of power under the *Fisheries Act 1994* (the Act) for the proposed offence. Consequently, this proposal has been deferred pending further consideration of the proposal.
- Proposal 79 to clarify that obstruction of persons operating under an authority is an offence is not being progressed. Following consultation with Queensland Boating and Fisheries Patrol, a review of the existing provision (s.641(1)) relating to the obstruction of nets fishers will be retained. Given this is more of a localised issue in certain parts of Queensland, it can be addressed through education.
- Proposal 82 to require fishers to return unintentionally trawled apparatus is not being progressed, given this is more of a localised Moreton Bay issue that can be addressed through education. If progressed, it may result in instances of dumping at sea which would be counterproductive to the intent of the proposal.
- Proposal 88 in the Discussion Paper to clarify the definition of 'river mouth' is being deferred. To effectively deliver this change, further regional consultation with local fishers and Queensland Boating and Fisheries Patrol is required. The recommendation from the East Coast Inshore Working Group is that, once the proposal to regionalise the fishery is implemented and regional harvest strategy workshops are established, this would be an appropriate forum to work through these matters.

Benefits and costs of implementation

The benefit of the Amendment Regulation is that it will support economic recovery of the fisheries sector through the implementation of harvest strategies, meeting conditions of WTO approvals and clarifying and improving the administration of Queensland's commercial fisheries. In doing this, it sets a framework for sustainable management of our fisheries which provides certainty and can better support a range of viable commercial fishing industries in Queensland.

In releasing the final Discussion Paper, a Supporting Impact Statement was also released outlining the objectives, summarising the consideration of all the options, the benefits and impacts of the proposed changes including more detailed analysis of the more significant proposed changes including dividing fisheries into regions, allocation of effort units (the number of nights allowed to fish), and reporting requirements.

Most of Queensland's fisheries do not have the fundamental management framework in place to enable harvest strategies to be implemented. The amendments, establishing management regions, fishery structure such as quota, effort units, and total allowable commercial catch limits, and fishing rules are central to enabling effective harvest strategies to be implemented. Harvest strategies provide for more regular and smaller adjustments to fishing to avoid the need for significant management intervention, like closing an entire fishery, if there are concerns about a particular species in a particular area. Harvest strategies will detail what management actions would be taken under a range of different circumstances within a fishery and provide more certainty to a fishing sector about how fisheries will be sustainably managed.

Harvest strategies will ensure commercial fisheries maintain their WTO approvals and provide a better and more responsive framework to refine broader ecological, social and economic management of fisheries as commercial fishing businesses recover from COVID-19.

Investment and increased fishing effort warnings (investment warnings) let potential investors, current fishers and boat owners know that any increases in fishing effort, catch or investment in a fishery made after the release of an investment warning, may not be recognised in any future management arrangements for that fishery. Investment warnings are imposed when changes are likely to occur in a fishery and, because they are not revoked until those changes have been finalised, often constrain the ability of industry participants to access commercial finance and invest in the industry. An investment warning has been in place for all Queensland commercial fisheries since 6 March 2014. Now that an additional 13 fisheries can move to harvest strategy management before 1 September 2021, these investment warnings can be removed for those fisheries to support a more positive investment environment for the sector.

Where possible, the financial burden of the new management framework has been minimised or avoided. However, it is not possible to achieve the essential improvements to fisheries management without either imposing additional fishing restrictions or some costs to the fishers. In implementing ITQ and ITE, some new fees have been introduced or current fees adjusted down to minimise the impact of the transition to new management arrangements. The fee changes the relevant ITQ or ITE units are:

- Mud crab fee proposed was \$7.76 per unit in the Gulf, \$4.86 per unit on the East Coast; final regulatory fee is \$3.88 per unit and \$2.43 per unit respectively;

- Blue swimmer crab fee proposed was \$6.96 per unit; final regulatory fee \$3.48 per unit;
- Barramundi, Grey mackerel, King threadfin, School mackerel and Whiting fee proposed was \$0.1965 per unit; final regulatory fee is \$0.10 per unit; and
- Moreton Bay effort unit fee proposed was \$0.402 per unit has been finalised in the regulation; however the M2 symbol fee is reduced from \$1,138 to \$388.60 consistent with other existing trawl fees.

These new fees, which include the alignment of the filleting permits with the existing general fisheries permit fee of \$327.65, are consistent with existing fisheries and simply seek to recover the cost of additional ITQ/ITE monitoring and reporting. As a result of M2 fishers in Moreton Bay moving to a new management system based on effort units, they will have their existing M2 symbol fee adjusted from \$1,138 to \$388.60 consistent with other trawl fisheries. In addition, it is intended to waive ITQ/ITE unit transfer fees, for the new ITQ species only, and waive fees for all ITE regions for 12 months to facilitate industry-led structural adjustment.

Included in these amendments are also a number of changes to fishing rules to standardise, streamline, support compliance, reduce red tape and remove unnecessary restrictions. These measures are intended to support the expanded use of electronic transactions to provide for efficiencies that will reduce the costs associated with administering the State's fisheries. Ensuring that the regulations used to govern Queensland's fisheries are relevant and necessary will help redirect resources to those areas (harvest strategies, science and enforcement) that are essential to the future management of these fisheries. These measures intended to standardise commercial fisheries arrangements are generally expected to benefit participants in Queensland's commercial fisheries by providing for greater consistency and simplification of fishing rules. The removal of redundant provisions is also expected to provide greater flexibility to commercial fishing businesses and support the adoption of more efficient practices and technologies over time.

While there are changes for commercial fisheries, there are benefits. Ecologically, fishing will be less of a risk to our ecosystems and our fish stocks will be healthier, more resilient and able to better support a range of fishing pursuits. Commercial fishers will have increased certainty of access, reduced competition for the resource, continued access to export markets and a more positive investment environment. Queenslanders will benefit from continued supply of fresh, sustainable seafood products and greater confidence that our fisheries are sustainably managed.

Consistency with fundamental legislative principles

The subordinate legislation 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 s4(2)(a)

Legislation should not, without sufficient justification, unduly restrict ordinary activities.

Dalrymple Bay and Hay Point regulated waters

- Clause 41 - Amendment of s17 (Regulated waters to which division applies) of the Fisheries Declaration

Clause 41 amends section 17 (Regulated waters to which division applies) to include Dalrymple Bay and Hay Point as regulated waters in which the taking or possessing of fish is prohibited. The FLP is potentially infringed because the taking and possession of fish could be considered to be an ordinary activity that is being limited by this amendment. This amendment is necessary to minimise the risk of incidental take of black jewfish while fishing for other species and ensure effective compliance of recent sustainability actions for black jewfish in these waters. Black jewfish and their swim bladders are the highest value fisheries resource in Australia and before the restriction on taking and possessing of black jewfish was introduced in September 2019, approximately 98,000 kg of the reported commercial catch of the fish came from the regulated waters at Hay Point and Dalrymple Bay. A total prohibition on all fishing is necessary due to the known black marketing associated with the taking and possessing of fish, including black jewfish, in these waters. The closure to all forms of fishing is also consistent with the existing port authority closures.

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

Authorisations and conditions of primary fishing licences and commercial fisher licences and fishery symbols

- Clause 169 – Insertion of new Schedule 7A (Commercial hand-harvest fisheries) into the Commercial Fisheries Regulation

A number of amendments have been made to the Commercial Fisheries Regulation which insert new authorisations and conditions for the hand-harvest fisheries in schedule 7A. The FLP is potentially infringed because the authorisations and conditions that apply to primary commercial fishing licences (the new licence type which replaces the commercial harvest fishery licence and commercial fishing boat licence) and commercial fisher licences, have the potential to unduly restrict the right to conduct business without interference.

However, the amendments do not represent a substantive change in management of these fisheries because the authorisations and conditions that are now included in the subordinate legislation were previously stated in commercial harvest fishery licences.

Effectively, the existing conditions have now been translated into consistent authorisations and conditions for these commercial fisheries. The exception is minor changes to fishing apparatus for the juvenile eel fishery – for consistency, new authorisations and conditions were introduced based on current operational practice within this fishery because the previous conditions were silent on these matters.

The amendments consolidate requirements that have previously been imposed via licence conditions, and are justified on the basis that they support a sustainable harvest by the commercial fishing industry.

- Clause 32 – Amendment of schedule 7, part 1, section 12A (Checking crab apparatus) in the Commercial Fisheries Regulation
- Clause 169 – Insertion of new schedule 7A, part 4, division 3 (Checking traps) and part 9, division 3 (Checking trap or net) into the Commercial Fisheries Regulation

Clause 32(5) amends schedule 7 to insert a new section 12A imposes a new condition on primary commercial fishing licences to require crab apparatus used in the commercial crab fishery to be checked at least every 7 days after being set.

Clause 169 inserts new schedule 7A, part 4, division 3 inserts new section 48 (Checking traps) to require eel traps to be checked every 24 hours after being set.

There was already a condition requiring licence holders in the eel fishery to check their eel traps 24 hours after being set. This condition has been amended slightly by clause 169 to require eel traps used in the eel fishery to be checked every 24 hours after being set, which aligns the requirement with the juvenile eel fishery.

The FLP is potentially infringed because requiring these fishing apparatus to be checked periodically has the potential to unduly restrict the right to conduct business without interference.

The potential infringement is justified because the obligation is only to check the apparatus at reasonable intervals, and there is a high risk that these particular types of fishing apparatus could inadvertently capture other animals and fish species, often resulting in death. By requiring the licence holder to periodically check the apparatus, there is an increased chance of saving non-target species and other animals.

Restrictions on authorisations in commercial fisheries

- Clause 6 – Insertion of new sections 15A (Restriction on retaining fish) and 15B (Restriction on transshipping fish) into the Commercial Fisheries Regulation
- Clause 127 Replacement of sections 15A (Restriction on retaining fish) and 15B (Restriction on transshipping fish)

Clause 6 inserts new section 15A which restricts the retainment of fish on a boat when the boat leaves the place at which they were landed to start a new fishing operations provided that the fish were taken under a B1, R, RQ, SM or T4 licence.

Clause 6 also inserts new section 15B restricts the transshipment of fish from the boat they were taken to another boat from which the fish are proposed to be unloaded provided that the fish were taken under a D, R, RQ, SM or T1 licence.

Clause 127 replace sections 15A and 15B to reflect the new licensing arrangements which provide for new terms such as 'primary commercial fishing licence'; and 'landing place' and transport vessel. Clause 127 extends the fish that may be transhipped to from the boat that the fish were taken to include hammerhead sharks under an L4, N3, N12 or N13 licence.

Fish caught under other symbols cannot be retained or transhipped. In relation to transhipment this authorisation replaces activities that were previously regulated under carrier boat licences.

The licences where retainment and transhipment will now be permitted have previously been able to retain and tranship product, except product caught under the B1 symbol will now also be able to be retained, and product caught under the D symbol will now also be able to be transhipped. Product caught under other symbols has never been allowed to be retained or transhipped, including under a carrier boat licence, so these amendments generally maintain the status quo.

The FLP is potentially infringed because the authorisation of retainment and transhipment of product does not extend to all fisheries, which has the potential to unduly restrict the right to conduct business without interference.

The potential infringement is justified because it prevents the retainment and transhipment of product in fisheries managed by prescribed commercial catches (i.e. competitive quota managed fisheries). This is necessary because unlike ITQ fisheries, competitive quota is not allocated to individual authority holders and real-time monitoring is required to determine when the prescribed commercial catch limit has been reached and therefore no more fish can be taken. Retainment and transhipment undermines real-time monitoring. Limiting retainment and transhipment also reduces the potential for black marketing of fish species.

New management regions in the east coast trawl fishery, east coast inshore fishery and commercial crab fisheries

- Clause 71 – Insertion of new sections 58A-58D and chapter 2, part 4, division 2 heading into the General Fisheries Regulation
- Clause 149 – Insertion of new chapter 4, parts 5A-5C into the Commercial Fisheries Regulation
- Clause 172 – Replacement of schedule 9 (Defined port areas) of the Commercial Fisheries Regulation with new schedule (Fish and management regions for particular quota units)

Clause 71 inserts new sections 58B (Issue of ENL-ITQ units) and 58C (Issue of C1-ITQ units) into the General Regulation which provides that the chief executive must issue ENL-ITQ units under schedule 2B and C1-ITQ units under schedule 2C. No further ITQ units may be issued after 30 June 2021.

Clause 149 establishes new management regions are established for the crab, east coast inshore and east coast trawl fisheries by inserting new chapter 4, parts 5A -5C into the Commercial Fisheries Regulation.

Clause 172 prescribes new ITQ units for each prescribed crab management area in new schedule 9, part 3.

These amendments to establish the new management regions do not restrict existing access to the fisheries but, together with the related ITQ and effort unit amendments, restrict how fish can be taken in each of the new management regions. The FLP is potentially infringed because restrictions on how fish can be taken have the potential to unduly restrict the manner in which commercial fishing can be conducted.

The implementation of management regions and arrangements are critical in implementing effective harvest strategies as they enable fisheries management to better control fishing pressure on different fish stocks or parts of a fishery. As the maintenance of sustainable fish stocks is critical for ensuring the long-term viability of the commercial fishing industry, the potential infringement on this FLP is justified as it operates to ensure that business can be conducted in the long-term, and actually operates to minimise business impacts that would result from any future need to take significant management action and/or if the fishery collapses.

Implementing quota or effort management of fisheries

- Clause 71 – Insertion of new sections 58A-58D and chapter 2, part 4, division 2 heading into the General Fisheries Regulation
- Clause 76 – Insertion of new schedules 2A-2D into the General Fisheries Regulation

Clause 71 inserts new sections 58A (Issue of effort units for the Moreton Bay trawl region) and 58B (Issue of ENL-ITQ units) into the General Regulation which provides that the chief executive must issue the effort units under schedule 2A and the ENL-ITQ units under schedule 2B. No further effort units may be issued after 30 June 2021

Clause 76 amends the General Fisheries Regulation provide for the allocation and issuing of ITQ units in the east coast inshore fishery and crab fishery. The amendments to the Commercial Fisheries Regulation provide for what the entitlement of an ITQ unit is, when it is used, the ITQ year, and other similar provisions. Allocation is based on historical catch in these fisheries to maintain each fisher's relative economic position. This means if a fisher does not receive any allocation or a small allocation, it is likely that they do not hold an eligible licence or their licence does not have the same amount of fishing history recorded against it as another fisher's licence. The new ITQ managed fisheries are:

- blue swimmer crab;
- mud crab; and
- a number of commercial net fisheries species, where the ITQ applies on a species and regional level including, for example, barramundi in net management region 1.

The amendments to the Commercial Fisheries Regulation provide for the issuing of ITQ units previously stated on commercial harvest fishery licences. Effectively, the existing ITQ units have now been translated into consistent ITQ units for these commercial fisheries. Consistent with other ITQ fisheries the amendments provide for what the entitlement of an ITQ unit is, when it is used, the ITQ year, and other similar provisions. The relevant fisheries are:

- sea cucumber;
- coral;
- shell grit;
- trochus; and

- crayfish and rocklobster.

The amendments to the General Fisheries Regulation and Commercial Fisheries Regulation also provide for the re-allocation of existing effort units in the east coast trawl fishery to five new trawl management regions, and allocation of new effort units for the Moreton Bay trawl management region. Allocation is based on historical effort in these fisheries to maintain each fisher's relative economic position. This means if a fisher does not receive any allocation or a small allocation, it is likely that they do not hold an eligible licence or their licence does not have the same amount of fishing history recorded against it as another fisher's licence. Given the number of 'unused' effort units in the east coast trawl fishery that do not have relevant history to inform the allocation, the amendments also provide for each licence holder to nominate to which management region these 'unused' units are allocated, to minimise impact.

ITQ and effort units restrict the quantity of fish or quantity of effort (that can be taken or applied under a primary commercial fishing licence and relevant fishery symbol). As in the existing ITQ and effort unit fisheries, these amendments will result in a finite 'quota' that is distributed to individual primary commercial fishing licence holders according to their fishing history, but once allocated, their entitlement may then be traded (i.e. sold, bought or leased) through market-based arrangements. Once holders have used their entitlement, they will no longer be able to carry out the relevant fishing activities authorised under the licence. For example, if a person holds ITQ for the R fishery, once the person catches his or her entire entitlement he or she holds, he or she is no longer allowed to take fish in that fishery.

The FLP is potentially infringed because ITQ and effort units, by limiting catch or effort respectively, restrict the manner in which commercial fishing can be conducted. The restrictions are justified, however, on the basis that managing fisheries using ITQ and effort units reduces the potential for overfishing and the maintenance of sustainable fish stocks is critical for ensuring the long-term viability of the commercial fishing industry. ITQ and effort units also provide certainty to holders and users of these entitlements, as to how much they can fish regardless of the amount of effort it takes, the size of the boat, type or gear or competition from other fishers. This enables fishers to maximise their return on investment. The potential infringement on this FLP operates to ensure that business can be conducted in the long-term, and actually operates to minimise business impacts that would result from any future need to take significant management action and/or if the fishery collapses.

Standardised reporting

- Clause 156 – Insertion of new Chapter 5 (Logbook requirements) into the Commercial Fisheries Regulation

Clause 156 inserts new chapter 5 to provide standardised logbook reporting requirements into the Commercial Fisheries Regulation. There has been a longstanding obligation on commercial fishing boat licence holders (or fishers acting under a commercial fishing boat licence) to complete and submit logbooks and certain reporting requirements for commercial fishing activities to the chief executive under section 118 of the *Fisheries Act 1994*.

The amendments to the Commercial Fisheries Regulation standardise the existing logbook requirements across all fisheries. They do not impose any new obligations, but merely legislate the existing obligations which have previously been imposed

administratively. Similarly, the existing reporting provisions for existing quota managed fisheries (e.g. coral trout and spanish mackerel) were previously provided for in the respective schedule in the Commercial Fisheries Regulation. The amendments consolidate and relocate these existing reporting requirements to chapter 5. A number of minor changes are also included to generally reduce the impost on fishers and clarify some requirements to improve compliance. In addition to consolidating the existing requirements, the amendments also apply the standardised reporting requirements to new species managed through ITQ, competitive commercial catch limits and effort units.

New Chapter 5 of the Commercial Fisheries Regulation also prescribe requirements for commercial fisher licence holders to report interactions with threatened, endangered and protected animals. This is also part of the standardisation of the existing logbook requirement to report interactions with listed threatened species under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth). There are no new requirements imposed although the existing section 118 information requirement has now been formerly established as regulatory requirements.

The FLP is potentially infringed because implementing reporting requirements, has the potential to unduly restrict the manner in which commercial fishing can be conducted. However, the potential breach is justified because the reporting requirements facilitate the gathering of data that can be used to assess the status of fish stocks to facilitate management decisions, which ensure the long-term sustainability of fisheries resources, reducing the potential for overfishing. Catch data is also necessary to ensure the integrity of quota management of fisheries, which is essential to ensuring these fisheries are not overfished. Consequently, this requirement helps to ensure that business can be conducted in the long-term, and helps to minimise business impacts resulting from fishery collapse.

Removal of commercial harvest fishery licences and carrier boat licences

- Clause 118 – Replacement of section 24 (Types of licences) of the General Fisheries Regulation
- Clause 122 - Insertion of new chapter 7, part 2, division 2 (sections 154-159) of the General Fisheries Regulation

Amendments to the General Fisheries Regulation will prevent the chief executive from issuing carrier boat licences. Carrier boat licences have essentially allowed product to be transhipped at sea in certain commercial fisheries. Transshipment at sea has now been incorporated into an authorisation of a primary commercial fishing licence, with related standardised reporting requirements, making the need to apply and issue a permit redundant. Consequently, a number of existing permit holders will need to transition into the new requirements, which may mean they need to adjust their operations. Amendments also provide that existing carrier boat licences in effect on the commencement of this Amendment Regulation will remain valid for one year from the date of commencement to allow for this operational adjustment.

The General Fisheries Regulation is also amended to provide for the transition of commercial harvest fishery licences to primary commercial fishing licences. It provides that holders of commercial harvest fishery licences are taken to hold primary commercial fishery licences with the amendments commencing on 1 January 2021 and are subject to the same terms and conditions that applied prior to the transition. It also provides that if the licence holder is now required to obtain a commercial fisher licence, he or she no longer need to nominate nominees to take fish in the commercial hand-harvest fisheries.

Licence holders are exempt from any fee payable to obtain the commercial fisher licence for the first year of the licence. Obtaining such a licence may be necessary because, in order to take fish under a primary commercial fishing licence, in certain circumstances, a person must be a commercial fisher licence holder.

The transition of commercial harvest fishery licences to primary commercial fishing licences, and the removal of carrier boat licences, potentially breaches the FLP by restricting ordinary activity, including the right to conduct business without interference. For commercial harvest fishery licence holders, this is largely due to the subsequent impost for certain licence holders to obtain a commercial fisher licence. However, the potential breach is minimised because clause 122 exempts them from any fee payable for a commercial fisher licence for the first year of the licence. The amendments also replace the existing nominee system which is administratively cumbersome and difficult to enforce. Further, clause 122 seeks to limit the effect on existing commercial harvest fishery licences holders by providing that all terms and conditions which applied to the commercial harvest fishery licences before the transition will apply after the licence transitions.

For existing carrier boat licence holders the removal of the licence is justified because other amendments to the Commercial Fisheries Regulation ensure that the activity of carrying fish can still occur without the need for a licence in most fisheries (such as transshipment). Further, clause 122 provides that carrier boat licences remain valid for 1 year from the date of commencement, which is sufficient time for licence holders to make any necessary changes to adjust to providing their services under the new arrangements. Finally, of the carrier boat licences currently in effect, many of them are not in use and no feedback (positive or negative) on the proposal to remove carrier boat licences was received during stakeholder consultation.

Restriction on filleting of particular fish

- Clause 183 - Amendment of schedule 2 (Regulated fish declarations) of the Fisheries Declaration

The amendments insert new form requirements for particular species subject to new catch limits (dusky flathead, grey mackerel, scaly jewfish, school mackerel, sea mullet, spotted mackerel, tailor, whiting, yellowfin bream) and sharks taken in east coast commercial fisheries. It prohibits the filleting of these particular fish species, which potentially breaches the FLP by restricting ordinary activity, including the right to conduct business without interference. The potential breach is minimised because this amendment still allows for other common forms of processing at sea (i.e. head and guts removed) to continue.

This amendment is necessary as a result of the difficulties associated with identifying filleted fish, which undermines the effective enforcement of management not only for the relevant species but also for species with which they could be mistaken. Consequently, the restrictions are necessary to ensure the integrity of management arrangements, which are necessary for the sustainability of both the relevant and other fish species. Further, the prohibition on the filleting of shark will ensure the east coast inshore fishery meets conditions outlined in its Wildlife Trade Operation accreditation issued under the federal *Environment Protection and Biodiversity Conservation Act 1999*. The filleting prohibition will not affect the current arrangements for all shark species in place for the Gulf of Carpentaria.

Conditions of authorities

- Clause 119 – Replacement of chapter 2, part 2 (Licences) of the General Fisheries Regulation

Clause 119 inserts new section 32 (Deciding number of tender boats for licence) into the General Fisheries Regulation which in effect, limits the number of tender boats that can be operated under a primary commercial fishing licence to a maximum of seven, with exceptions for particular fishery symbols, which will restrict fishing effort in commercial fisheries to sustainable levels. New sections 38-39 of the General Fisheries Regulation (which replicate the former section 45) provide that it is a condition of charter fishing licences that a person who conducts a charter fishing trip must not take or allow anyone else to take maray or Australian sardines during the trip other than as prescribed.

The amendments impose requirements on authority holders taking fish which potentially breaches the FLP by restricting ordinary activity, including the right to conduct business without interference. However, each of the new conditions are targeted at ensuring the long-term sustainability of Queensland's commercial fisheries and are justified on this basis.

Restrictions on issue of general fisheries permits

- Clause 67 – Insertion of new s51A (New section 51A 'Restriction on authorising taking or possession of regulated coral reef fin fish under general fisheries permit') of the General Fisheries Regulation

New section 51A restricts the chief executive from issuing a general fisheries permit to authorise the taking or possession of regulated coral reef fin fish in coral reef fin fish waters in a regulated period provided for in section 23 of the *Fisheries Declaration 2019*. The imposition of this requirement will affect persons who wish to apply for and then use a general fisheries permit to take or possess regulated coral reef fin fish in ways that are generally not permitted. This potentially breaches the FLP by restricting ordinary activity, including the right to conduct business without interference. However, the restriction on the issue of a permit is necessary to ensure that the fishery is managed consistently and accessed in the most equitable way.

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

Effort unit evidentiary provisions

- Clause 138 – Amendment of s74 (Location detected or reported) of the Commercial Fisheries Regulation;
- Clause 140 – Amendment of s82 (Location not detected or reported) of the Commercial Fisheries Regulation

Clause 138 amends section 74 of the Commercial Fisheries Regulation to broaden the application of the provision to all of the east coast and Moreton Bay trawl fisheries. The amendments provide that detection by vessel tracking equipment or manual reporting of a primary boat identified on a primary commercial fishing licence with the relevant east coast and Moreton Bay trawl fishery symbols, at any time during a day in a trawl region, 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.

Similarly, clause 140 amends section 82 of the Commercial Fisheries Regulation to broaden the application of the provision to all of the east coast and Moreton Bay trawl fisheries. The amendments provide for a deduction of effort units if there has not been any detection by vessel tracking equipment or manual reporting of a primary boat identified on a primary commercial fishing licence with the relevant east coast and Moreton Bay trawl fishery symbols at any time during a day.

Both of these sections provide that the deduction of effort units will not apply if the licence holder satisfies the chief executive via written notice that the primary boat, on a primary commercial fishing licence, with the relevant east coast and Moreton Bay trawl fishery symbols, was not used on the relevant day, which reverses the onus of proof and therefore potentially breaches the FLP. 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 have sufficient regard to the rights and liberties of individuals, including ensuring that it does not adversely affect rights and liberties retrospectively – LSA s 4(3)(g)

- Clause 157 – Insertion of new ch 7, pt 2 division 3 (Amendments commencing on 1 September 2021) into the Commercial Fisheries Regulation

New section 173 (First hand-harvest ITQ year for R-ITQ units), within the new chapter 7, part 2 of the *Fisheries (Commercial Fisheries) Regulation 2019*, provides that the first harvest ITQ year for R-ITQ units is a nine month period from 1 January 2021 to 30 September 2021. In addition, it provides that any relevant lobster caught between 1 January 2021 and the commencement will be counted against the quota entitlement for the first hand-harvest ITQ year for R-ITQ units. This is despite the quota entitlement under an R-ITQ unit not commencing until 1 September 2021 and therefore not being able to be used for the first time until 1 September 2021.

This provision potentially breaches the FLP that legislation should not adversely affect rights and liberties retrospectively, because it deems relevant lobster catches in the period of 1 January to 30 June 2021 to be lobster caught for the purposes of the holder's entitlement, which does not commence until 1 September 2021.

However, the potential breach is justified given the quota entitlement that will be available to relevant holders from 1 September 2021 replaces a quota, that is currently imposed as a condition of the licence, that the holder is already entitled to fish in part of the 'first' quota year. The provision merely ensures the holder is not able to take twice the amount of relevant lobster that they would ordinarily be allowed to take in the first quota year (i.e. the entitlement under their licence from the beginning of the quota year until 30 June and then the same entitlement under a quota authority from 1 September until the end of the season), which would jeopardise the sustainability of the commercial fishery.

Legislation should have sufficient regard to the institution of Parliament, including that the subordinate legislation allows the sub delegation of a power delegated by an Act only in appropriate cases and to appropriate persons – LSA s 4(5)(e)(i)

Standardised Reporting

- Clause 156 – Insertion of new Chapter 5 (Logbook requirements) into the Commercial Fisheries Regulation

New part 4 of chapter 5 standardises the existing logbook requirements across all fisheries to report interactions with threatened, endangered and protected (TEP) animals. TEP animals are protected animals within the meaning of section 118 of the *Fisheries Act 1994* that have been designated by the chief executive and published on the department's website.

This provision potentially breaches the FLP that legislation should have sufficient regard to the institution of Parliament because it provides that the chief executive can determine what a TEP animal is without Parliamentary oversight.

However, this potential breach is limited as the chief executive's discretion is restricted by the requirement that a TEP animal either be a protected animal under the *Nature Conservation Act 1992* or a listed threatened species, listed migratory species or listed marine species under the *Environment Protection and Biodiversity Conservation Act 1999* (*Cwlth*). Providing the chief executive with discretion to determine what is a TEP animal is, is required, as it will provide the necessary flexibility to define species that are a TEP animal and apply reporting requirements to enables management to minimise the risk of fishing activities to align with changes in risk to different protected species.

Consultation

Since the release of the Strategy in 2017, extensive consultation on fisheries reforms has been undertaken including through 10 fishery-specific working groups (Working groups) which have met 44 times since late 2017; and the Sustainable Fisheries Expert Panel (the Panel) which has met eight times. Both of these consultation forums have been integral to the engagement approach taken to the fisheries reforms. A meeting communiqué has been published on Department of Agriculture and Fisheries' website and promulgated via social media following each meeting.

There have been three separate discussion papers released for consultation. In March 2018, discussion papers on issues, objectives and options for managing the priority fisheries were released for eight weeks consultation, closing on 20 May 2018. This included talking to 340 people attending regional face to face meetings. In March 2019, discussion papers on draft allocation approaches were released for consultation for five weeks, particularly seeking feedback from commercial fishers on quota allocation approaches and impacts, closing on 26 April 2019.

In June 2019, the Discussion Paper on proposed changes to the now expired *Fisheries Regulation 2008* and Supporting Impact Statement was released for consultation for a period of four weeks, closing on 19 July 2019. 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. More than 167 separate individual or representative bodies representing the commercial fishing industry, recreational fishing, charter operators, conservation groups, and the tackle industry made written submissions, as did local government, other government departments and community.

There is good support for the proposed commercial fishing changes, particularly those that streamline fisheries management requirements, reduce red tape and remove unnecessary restrictions as they will support the fishing industry's post COVID-19 recovery. There are a range of views regarding the commercial fishing changes required to maintain WTO approvals. They range from support for ITQ; regionalisation of ITE; and management regions, through to opposition to any change on how commercial fishing is undertaken. Some commercial fishers remain unsupportive due to concerns that the changes would limit flexibility for commercial fishers and increase costs.

A number of changes to the proposals in the Discussion Paper were made as a result of the consultation. This include, but are not limited to, changes to allocation criteria to minimise impacts on fishers, reducing the number of regions for the east coast inshore fishery from 6 to 5 regions to ensure effectiveness of the new management framework and provide more flexibility for commercial fishers. These adjustments complement a number of other changes that have been made throughout the reform process to minimise the impact on fishers.

In addition, a number of proposals have been deferred for consideration at a later date or are not being progressed at all. The proposals in the Discussion Paper that are not being implemented by the Amendment Regulation are discussed under the section 'Alternative ways of achieving policy objectives' of these Explanatory Notes.

DAF consulted with the Office of Best Practice Regulation about the 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.

Given the comprehensive consultation process, a full Regulatory Impact Statement (RIS) has not been prepared. A supporting impact statement was prepared based on the best available information. Also, throughout the consultation process a number of changes have been made to the proposed reforms. As far as possible the impacts of the reforms have been minimised or avoided, but it is not possible to achieve essential improvements to fisheries management without some additional restrictions or cost.

It is difficult to undertake quantitative economic modelling required in a RIS, as currently there is insufficient data to model the 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 Queensland's fisheries and therefore would not be a good indicator of impact. There is also a lack of industry reporting, 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 was 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 whilst still achieving the overall objectives.

While a RIS has not been completed at this stage, the Government is committed 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 2023). The Queensland Government has initiated new economic and social monitoring which will help improve the understanding of 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 monitoring 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.

Notes on provisions

These notes on provisions have been provided to assist the reader in understanding the changes to fisheries subordinate legislation being made by the *Fisheries Legislation Amendment Regulation 2020*. Section 23(1)(d) of the *Legislative Standards Act 1992* (LSA) provides that the Explanatory Notes for subordinate legislation require a brief statement of the way the policy objectives have been achieved and why this approach is reasonable and appropriate. This statement has been provided earlier in the document. The LSA does not require a simple explanation of the purpose and intended operation of each clause of subordinate legislation as is required for a Bill under section 23(1)(h). However, a simple explanation has been provided to assist the reader of the Amendment Regulation given the complexity of the changes being made.

Chapter 1 Preliminary

Chapter 1 includes the preliminary provisions for the Amendment Regulation including the short title and the commencement.

Clause 1 states the short title of the Amendment Regulation is the *Fisheries Legislation Amendment Regulation 2020*.

Clause 2 provides:

- Chapter 3 and schedule 2 will commence on 1 January 2021; and
- Chapter 4 and schedule 3 will commence on 1 September 2021.

The remaining provisions will commence on notification.

Chapter 2 Amendments commencing on notification

Part 1 – Amendment of *Fisheries (Commercial Fisheries) Regulation 2019*

Clause 3 states that Part 1 amends the Commercial Fisheries Regulation. The note alerts the reader to minor and consequential amendments to the Commercial Fisheries Regulation that are also provided for in schedule 1.

Clause 4 inserts new section 10A (Restriction of possessing, selling or processing fish) and section 10B (Restriction on possessing commercial fishing apparatus). New section 10A provides that if a fishery provision states that fish may be possessed, sold or processed in a stated way or in stated circumstances, the authorised person may only

possess, sell or process the fish in the stated circumstances or way. Similarly, section 10B provides that if a fishery provision states that fishing apparatus may be possessed in the fishery area only in stated circumstances or in a stated way, the authorised person may only possess the commercial fishing apparatus only in the stated circumstances or stated way. These new sections are necessary to ensure that where a fishery provision does limit these activities, the authorised person must comply with those limitations.

Clause 5 amends section 13 (Restriction on taking fish in more than one commercial fishery) to insert new subsection (5) to allow fishing at the same time under the 'A1' and 'D' symbols.

Clause 6 inserts new section 15A (Restriction on retaining fish) and new section 15B (Restriction on transshipping fish). New section 15A provides that fish may only be retained on a boat if the fish were taken under a B1, R, RQ, SM or T4 licence. New section 15B provides that fish may only be transshipped if fish were taken under a D, R, RQ, SM or T1 licence. The licences where retainment and transshipment will now be permitted have previously been able to retain and transship product, except product caught under the B1 symbol will now also be able to be retained, and product caught under the D symbol will now also be able to be transshipped. Product caught under other symbols has never been allowed to be retained or transshipped. These amendments generally maintain status quo.

Clause 7 amends section 42 (General conditions of a commercial fishing boat licence) replaces subsection (4) with new subsections (4) to (6). New subsection (4) provides a condition that primary boats must not be longer than 25 metres unless a fishery provision about the fishery says otherwise.

New subsections (5) and (6) provide a condition that tender boats must not be longer than 10m unless a fishery provision about a commercial fishery says otherwise, and that a tender boat may be used in a commercial fishery only if the primary boat may be used in the fishery, and is not being used in another commercial fishery unless the primary boat is being used in a crab fishery.

Clause 7 also renumbers current section 42(5) as a consequence of the insertion of the new subsections (5) and (6).

Clause 8 makes consequential amendments to the evidentiary provisions in section 82 (Location not detected or reported) of the Commercial Fisheries Regulation to reflect the new trawl regions. The onus remains on the fisher to manually report the boat's location outside the relevant area or otherwise satisfy the chief executive the boat was not being used in the relevant area.

Clauses 9 and 10 amend the heading of chapter 4, part 4 (ITQ) and replace section 97 respectively, to reflect that ITQ units under the existing provisions for the C2 fishery symbol have been renamed C2-ITQ units for clarity.

Clause 11 makes consequential amendments to section 107 (Definitions for part) of the Commercial Fisheries Regulation. It amends the definition of quota units by replacing 'ITQ unit' with 'C2-ITQ'. It also amends the definition of quota year to insert references to the new quota years for the new ITQ fisheries.

Clause 12 replaces the heading of chapter 5 (Transitional provisions) with new headings chapter 5 (Transitional provisions) Part 1 (Provisions for SL No. 178 of 2019) which has

the effect of establishing the existing transitional provisions, sections 121- 122 into a new chapter 7 of the Commercial Fisheries Regulation.

Clause 13 renumbers section 121 (Nominees under particular authorities continue) an existing transitional provision as section 166 as a consequence of its relocation to the new chapter 7 established by clause 15.

Clause 14 amends section 122 (ITQ year before 1 September 2021) to update the reference from 'ITQ' to 'C2-ITQ' to recognise that ITQ units are now called C2-ITQ units.

Clause 14 also renumbers section 122 as section 167 a consequence of its relocation to the new chapter 7 established by clause 15.

Clause 15 inserts a new chapter 7, part 2 (Provisions for Fisheries Legislation Amendment Regulation 2020) which provides for new sections 168-170,

New section 168 (Existing primary boats for commercial fishing boat licences) provides that if immediately before commencement, the primary boat under a commercial fishing boat licence for a fishery is longer than the maximum length permitted to be use in the fishery under section 42 (4), then section 42(4) will not apply to the use of the boat under the licence until the primary boat identified in the licence is modified or replaced.

New section 169 (Bigeyes that are recognised BRDs) provides that the new bigeye weighting requirements for an otter net used to trawl for prawns will not apply during a fishing trip that has commenced but has not ended when the requirements take effect; and the requirement in schedule 2 section 153(4) and 161(4) will continue to apply during the commenced fishing operation.

New section 170 (Requirements to check crab apparatus) which provides that the requirement to check crab apparatus under the prescribed sections in section 12A of schedule 7 will apply as if the crab apparatus was set on commencement.

Clause 16 amends schedule 2 (East coast trawl fishery) to:

- omit existing conditions of the possession and use of beams, otter boards and trawl sleds in sections 52, 67, 82, 94, 106, 117, 129 and 141 and replace them with a new consistent authorisation for the use of those fishing apparatus in the east coast trawl fishery by inserting a new 6A (Possessing particular fishing apparatus);
- omit sections 11 to 13 and replacing section 34 (Meaning of T5 area) with a new section 34 (Meaning of T5 area) which incorporates updated descriptions of 'Brisbane River-Victoria Bridge to Juno Point area', the 'Brisbane river mouth area', and the 'Logan River area', which were previously provided by the omitted sections 11-13. This is to update the beam trawl fishery areas to align with longstanding access provided through general fisheries permits that can no longer be issued for those purposes;
- replace section 36 (Meaning of T7 area) to update the description of the tidal waters of the T7 area to include a description of the 'Moore Park beach area'; and
- replace section 38 (Meaning of T9 area) with a new section 38 (Meaning of T9 area) to include new descriptions of the tidal waters of 'Llewellyn Bay area' which was previously provided by the omitted section 25 and 'Sinclair Bay area' which replace the descriptions provided by the omitted sections 26 and 31;

- amend sections 153 and 161 to clarify the weighting requirements for bigeye bycatch reduction devices by specifying the number, size and weight of chain links required for bigeye bycatch reduction devices in the east coast trawl fishery.

Clause 17 omits division 3 in schedule 3, part 1 (Line fishery (other than Great Barrier Reef region)) to provide for a consistent approach to primary and tender boat lengths across most of Queensland's commercial fisheries.

Clause 18 omits schedule 3, part 2 (Line fishery (reef)) to provide for a consistent approach to primary and tender boat lengths across most of Queensland's commercial fisheries.

Clause 19 amends schedule 3, part 3 (Line fishery (Gulf of Carpentaria- Spanish mackerel and other fin fish) by omitting division 3 to provide for a consistent approach to primary and tender boat lengths across most of Queensland's commercial fisheries.

Clause 20 amends schedule 3, part 4 (Line fishery (multiple hook - east coast)) by amending subsection 3 of section 33 (Use of drop lines) and subsection (4) of section 34 (Use of bottom set lines) to provide that solid, light coloured floats are to be used on drop lines.

Clause 21 amends schedule 4, part 1 (General netting and ocean beach fisheries) to:

- replace the headings for division 9 and subdivision 1 heading with one heading 'Division 9 Authorisation' to provide that the obligations imposed under division 9 are conditions of the licence;
- omit division 9 subdivision 2 to provide a consistent approach to primary and tender boat lengths across most of Queensland's fisheries.

Clause 22 amends schedule 4, part 2 (Net fishery (east coast no. 1)) to:

- amend particular prescribed dates in the N1 fishery for particular purposes, including, for example, section 47, to amend the date a mesh net that is neither fixed nor hauled in other offshore waters must not be used in the waters north of Cape Flattery that is currently the period from 'midday 1 November to midday 1 February' to '1 November to 31 January';
- introduce a maximum ply rating for mesh nets used under the 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7', 'K8', 'N1', 'N2', 'N4' and 'N10' fishery symbols to require mesh nets to be made of monofilament no more than 0.5mm in diameter in the waters north of the northern bank of Baffle Creek, offshore waters of Keppel Bay in the N1 net fishery; and
- require solid floats to be used on commercial netting.

Clause 23 amends schedule 4, part 3 (Net fishery (east coast no. 2)) to:

- amend particular prescribed dates in the N2 fishery for particular purposes, including, for example section 64(5), to amend the date a mesh net must not be used in nearshore waters between the northern bank of Baffle Creek and Cape Flattery that is currently the period from 'midday 1 November to midday 1 February' to '1 November to 31 January'; and
- require solid floats to be used on commercial netting.

Clause 24 amends schedule 4, part 4 (Net fishery (east coast no. 3)) to:

- amend particular prescribed dates in the N1 fishery for particular purposes, including, for example section 79(2), to amend the date a mesh net that is neither fixed nor hauled in other offshore waters must not be used in the waters north of Cape Flattery that is currently the period from 'midday 1 November to midday 1 February' to '1 November to 31 January'; and
- require solid floats to be used on commercial netting.

Clause 25 amends schedule 4, part 5 (Net fishery (east coast no. 4)) to omit sections 95 and 96 to provide for a consistent approach to primary and tender boat lengths across most of Queensland's commercial fisheries.

Clause 26 amends schedule 4, part 6 (Net fishery (Gulf of Carpentaria no. 1)) to require solid floats to be used on commercial netting.

Clause 27 amends schedule 4, part 7 (Net fishery (no.11)) to:

- allow the use of scoop nets in the eastern N11 area;
- omit the prohibition on the use of a power assisted device with a net in the Gulf N11 area;
- omit the maximum length of a handle or shaft or a scoop net; and
- require solid floats to be used on commercial netting.

Clause 28 amends schedule 4, part 8 (Net fishery (Gulf of Carpentaria no. 3)) to require solid floats to be used on commercial netting.

Clause 29 amends schedule 4, part 9 (Net fishery (Gulf of Carpentaria no. 4)) to require solid floats to be used on commercial netting.

Clause 30 amends schedule 5 (Spanish mackerel commercial fishery) by omitting part 4 to remove the conditions on the use of 'primary' and 'tender' boats so that the rules that apply are those provided for by the Australian Maritime Safety Authority. Section 13 is omitted as the obligations relating to transshipments are now provided by new section 15B inserted by clause 6.

Clause 31 amends schedule 6 (Reef line commercial fishery) by omitting sections 11 and 12 to remove the conditions on the use of 'primary' and 'tender' boats so that the rules that apply are those provided for by the Australian Maritime Safety Authority. Section 13 is omitted as the obligations relating to transshipments are now provided by new section 15B inserted by clause 6.

Clause 32 amends schedule 7, part 1 (Commercial crab fishery) as follows:

New section 6 (Number of items of crab apparatus authorised to be used) of schedule 7, clarifies the number of crab apparatus that may be used in the fishery as follows:

- for one C1 symbol—50 crab apparatus;
- for two C1 symbols—100 crab apparatus; and
- for three C1 symbols—
 - 100 crab apparatus in the Moreton Bay crab area or Hervey Bay crab area (both defined areas) for the taking of blue swimmer crab, three spot

- crabs and coral crabs, and 50 additional crab apparatus in other areas;
or
- 150 crab apparatus in all other areas.

The limits for the use of crab apparatus with one or two C1 symbols are unchanged. New section 6 also includes a description of the 'Hervey Bay crab area' and the 'Moreton Bay crab area'.

New section 7 (Use of crab apparatus in single line or in sequence) of schedule 7 prescribes conditions for the use of crab apparatus that may be fixed in a single line or in a sequence. A maximum of 10 may be fixed in a in a single line or in a sequence in waters other than the prescribed waters described in subsection (2). This is an existing requirement.

New section 7A (Possession of crab apparatus) provides that a commercial fisher may only possess on a boat the number of crab apparatus that the fisher is authorised under new section 6, for example, 100 crab apparatus if the holder has two C1 symbols on their licence.

Clause 31 amends schedule 7 to omit sections 2 (Fishery symbol), 3 (Fishery area) and 4 (What fish may be taken) as a consequence of the new management arrangements including management areas introduced by clause 76.

Clause 32 also amends section 12 to require solid floats to be used on commercial netting.

Clause 32 also inserts new section 12A (Checking crab apparatus) which provides for a new requirement for fishers to check their crab apparatus that are in use every 7 days after being set. Unchecked crab apparatus pose significant issues in Queensland waters, including ghost fishing.

Clause 33 amends schedule 7 part 2 (Commercial spanner crab fishery (managed area A)) to:

- establish a new subdivision 1 (General) in part 2, division 1;
- omit subsection 18(2) which provided that a commercial fisher could possess no more than 85 dillies on a boat in the fishery area and re-insert this requirement as new section 25A; and as a consequence renumber section 18(3) as section 18(2);
- update the reference in section 18(3) from 'division 3' to 'subdivision 2' to reflect the relocation of the provisions that provide for the use of dillies;
- replace sections 18(4) and (5) with subsections (3) and (4) to decrease the number of dillies that one person acting under a licence may use at the same time from 75 to 45; increase the number of dillies two or more people acting under a licence may use at the same time to take spanner crabs from '50' to '75'; and increase the number of dillies that a commercial fisher may set on a single line from '15' to '25';
- insert a new section 18A that provides a new requirement that spanner crabs can only be taken in a C2-ITQ year with unused C2-ITQ units;
- insert new section 18B (Possession of dillies) to limit the number of dillies a commercial fisher can possess on a boat in the fishery area according to the number of persons on the boat. If there is one person on a boat, the fisher can possess 55 dillies. If two or more than people, the fisher can possess 85 dillies.
- establish a new subdivision 2 (Use of dillies) replacing part 2, division 3;

- require solid floats to be used on commercial netting; and

Clause 34 amends schedule 7, part 3 (Commercial spanner crab fishery (managed area B)) to:

- create a new subdivision after section 29 by inserting a new heading ‘Subdivision 1 General’;
- amend section 31(2) by replacing the reference to ‘division 3’ with ‘subdivision 2’ to reflect the relocation of the provisions that provide for the use of dillies;
- omit subsection 31(3) which provided that a commercial fisher could possess no more than 35 dillies on a boat in the fishery area. This section has been re-inserted as new section 33A (Possession of dillies) and subsection 31(4) renumbered as section 31(3) as a result of the omission;
- omit section 32 which prescribed where spanner crabs may be brought ashore. This section has been re-inserted as new section 42 (Where spanner crabs may be brought ashore) to clarify that it is a condition of the licence rather than an authorisation;
- create a new subdivision 2 (Use of dillies) replacing part 3, division 3;
- renumber part 3, division 4 as part 3, division 3 as a consequence of establishing a new subdivision 2 to replace division 3; and
- require solid floats to be used on commercial netting.

Clause 35 omits part 1 (Commercial crayfish and rocklobster fishery) of schedule 8 because the arrangements for the commercial crayfish and rocklobster fishery have been moved to schedule 7A with the other hand-harvest fisheries.

Clause 36 amends the schedule 8, part 3 (Commercial trawl fishery (fin fish)) to update the fishery area in section 19.

Clause 37 amends the schedule 11 (Dictionary) to:

- omit the definition of ‘ITQ year’ and insert a new definition of ‘C2-ITQ year’ as provided by section 97;
- omit the definition of ‘line unit’ as a consequence of introduction of new types of line units now included in schedule 9; and
- replace references to ‘ITQ’ with ‘C2-ITQ’ in the definitions of ‘unused entitlement’ and ‘used’.

Part 2 – Amendment of *Fisheries Declaration 2019*

Clause 38 (Declaration amended) provides that this part amends the Fisheries Declaration. A note directs the reader to other amendments in schedule 1.

Clause 39 amends example 1 in section 4 (Relationship between fisheries declarations) to correct the starting date of northern rocklobster waters closure from ‘2 October’ to ‘1 October’.

Clause 40 amends section 16 (Exception for taking spanner crabs) to amend the definition of ‘prescribed dilly’ to reflect the requirement that the float for the dilly must be solid.

Clause 41 amends section 17 (Regulated waters to which division applies) to include Dalrymple Bay and Hay Point as regulated waters in which the taking or possessing of

fish is prohibited. Black jewfish is the highest value fisheries resource in Queensland and it was estimated before the restriction on taking and possessing of black jewfish was introduced in September 2019 that approximately 98,000 kg of the reported commercial catch of the fish came from the regulated waters. However, now a total prohibition on all fishing is necessary due to non-compliance of the taking and possessing of black jewfish in those waters.

Clause 42 amends section 20 (Taking or possessing barramundi in regulated period—waters other than the Gulf of Carpentaria waters) to correct the end date of the closure period from ‘1 February’ to ‘31 January’.

Clause 43 amends section 21 (Taking or possessing barramundi in regulated period—Gulf of Carpentaria waters) to correct the end date of the closure period from ‘1 February’ to ‘31 January’.

Clause 44 amends section 25 (Exception for commercial fishing) to omit the definition of ‘line unit’ as a consequence of introduction of new types of line units now included in schedule 9; to omit the definition of ‘unloading area’; and provide relevant defined port areas as an alternative area for fishers to the landing place until they are able to unload any coral reef fin fish during a regulated period. Under previous arrangements, all vessels participating in the Coral Reef Fin Fish Fishery must have been at their unloading place before the start of the spawning closure. This requirement led to bottlenecks at ports along the coast as fishing vessels competed for access to unloading facilities. Providing defined port areas as alternative areas will ease congestion and ensure the quality of live fish. Subsection (2) is amended to omit redundant definitions and replace with definitions for ‘authorised boat’, ‘relevant defined port area’, and ‘relevant landing place’. Clause 44 also corrects an error in the definition of ‘permitted period’ from 6am to 6pm.

Clause 45 replaces section 29 (Taking or possessing black jewfish – Dalrymple Bay and Hay Point and North Cape York) to omit Dalrymple Bay and Hay Point as regulated waters in which there is a restriction on the taking and possessing of black jewfish only. Clause 45 amends section 17 to prohibit all fishing in those waters.

Clause 46 amends section 37 (Taking or possessing tropical rocklobsters in regulated period—northern rocklobster waters) to correct the start date of northern rocklobster waters closure from ‘2 October’ to ‘1 October’.

Clause 47 amends section 43 (Taking or possessing fin fish in regulated period—Fraser Island (Indian Head-Waddy Point)) to amend the end date of the closure from ‘30 September’ to ‘29 September’.

Clause 48 amends section 52 (Taking or possessing fish in regulated period—Fraser Island (Indian Head-Waddy Point)) to amend the end date of the closure from ‘30 September’ to ‘29 September’.

Clause 49 amends section 62 (Possessing or using particular set mesh nets to take fish in regulated period) to amend the end date of the regulated period for using particular set mesh nets to take fish in regulated waters from ‘1 February’ to ‘31 January’.

Clause 50 inserts new section 86AA (Using trawl nets in southern offshore trawl region) to provide that a person other than a person fishing under a T5 licence must not use a trawl net in the southern offshore trawl region from 8am to 6pm.

Clause 51 amends section 87 (Possessing or using otter trawl nets in regulated period) to amend the regulated period that a person must not in the Swain Reefs and Hydrographers Passage regulated waters possess or use an otter trawl net from '15 December to 1 March' to 'midday 15 December to midday on 1 March'.

Clause 52 amends section 88 (Exception for particular otter trawl nets in particular period) to amend the exception period for when particular otter trawl nets can be used in the regulated waters mentioned in section 87 from '3 January to 1 March' to 'midday on 3 January to midday on 1 March'.

Clause 53 inserts a new section 90A (Exception for possessing trawl nets or possessing or using particular boats) to provide an exception to the restriction that a person must not possess or use a trawl net or possess or use a boat that is identified under a T1 or T2 licence in the Hervey Bay (scallop ranching area) provided that the boat is moving at a speed of at least 5 knots through the regulated waters, and the fishing apparatus is stowed and secured. It is proposed that fifteen-minute vessel tracking polling in these areas will help ensure that fishing is not occurring while vessels transit these areas.

Clause 54 amends section 94 (Regulated waters to which division applies and their regulated periods) to amend the regulated periods to provide for midday openings and closing in the listed regulated waters.

Clause 55 amends section 103 (Fish regulated in relation to particular factors) to insert a new clearer example of a form declaration as a result of the combination of ray fish with shark into one entry which includes grey reef shark by clause 61.

Clause 56 amends section 109A (Fish regulated by number or volume) by amending the subsection (2)(f) to reflect the new amended form entry 'shark or ray (other than manta ray, sandtiger shark, speartooth shark or white shark) in schedule 2, part 2 of the Fisheries Declaration.

Clause 57 amends section 126 (Fin fish—interdorsal length for ray or shark) to exclude some species from the prescribed measurement requirements in s126. This measurement method is not appropriate for certain species of rays due to the rounder profile of the animal. The amendment specifies which fish must be measured in accordance with the section.

Clause 58 inserts new section 140AA (Possessing or using trawl nets in particular waters in particular period) to provide for a declaration about using nets in the northern trawl region and central trawl region. New section 140AA provides that a person must not possess or use a trawl net in those regions from 15 December to 1 March other than:

- for the purposes of testing the net or other fishing apparatus in the manner and notice to the Queensland Boating and Fisheries Patrol as prescribed;
- if the trawl net is stowed and secured on a boat; and
- an otter trawl net is stowed and secured in the manner prescribed.

Clause 59 amends section 157 (Crab apparatus) to provide that a recreational fisher must use a solid float on crab apparatus.

Clause 60 amends schedule 1 (Regulated waters) to:

- amend the description of the northern rocklobster waters to clarify the boundary of regulated waters in the Torres Strait area to support the enforcement of lobster possession limits and seasonal closures;
- amend the description of the regulated sea cucumber waters into two separate bodies of waters. The purpose of the division is to clarify the waters in which the taking and possessing of sea cucumber is prohibited by recreational fishers;
- replace the sectional reference 'section 86' in the entry for southern offshore trawl region, with sections 86 and 86AA as a consequence of the insertion of new section 86AA (Using trawl nets in southern offshore trawl region) which prohibits the use of trawl nets other under a T5 licence in the southern offshore trawl region from 8am to 6pm;
- replace the sectional reference which directs the reader to provisions that regulate activities in the Hervey Bay (scallop ranching area), section 60 with 'chapter 2, part 12, division 4;
- replace the sectional reference which directs the reader to provisions that regulate activities in the Swain reefs and Hydrographers Passage, section 87 (with 'chapter 2, part 12, division 2; and
- replace the sectional reference 'section 29' with 'chapter 2, part 4, division 2' as a consequence of the amendments made by clauses 41 and 45 to prohibit all fishing in the Dalrymple and Hay Point waters.

Clause 61 amends schedule 2 (Regulated fish declarations), part 2 as follows:

Swim bladders

Clause 61 inserts a new entry for barramundi and an additional requirement for king threadfin and scaly jewfish entries, to provide a form requirement that a person must not possess the fish on a commercial fishing boat in a form other than whole, or gilled and gutted in the prescribed waters unless they are a commercial fisher acting under a prescribed symbol (e.g. N3 for barramundi) who possesses swim bladders of the fish in the prescribed manner. The restrictions on the possession of swim bladders is necessary because of their high value on the black market which provides an incentive for over-fishing which could threaten stock levels.

Blue swimmer crab

Clause 61 also amends the entry for blue swimmer crab to provide a day limit of 100 crabs for each continuous period of fishing of 24 hours, or part of 24 hours, for a person taking the fish in Moreton Bay for trade or commerce under a M1, M2 or T5 symbol. This will limit the period of taking the declared number of crab trawl harvest of blue swimmer crabs to approximately 10% of the total blue swimmer harvest. As the quota total entitlement for blue swimmer crab adjusts over time in line with the harvest strategy, these trip limits will also be adjusted.

Processing of crab meat

Clause 61 also amends the entry for crab meat to allow for processing where:

- the person processing crab meat is a commercial fisher with C1, C2, C3 fishery symbols; and

- the person possesses the crab meat on land to produce seafood under a Safe Food Queensland accreditation.

This exception will provide flexibility to the strict rules relating to the possession of crab meat which are in place to deter illegal activities relating to size limits and the taking of female crabs.

Shark entries

Clause 61 amends the entry for grey reef shark and whitetip reef shark to provide that a person may take or possess a maximum of 1 of the fish.

Clause 61 also amends the entry for guitarfish to omit the maximum number and size requirement as they are now included in the combined entry for ray and shark. This amendment intends to clarify the current commercial take of sharks and rays within the same regulated fish group. As a result of quota management (excluding the C3 fishery), restricting commercial fishing activity between the crab fisheries on the same fishing trip is no longer required, and provides for a more efficient fishing.

Clause 61 amends the entry for hammerhead shark to prohibit the filleting of these sharks on a commercial fishing boat by providing that the fish may only be possessed on a commercial fishing boat as a whole fish with fins naturally attached, or trunked or gutted with fins naturally attached in waters east of longitude 142°31'49" east for trade or commerce or where more than 37.5t of the fish have been caught in the Gulf of Carpentaria waters for trade or commerce. These amendments provide that commercial fishers, on both the east coast and the Gulf of Carpentaria (once the commercial catch begins to approach the prescribed commercial catch in those waters), would be required to land sharks taken in the fishery with their fins naturally attached. This is because the difficulties associated with identifying filleted fish pose a real risk of undermining the effective enforcement of management measures introduced for hammerhead sharks, especially the prescribed commercial catch. This requirement would still allow for other common forms of processing at sea (i.e. head and guts removed) to continue.

Clause 61 also omits the entries for ray (other than guitarfish, manta ray and shovelnose ray) and shark (other than grey reef shark, whitetip reef shark, speartooth shark, white shark or sandtiger shark) and inserts a new combined entry for ray or shark (other than manta ray, sandtiger shark, speartooth shark or white shark). This new entry clarifies the intent of a longstanding management arrangement that shark and ray are treated as a species group. For example, the *Guidelines for commercial operators in the East Coast Inshore Finfish Fishery* published in 2009 shortly after the TACC was introduced notes that “the TACC applies to the take of all sharks and rays other than those regulated by species. Species to which individual possession limits apply must also be counted against the TACC”. To minimise discarding sharks incidentally caught by commercial line fishers, the incidental catch limits for these species for commercial fishers without an ‘S’ fishery symbol is increased from 4 to 10 sharks per trip. A similar form requirement is imposed on these species as was imposed in the hammerhead shark to resolve the difficulties associated with identifying filleted fish.

Freshwater prawn

Clause 61 also amends the entry for ‘fish species not mentioned in this column or column 1 of the table in part 3, other than Australian anchovy, Australian sardine, common hardyhead, marine yabby, silver biddy, southern herring, soldier crabs or worms of the genus *Marphysa* (other than Cribb Island worm)’, to include ‘freshwater prawn’ as a species which are excluded from the general in-possession limit imposed on freshwater species.

Clause 62 replaces the definition of ‘interdorsal length’ as a result of clause 57 amending the fish that apply to the measurement requirements prescribed in section 126.

Part 3 – Amendment of *Fisheries (General) Regulation 2019*

Clause 63 (Regulation amended) provides that this part amends the General Fisheries Regulation. A note directs the reader to further amendments in schedule 1.

Clause 64 inserts new chapter 1, part 2, division 4 (Meaning of aquaculture). Aquaculture is defined in schedule 1 of the *Fisheries Act 1994* as ‘the cultivation of live fisheries resources for sale other than in circumstances prescribed under a regulation’. New division 4 excludes particular activities as being aquaculture activities which consequently do not require an aquaculture licence. The excluded activities are:

- maintaining live fisheries resources other than breeding or enhancing their development before sale;
- cultivating other than breeding live fish taken under an ‘A1’ or ‘A2’ (aquarium fishery) licence before sale;
- cultivating coral taken under a ‘D’ licence before sale if it does not involve propagation other than by fragmentation; and
- maintaining live fisheries resources in a retail outlet for sale.

Clause 65 amends section 25 (Types of permits) to provide that the chief executive may issue a filleting permit for an SM fishery licence. General fishing permits have previously been issued by the chief executive to allow filleting in the spanish mackerel commercial fishery. Providing a filleting permit for the SM fishery licence aligns with the filleting permits that the chief executive may issue for the reef line commercial fishery (RQ fishery licence).

Clause 66 amends section 26 (Types of quota authorities) to insert a note that the T1 and T2 effort units are converted into effort units for a trawl region under schedule 2A as a result of the new management regions that have established for the trawl region. Paragraph (d) is amended to recognise that ITQ units in the C2 fishery are now called C2-ITQ units. Clause 66 also inserts a new subsection (2) which provides the additional quotas that the chief executive may issue to reflect the new management areas.

Clause 67 inserts a new section 51A (Restriction on authorising taking or possession of regulated coral reef fin fish under general fisheries permit) to restrict the chief executive from issuing a general fisheries permit which authorises the taking or possession of regulated coral reef fin fish in coral reef fin fish waters during a regulated period provided for in section 23 of the *Fisheries Declaration 2019*. This will ensure that the fishery is managed consistently and accessed in the most equitable way.

Clause 68 replaces section 56 (Filleting permit) to allow the chief executive to issue a filleting permit for spanish mackerel fishery to align this fishery with the coral reef line fishery and remove the need for the chief executive to issue a general fisheries permit to allow for filleting in the spanish mackerel fishery to align with current operating practice.

Clause 69 inserts a new heading before section 58 to establish a new chapter 2, part 4, division 1 (Restrictions on issue).

Clauses 70 amends section 58 (Restriction on issue of quota authorities) to reflect that an exception to the general restriction that the chief executive cannot issue any further quota authorities is that the chief executive must convert any T1 and T2 effort units into effort units for a trawl region under schedule 2A, part 1. Clause 70 also amends the reference to ITQ unit in the C2 fishery to recognise that these types of ITQ units have been renamed C2-ITQ units. Clause 70 also amends the heading to reflect that there is a restriction to the further issue of some quota authorities.

Clause 71 inserts new sections 58A-58D which require the chief executive to issue the following before 1 September 2021:

- effort units for the Moreton Bay trawl region;
- ENL-ITQ units (for the commercial net and commercial line fisheries commonly known as the east coast inshore fishery);
- C1-ITQ units (for the commercial crab fishery); and
- hand-harvest ITQ units (for the hand-harvest commercial fisheries).

This amendment allows the chief executive to give effect to the new management arrangements for these fisheries.

Clause 71 also inserts a new heading for the remainder of (existing) chapter 2, part 4 which becomes division 2 (Authorisation and conditions).

Clause 72 amends section 75 (Authorities that continue after holder's death – Act, s70C) to extend the types of authorities that continue after a holder's death to allow for new licence types and remove superseded licence types (refer to clause 118 which amends section 24 (Types of licences)) and ensure it captures the new types of quota authorities.

Clause 73 replaces section 129 (Fisheries offences that are serious fisheries offences— Act, sch 1, definition *serious fisheries offence*) to provide that a serious fisheries offence includes contravening the *Great Barrier Reef Marine Park Act 1975* (Cwlth), section 38BA and entering or using a marine park in contravention of the *Marine Parks Act 2004*, section 43 or the *Marine Parks Regulation 2017*, section 135.

Clause 74 establishes a new chapter 7, part 1 (Provisions for SL No. 179 of 2019) which contains the existing transitional provisions in the General Fisheries Regulation.

Clause 75 inserts a new chapter 7, part 2 (Provisions for Fisheries Legislation Amendment Regulation 2020) which comprise new transitional provisions.

New section 150 (References to trawl regions) in division 2 is a transitional provision that provides that a reference to trawl region, or a trawl region by name is taken from 1 September 2021, to be a reference to the trawl region, or a trawl region of that name as described in Commercial Fisheries Regulation.

New section 151 (References *Fisheries (Commercial Fisheries) Regulation 2019*, sch 9) in division 2 clarifies that the fees prescribed for the financial year starting on 1 September 2021 for quota authorities apply to a quota authority provided for in schedule 2A, part 2 or schedules 2B to 2C that take effect on 1 September 2021.

New section 152 (Existing general fisheries permit) provides that section 51A does not apply to general fisheries permits in effect immediately before the commencement.

New section 153 (Existing ITQ units) provides that an ITQ unit in effect at commencement is taken to be a C2-ITQ unit. Subsection (2) clarifies that a C2-ITQ unit is not a new type of quota authority for the commercial crab fishery (managed area A), it is only a new name for ITQ unit.

Clause 76 inserts new schedules 2A-2D which provide for the conversion and allocation of effort units in the trawl management regions, and the allocation of ITQ units in the commercial crab fishery and commercial net and commercial line fisheries commonly known as the east coast inshore fishery.

Schedule 2A (Effort units for trawl regions) provides for the conversion of T1 effort units and T2 effort units to effort units for the relevant trawl regions. The types of effort units are Moreton Bay effort units, northern effort units, central effort units, southern inshore effort units, southern offshore 'A' effort units, and southern offshore 'B' effort units. The provisions provide that T1 effort units can be converted to any type of effort unit other than Moreton Bay effort units. T2 effort units can only be converted to southern offshore 'B' effort units.

For former T1 effort units, used effort units will be allocated to the new trawl regions based on the region in which the units were used. For unused T1 effort units, the holder can nominate which trawl region the units are to be converted to. If the holder fails to nominate which region the units are to be converted to, a default percentage to each region will apply. There is also an exception where some used effort units for a trawl region may be nominated, but this only applies if a primary commercial fishing licence was purchased between 1 January 2015 and 30 June 2017 to reflect the uncertainty of the industry at that time.

Schedule 2A also provides for the allocation of effort units for the Moreton Bay trawl region provided for by new section 58A. A holder's allocation is determined based on an average of their best 7 fishing years from 2008-2017, plus an additional allocation given to all M1 and M2 licence holders so that the number of fishing nights allocated to the Moreton Bay Trawl Region is 8535. However, if a holder is issued more Moreton Bay effort units than T1 effort units held by the same person before the T1 effort units were converted, the number of Moreton Bay effort units allocated to the person must be reduced so that it is not more than the number of T1 effort units they held.

An effort unit certificate must be issued for the effort units allocated.

Schedule 2B (Issue of ENL-ITQ units) provides for the allocation of ENL-ITQ units for the commercial net and commercial line fisheries commonly known as the east coast inshore fishery. ENL-ITQ units are issued on a species and regional basis.

ENL-ITQ units are issued based on a commercial fishing boat licence's eligible reported catch (historical catch). Holders can seek amendments to the eligible reported catch that is used to calculate their allocation of ENL-ITQ units, and can seek a substitution for some zero catch years in limited circumstances. A commercial fishing boat licence holder is not eligible to receive a type of ENL-ITQ unit if the holder has not caught at least 100kgs of fish the subject of the ENL-ITQ unit between 2013 and 2017. For example, the holder must have caught at least 100kg of barramundi between 2013 and 2017 to be eligible to receive any barramundi ENL-ITQ units.

An ENL-ITQ certificate must be issued for the ENL-ITQ units allocated.

Schedule 2C (Issue of C1-ITQ units) provides for the allocation of C1-ITQ units for the commercial crab fishery. C1-ITQ units are issued on a regional basis. C1-ITQ units are issued based on a commercial fishing boat licence's eligible reported catch (historical catch). Holders can seek amendments to the eligible reported catch that is used to calculate their allocation of C1-ITQ units, and can seek a substitution for some zero catch years in limited circumstances.

A C1-ITQ certificate must be issued for the C1-ITQ units allocated.

Schedule 2D (Hand-harvest ITQ units) provides for the allocation of hand-harvest ITQ units for the hand-harvest fisheries. Hand-harvest ITQ units are issued based on the quota entitlement stated in the persons commercial harvest fishery licence, where each 1 kilogram the holder is entitled to equates to 1 hand-harvest ITQ unit. A hand-harvest ITQ certificate must be issued for the hand-harvest ITQ units allocated.

Clause 77 amends schedule 3 (Declared fish habitat areas) to update tenure descriptions for particular Fish Habitat Area Plans.

Clause 78 amends schedule 7 (References relating to particular fish) to:

- update the scientific name of Balmain bug from *Ibacus peronei* to *Ibacus* spp in part 5; and
- omit the current entries for snapper and Southern herring in part 6 and insert new entries with scientific names for herring, red spot whiting, snapper, stout whiting and whiting.

Clause 79 amends schedule 9 (references relating to boats) to:

- replace section 1 to 4 to provide new definition which will align the measurement of vessels with the *National Standard for Commercial Vessels* published on the Australian Maritime Safety Authority website. This will minimise confusion about the measurement of vessels; and
- amend section 5 to accord with the *National Standard for Commercial Vessels*.

Clause 80 amends schedule 10 (References relating to fishing apparatus), part 3 by inserting 3A, to provide a new definition of 'flow trap'.

Clause 81 amends schedule 11 (Dictionary) to omit the definition of ITQ unit and provide for the new ITQ units and management regions. Clause 81 also defines new terms used

in the fisheries subordinate legislation including 'ENL-ITQ unit' and 'hand-harvest ITQ unit' and amends existing definitions to reflect the new licensing arrangements.

Part 4 – Minor and consequential amendments

Clause 82 states that Schedule 1 makes minor and consequential amendments.

Chapter 3 Amendments commencing on 1 January 2021

Part 1 – Amendments of *Fisheries (Commercial Fisheries) Regulation 2019*

Clause 83 states that Part 1 amends the Commercial Fisheries Regulation. The note alerts the reader to minor and consequential amendments to the Commercial Fisheries Regulation that are also provided for in schedule 2.

Clause 84 amends section 4 (Commercial fisheries) of the Commercial Fisheries Regulation to omit the reference to schedule 1 (Commercial harvest fisheries). This is because schedule 1 is being omitted by clause 158 and provisions relating to hand-harvest fisheries are being relocated into new schedule 7A by clause 169.

Clause 84 also amends section 4(2)(c) to reflect that commercial harvest fishery licences and commercial fishing boat licences are being replaced by primary commercial fishing licences. Consequently, the only licence on which a fishery symbol can be written is a primary commercial fishing licence. Paragraph (c) also now clarifies that the commercial fisheries in schedules 2-8 may also state the persons who may take fish in the fishery.

Clause 84 also deletes section 4(2)(d) and (f). Paragraph (d) is omitted because the Commercial Fisheries Regulation as vessel tracking has been implemented on all commercial fishing vessels. Paragraph (e) is omitted because the commercial fisheries in schedules 2-8 no longer provide conditions about carrying out activities in the fishery applying to the quota authority or a person acting under the authority. Clause 84 also renumbers section 4 as a consequence of these changes.

Clause 85 amends section 5 (Management and operation of commercial fisheries) of the Commercial Fisheries Regulation to reflect that commercial harvest fishery licences and commercial fishing boat licences are being replaced by primary commercial fishing licences and to clarify who may take fish in a commercial fishery. New subsection (2) provides that only a commercial fisher or assistant fisher acting under a primary commercial fishing licence can take fish for trade or commerce in a commercial fishery. New subsection (3) is similar to previous subsection (4), but reflects that fishery symbols can only be written on primary commercial fishing licences.

Clause 86 omits section 6 (References in fishery provisions) and replaces it with a new section 6 (Interpretation of fishery provisions) to omit references to harvest fishery licences and commercial fishing boat licences which are replaced by primary commercial fishing licences. Additional referential provisions have been retained, including provisions with the purpose of minimising the number of definitions across the fisheries subordinate legislation. For example, paragraph (d) provides that the term 'commercial fisher' is a reference to commercial fisher acting under a primary commercial fishing licence.

Clause 87 amends section 11 (Additional restrictions on authorisation) by amending (1)(a) to clarify that the unused quota entitlement relates to a quota authority.

Clause 88 amends section 13 (Restriction on taking fish in more than 1 commercial fishery) to replace references to 'commercial harvest fishery licence' and 'commercial fishing boat licence' because they will be replaced by a primary commercial fishing licence.

Clause 89 replaces chapter 3, parts 1-3, and reinserts parts 1 and 2 with changes. Many of the changes are necessary as a result of the replacement of commercial harvest fishery licences and commercial fisher boat licences with primary commercial fishing licences.

New part 1 (Primary commercial fishing licence), division 1 provides for the authorisations of holders of primary commercial fishing licences (section 32), authorisations of other persons acting under a primary commercial fishing licence (section 33) and nominees for the eel fishery (section 34).

New section 32 provides that the holder of a primary commercial fishing licence may do any of the following under the licence in a commercial fishery, subject to any fishery provision in a commercial fishery that is more restrictive:

- act under the licence to take fish for trade or commerce;
- use the primary commercial fishing boat identified in the licence to take fish for trade or commerce and carry, sell and process fish, and buy, sell and possess fishing apparatus;
- use no more than the authorised number of tender boats to take fish for trade or commerce and carry, sell and process fish, and buy, sell and possess fishing apparatus; and
- use a tender boat as if it were a primary boat in certain circumstances and carry, sell and process fish, and buy, sell and possess fishing apparatus.

Section 32 also provides that a commercial fishery is identified in the licence only if the fishery symbol for the fishery is written on the licence. It also clarifies when primary and tender boats are being used. Section 32 replaces existing sections 41 and 48 of the Commercial Fisheries Regulation.

Section 32 no longer includes the following:

- the requirement for a holder to nominate that a tender boat will be used as a primary boat in certain circumstances. This omission is to reduce regulatory burden on industry; and
- that tender boats can only be used as a primary boat if a primary commercial fishing boat has been identified in the licence. This is redundant because all primary commercial fishing licences must have a primary boat identified in the licence.

New section 33 provides the authorisations for other persons acting under a primary commercial fishing licence, and provides that a primary commercial fishery licence holder may authorise a person to do a thing under the licence that the holder can do. The only exception is in the eel fishery, where the chief executive must approve a person as a nominee to act under the primary commercial fishery licence before the person may do anything in that fishery. The process for approving a nominee for the eel fishery is provided for in new section 34. Sections 33 and 34 replace previous sections 33, 49 and 51.

Division 2 (General conditions) provides the general conditions for primary commercial fishing licences. New section 36 (Condition about length of primary boat) provides a condition that primary boats must not be longer than 25m unless a fishery provision about the fishery says otherwise. New section 37 (Condition about use of tender boat) provides a condition that tender boats must not be longer than 10m unless a fishery provision about a commercial fishery says otherwise, and that a tender boat may be used in a commercial fishery only if the primary boat may be used in the fishery, and is not being used in another commercial fishery. New section 38 (Condition about seeling N11 fish) provides that fish taken under an N11 symbol can only be sold if the N11 fishery symbol is written on the licence. Divisions 2, comprising sections 36, 37 and 38, replaces existing section 42. Division 3 (Additional conditions about boat modification and replacement for east coast trawl fishery) provides additional conditions about boat modification and replacement for the east coast trawl fishery and comprises two subdivisions.

Subdivision 1 relates to M1, M2, T1 and T2 licences. Section 39 (Modifying boats) replaces previous section 43 of the Commercial Fisheries Regulation with no substantive changes. Section 40 (Amending or replacing particular licences to allow boat modification or replacement) replaces previous sections 44 and 45.

Subdivision 2 relates to T5, T6, T7, T8 and T9 licences. New section 41 (Modifying boats) replaces previous section 46 of the Commercial Fisheries Regulation with no substantive changes. Section 42 (Amending or replacing particular licences to allow boat modification or replacement) replaces previous section 47 but removes the restriction that the primary boat must not have more than 300 maximum continuous brake kw engine to reflect the move away from regulating fisheries through boat engine size.

New part 2 (Commercial fisher licence), division 1 (Authorisation) provides for the authorisations of commercial fishers (section 43), assistant fishers (section 44), the meaning of 'under direction' in the commercial trawl fishery (fin fish) (section 45), the meaning of 'under direction' in the east coast trawl fishery (section 46), and the meaning of 'under direction' in other commercial fisheries (section 47). Division 1 replaces existing chapter 3, part 1, division 1 of the Commercial Fisheries Regulation.

New section 43 (Authorisation-commercial fisher) is similar to previous section 32, but reflects the replacement of commercial fishery harvest licences and commercial fishing boat licences with primary commercial fishing licences. It provides for the authorisations of commercial fisher licence holders, including that the holder can buy, possess and use fishing apparatus, take fish for trade or commerce, and possess, sell and process fish taken for trade or commerce, while acting under a primary commercial fishing licence.

Sections 44-47 replace existing sections 33-36 with the following changes:

- new section 44 prescribes the circumstances in which an assistant fisher may do something that a commercial fisher may do under section 43. Subsection (5) clarifies that an assistant fisher is not authorised to do something mentioned in section 43 (Authorisation-commercial fisher) if a fishery provision about the commercial fishery states that only a commercial fisher may do the thing;

- new sections 45-47 define when an assistant fisher is ‘under direction’ of a commercial fisher in the commercial trawl fishery (fin fish), east coast trawl fishery and other commercial fisheries. In fisheries other than the commercial trawl fishery (fin fish) and east coast trawl fishery, an assistant fisher is under direction of a commercial fisher if the assistant fisher and commercial fisher are engaged in the same fishing operation or two different fishing operations in two different commercial fisheries under certain circumstances, and the assistant fisher is acting in accordance with the commercial fisher’s instructions. The circumstances where this may occur across two different fishing operations are when fishing is allowed in both fisheries at the same time under section 13 - if one fishing operation is carried out in the aquarium fish fishery and the other fishing operation is carried out in the coral fishery, or one fishing operation is carried out in the ‘C1’ and/or ‘C2’ commercial crab fishery and the other fishing operation is carried out in a different commercial fishery;
- omitting all references to assistant fishers being within permitted distances from commercial fishers as vessel tracking has been implemented on all commercial fishing vessels.

Division 2 (Condition) provides a condition of commercial fisher licences. New sections 48-49 replaces existing section 40 with minor changes to clarify that the requirement to display a sign from land-based fishing operations only applies to commercial fishers acting under a primary commercial fishing licence to take fish in the hand-harvest commercial fisheries.

The replacement of chapter 3, parts 1-3 of the Commercial Fisheries Regulation omits the following provisions entirely:

- existing section 45 (Amending or preplacing M2 licences to allow boat modification or replacement) to remove the previous two-for-one boat replacement requirements for Moreton Bay trawl fisheries to align the Moreton Bay Trawl fishery with the rest of the trawl fishery;
- existing section 38 (Fish may not be taken under more than 1 licence in the same fishery—particular fisheries) and 39 (Fish may not be taken under more than 1 licence in the same fishery—other fisheries) to remove the restriction on fishing under more than 1 licence in the same fishery; and
- existing chapter 3, part 3 (Commercial harvest fishery licences) which is not required as a consequence of the replacement of commercial harvest fishing licences which primary commercial fishing licences.

Clause 90 replaces sections 53 to 55 of the Commercial Fisheries Regulation with new sections 53 (Fishery symbol may be written only on a primary commercial fishing boat licence) and 54 (General restriction on writing fishery symbols). The new sections replicate the previous sections with minor amendments to omit references to commercial harvest fishery licences which are no longer issued. New section 54 limits when the chief executive may write a fishery symbol on a licence to where a fishery symbol is moved under new section 63 (except in the eel fishery where symbols are not transferable) or where a replacement licence is issued. Existing section 54 (Restriction on writing fishery symbol unless primary commercial fishing boat identified) has not been replaced because in some circumstances it will be appropriate for the chief executive to write a fishery symbol on a primary commercial fishing licence even where there is no boat in the licence. For example, this may be appropriate where a holder has two primary commercial fishing

licences, but only one boat, and seeks to move a symbol from the licence with the boat to the licence without the boat because they do not intend to fish under that symbol in the near future.

Clause 91 amends section 61 (Definitions for division) of the Commercial Fisheries Regulation to omit 'administrative conditions' as it is redundant as a result of the new licensing arrangements. A new definition of 'authorised tender boat number' clarifies that it is the authorised number of tender boats for the symbol stated on the licence under section 32 of the General Fisheries Regulation.

Clause 92 amends section 62 (Application to move fishery symbol to another licence) of the Commercial Fisheries Regulation to:

- clarify that section 62 applies if the symbol is able to be written on primary commercial fishery licence to which the symbol is proposed to be transferred;
- update the references from 'commercial fishing boat licence' and 'commercial harvest fishery licence' to 'primary commercial fishing licence' in accordance with the new licensing arrangements; and
- insert a new subsection (6) to clarify that an application to move an E symbol to another primary commercial fishery licence cannot be made. New section 32 of the General Fisheries Regulation provides that a primary commercial fishing licence on which the fishery symbol 'E' is written is not transferable.

Clause 93 replaces sections 63 to 65 of the Commercial Fisheries Regulation with a new section 63 (Moving fishery symbol). New section 63 provides that if an application is received under section 62 to move a fishery symbol to another licence, and the fishery symbol can be written on the licence, the chief executive must move the following to the second licence:

- the fishery symbol;
- the authorised tender boat number for the fishery symbol and the brackets containing the authorised tender boat number; and
- any administrative conditions applying to the fishery symbol.

This amendment provides for the movement of fishery symbols to other licences to be done automatically which will enable the chief executive to provide this service as an online licensing transaction and reduces red tape.

Clause 94 inserts new chapter 7, part 2, division 2 (Amendments commencing on 1 January 2021).

New section 171 (Existing primary boats for commercial fishing boat licences) provides that if immediately before commencement, the primary boat under a commercial fishing boat licence for a fishery is longer than the maximum length permitted to be used in the fishery under section 36, then section 36 will not apply to the use of the boat under the licence until the primary boat identified in the licence is modified or replaced.

Clause 95 amends schedule 3, part 1 (Line fishery (other than Great barrier Reef region)) to omit section 6 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 96 amends schedule 3, part 2 (Line fishery (reef)) to omit section 15 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 97 amends schedule 3, part 3 (Line fishery (Gulf of Carpentaria – spanish mackerel and other fin)) to omit section 24 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 98 amends schedule 3, part 4 (Line fishery (multiple hook – east coast)) to omit section 35 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 99 amends schedule 4, part 1 (General netting and ocean beach fisheries) to omit section 29 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 100 amends schedule 4, part 2 (Net fishery (east coast no. 1)) to omit section 39 which prescribes permitted distances for assistant fishers as vessel tracking has been implemented on all commercial fishing vessels.

Clause 101 amends schedule 4, part 3 (Net fishery (east coast no. 2)) to omit section 68 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 102 amends schedule 4, part 4 (Net fishery (east coast no. 3)) to omit section 82 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 103 amends schedule 4, part 5 (Net fishery (east coast no. 4)) to omit section 93 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 104 amends schedule 4, part 6 (Net fishery (Gulf of Carpentaria no.1)) to omit section 109 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 105 amends schedule 4, part 7 (Net fishery (no. 11)) to omit section 125 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 106 amends schedule 4, part 8 (Net fishery (Gulf of Carpentaria (no.3)) to omit section 137 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all

commercial fishing vessels.

Clause 107 amends schedule 4, part 9 (Net fishery (Gulf of Carpentaria (no. 4))) to omit section 149 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 108 amends schedule 5 (Spanish mackerel commercial fishery) to omit section 9 which prescribes the permitted distance for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 109 amends schedule 6 (Reef line commercial fishery) to omit section 8 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 110 amends schedule 7, part 1 (Commercial crab fishery) to omit section 8 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 111 amends schedule 7, part 2 (Commercial spanner crab fishery (managed area A)) to omit section 19 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 112 amends schedule 7, part 3 (Commercial spanner crab fishery (managed area B)) to omit section 34 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 113 amends schedule 8, part 1 (Commercial crayfish and rocklobster fishery) to omit section 7 which prescribes permitted distances for assistant fishers to be under the direction of a commercial fisher as vessel tracking has been implemented on all commercial fishing vessels.

Clause 114 amends schedule 11 (Dictionary) to omit the definition of 'administrative conditions' as a result of the new licensing arrangements; replace the definition of 'under direction' with a new definition that has updated references to sections as a result of the relocation of provisions; and relocate the definition for 'N11 fish' as a consequence of section 42 being replaced.

Part 2 – Amendment of *Fisheries (General) Regulation 2019*

Clause 115 (Regulation amended) provides that this part amends the General Fisheries Regulation. A note directs the reader to further amendments in schedule 2.

Clause 116 replaces section 12 (References to licences by fishery symbols) to reflect that commercial harvest fishery licences and commercial fishing boat licences have been superseded by primary commercial fishing licences.

Clause 117 amends section 13 (References to primary boat and tender boat and related references) to clarify that only the boat identified in the primary commercial fishing licence is a primary boat for the licence (and not another (tender) boat being used as a primary boat). This supports identification of primary boats for compliance purposes. *Clause 114* also omits section 13 (4), a referential provision to provide that a primary boat referred in subsection (1) means a primary boat for a commercial harvest fishery licence for the shell fishery. This is a consequence of commercial harvest fishery licences and commercial fishing boat licences being superseded by primary commercial fishing licences.

Clause 118 replaces section 24 (Types of licences) to provide for a primary commercial fishing licence (which supersedes the commercial harvest licence commercial fishing boat licence). It also omits a commercial carrier boat licence which will no longer be issued. The commercial fishing licence and charter fishing licences are maintained.

Clause 119 replaces chapter 2, part 2 (Licences) of the General Fisheries Regulation.

New chapter 2, part 2, division 1 (Primary commercial fishing licence) identifies the provisions relating to the issue of primary commercial fishing licences. It replicates with some changes the provisions that previously formed Division 2 (Commercial fishing boat licence) and division 3 (Commercial harvest fishery licence).

New section 31 (Restrictions on issue of licence identifying primary boat) provides that the issue of a primary commercial licence is subject to one primary boat being identified as the commercial fishing boat which is a domestic commercial vessel, and has not already identified as a primary commercial fishing boat in another primary commercial fishing licence.

New section 32 (Deciding number of tender boats for licence) generally replicates the previous section 35 provisions with the following additional restrictions to limit the number of tender boats that can be operated under a primary commercial fishing licence for:

- the fishery symbols A1, A2, D and L3—1
- the fishery symbols B1 and J1—4
- the fishery symbol R—8
- another fishery symbol—7.

New section 33 replicates previous sections 36 and 37 with adjustments to reflect that commercial harvest fishery licences and commercial fishing boat licences have been superseded by primary commercial fishing licences. It directs the reader to the Commercial Fisheries Regulation for the authorisations and conditions of a primary commercial fishing licence.

New section 34 (Licence for eel fishery not transferable) replicates previous section 38 which restricts the transfer of a licence with the symbol 'E'.

New chapter 2, part 2, division 2 (Commercial fisher licence) replicates the provisions relating to a commercial fisher licence that were previously located in division 1 of chapter 2, part 2. For example, restricting the age for the issue of a licence and the transfer of the licence once issued to a person.

New chapter 2, part 2, division 3 (Charter fishing licence) provides for the authorisations and conditions of charter fishing licences which the chief executive may issue under the amended section 24 provided by clause 114.

It is a condition of a charter fishing licence that maray or Australian sardines must not be taken during the trip other than for use as bait during the trip, or in contravention of the chapter 4, part 4 of the *Fisheries Declaration 2019*. This condition contained in new sections 39 replicates the previous section 45 which imposed the same condition on a charter fishing licence holder.

Clause 120 replaces section 65 (Criteria for suspending or cancelling particular licences) to apply to a primary commercial fishing licence or a commercial fisher licence to reflect the new licensing arrangements.

Clause 121 amends section 83 (Authorities and boats in relation to which requirements apply) to amend the reference to 'commercial fishing boat licence' to 'primary commercial fishing licence'. Clause 121 also applies the vessel tracking requirements to boats (other than commercial fishing boats) used under an authority.

Clause 122 inserts new chapter 7, part 2, division 3 (Amendments commencing on 1 January 2021) to insert new transitional provisions contained in new sections 154-159.

New section 154 provides that a commercial fishing boat licence current before the time of commencement is taken to be a primary commercial fishing licence on the same terms and conditions. However, the identification requirement of a commercial fishing boat in the licence under section 31(2) does not apply until the licence has been renewed or transferred. Similarly, the requirements in relation to tender boats in section 32 also do not apply to tender boats until the licence is renewed or transferred.

New section 155 (Existing commercial harvest fishery licences) provides that from commencement, a person who held a commercial harvest fishery licence is taken to hold a primary commercial fishing licence, subject to the same terms and conditions as the commercial harvest fishery licence and that if the holder applies for a commercial fisher licence before 30 June 2021, no annual fee is payable for the first year of the licence. This reflects that commercial fisher licences are now required to be able to fish in hand-harvest collected fisheries.

New section 156 (Existing commercial fisher licence) provides that the minimum age and knowledge requirements prescribed in section 35 do not apply until a commercial fisher licence is renewed.

Section 157 (Existing carrier boat licences) provides that a carrier boat licence in force immediately before the commencement ends 1 year after the

commencement, and any undecided applications not decided are taken to have been withdrawn with all fees refunded to the applicant.

Section 158 (Undecided applications for particular licences) prescribes how undecided applications for different licences are to be dealt. For example, an application for a commercial fishing boat licence or a commercial harvest fishery licence is taken to be an application for a primary commercial fishing licence.

Section 159 (References to particular authorities) provides for particular references to authorities be taken as references to the new (equivalent) authorities. For example, a reference to a commercial fishing boat licence or a commercial harvest fishery licence is taken to be a reference to a primary commercial fishing licence.

Clause 123 amends schedule 1 (Prescribed acts for which authority required) to:

- replace commercial fishing boat licence with primary commercial fishing licence to reflect the new licensing arrangements; and
- reword the entry for 'Carrying fish for trade or commerce' in accordance with current drafting practices.

Part 3 – Minor and consequential amendments

Clause 124 states that Schedule 2 makes minor and consequential amendments.

Chapter 4 Amendments commencing on 1 September 2021

Part 1 – Amendments of *Fisheries (Commercial Fisheries) Regulation 2019*

Clause 125 states that Part 1 amends the Commercial Fisheries Regulation. The note alerts the reader to minor and consequential amendments to the Commercial Fisheries Regulation that are also provided for in schedule 3.

Clause 126 amends section 13 (Restriction on taking fish in more than 1 commercial fishery) to replace subsection (2) to omit the references to 'C3' as restricting commercial fishing activity between the crab fisheries on the same fishing trip is no longer required, and provides for a more efficient fishing.

Clause 127 amends sections 15A (Restriction on retaining fish) and 15B (Restriction on transshipping fish) which were inserted by clause 6. Section 15A is amended to provide that fish taken under the prescribed symbols may only be retained on an authorised boat for a primary commercial fishing licence. New section 15B also provides that fish taken under the prescribed symbol may only be transshipped from an authorised boat for the primary commercial fishing licence. These amendments reflect the new licensing arrangements.

Clause 128 replaces section 40 (Amending or replacing particular licences to allow boat modification or replacement) extends the previous 70 hull unit restriction to 120 hull units and removes the restriction that the primary boat must not have more than 300 maximum continuous brake kw engine to reflect the move away from regulating fisheries through boat engine size for M1, M2, T1 and T2 licences.

Clause 129 amends section 59 (Restrictions on writing particular east coast trawl fishery symbols on licences allowing the use of boats of particular types) to replace the existing 70 hull units restriction for boats operating under a M1, T1 or T2 fishery symbol with a 120 hull units limit. Hull units are a measure of a trawl vessel's dimensions. Clause 129 also removes the existing 300Kw main engine restriction that was previously provided for in section 59(1)(a)(ii) and (b)(ii) to reflect the move away from regulating fisheries through boat engine size.

Clauses 130 – 137 make consequential amendments to sections 67 (Reference to a day), 68 (Purpose of this division), 69 (Entitlement under effort units), 70 (When effort units entitlement is used for an effort year), 71 (No carrying forward of unused entitlement), 72 (Chief executive to give usage notice), 73 (Obligations of T1 licence holders under usage notice), and the heading of chapter 4, part 1, division 3 of the Commercial Fisheries Regulation. These changes are to reflect the new trawl regions provided for in clause 76 and that effort units can only be used in the trawl region for which they were allocated (or re-allocated).

Clause 138 amends section 74 (Location detected or reported) of the Commercial Fisheries Regulation to ensure that effort can be properly monitored in each trawl region. It provides that detection by vessel tracking equipment or manual reporting of a primary boat identified in an east coast trawl fishery licence at any time during a day in a trawl region is evidence that the licence holder has used the boat for a whole fishing or steaming day in that region (which will result in a deduction of effort units for that trawl region).

Clause 139 makes consequential amendments to section 80 (Exception-detection in particular regulated waters) of the Commercial Fisheries Regulation to update region names and section references and reflect that the M1 and M2 area is now the Moreton Bay trawl region.

Clause 140 makes consequential amendments to section 82 (Location not detected or reported) of the Commercial Fisheries Regulation to reflect the new licensing arrangements for trawl regions.

Clause 141 amends section 89 (Unloaded fish notice is evidence of use of entitlement) to replace 'unloaded fish notice' with 'weight notice' as evidence of use of entitlement, in accordance with the new reporting requirements.

Clause 142 inserts a new section 91A which clarifies that a reference to a prescribed coral reef fin fish in relation to a line unit is a reference to the regulated coral reef fin fish stated for the line unit in schedule 9, part 1. Schedule 9 includes the fish and management regions for all of the ITQ units.

Clause 143 makes consequential amendments to section 93 (Entitlement under line unit) to reflect the new terminology and recognise that the types of line units are now included in Schedule 9.

Clause 144 amends section 96 (Unloaded fish notice is evidence of use of entitlement) to replace 'unloaded fish notice' with 'weights notice' as evidence of use of entitlement, in accordance with the new reporting requirements.

Clause 145 inserts new chapter 4, part 4, division 3 (Evidentiary aids for use of entitlement) to provide that a weight notice for spanner crab taken under C2-ITQ units is

evidence of use of entitlement.

Clause 146 amends section 104 (Entitlement under T4-ITQ unit) inserts a note to direct the reader to section 106 of the Commercial Fisheries Regulation which prescribes the amount of unused entitlements that may be carried over to the following T4-ITQ year.

Clause 147 amends section 106 (No carrying forward of unused entitlement) to allow for the carrying forward of unused entitlement of the T4-ITQ units or a maximum of 20t of (whole weight) whiting whichever is the lesser amount. This is in addition to the holder's entitlement for T4-ITQ units for the relevant year

Clause 148 inserts a new chapter 4, part 5, division 3 (Evidentiary aids for use of entitlement) to provide that a weight notice for prescribed whiting taken under T4-ITQ units is evidence of use of entitlement.

Clause 149 inserts new parts 5A-5C into chapter 4. These new parts provide for the use of new ITQ units allocated under General Fisheries Regulation by clause 71.

Part 5A contains new provisions for the operation of ENL-ITQ units, which are similar to the provisions that apply in chapter 4, part 4 for C2-ITQ units. In particular, the new provisions provide the meaning of an ENL-ITQ year, the entitlement of an ENL-ITQ unit and when the entitlement is used under an ENL-ITQ unit.

Part 5B contains new provisions for the operation of C1-ITQ units, which are similar to the provisions that apply in chapter 4, part 4 for C2-ITQ units. In particular, the new provisions provide the meaning of C1-ITQ year, the entitlement of an ITQ unit and when the entitlement is used under an ITQ unit.

Part 5C inserts new provisions for hand-harvest ITQ units, which are similar to the provisions that apply in chapter 4, part 4 for C2-ITQ units. In particular, the new provisions provide the meaning of a hand-harvest ITQ year, the entitlement of a hand-harvest ITQ unit and when the entitlement is used under a hand-harvest ITQ unit.

Clause 150 makes consequential amendments to section 107 (Definitions for part) of the Commercial Fisheries Regulation to amend the definition of 'quota units' to apply to a trawl region and replacing 'ITQ unit' with 'C2-ITQ' and inserting the new ITQ units to ensure that all of the new ITQ fisheries are captured in Chapter 2, part 6. It also amends the definition of quota year to insert references to the new quota years for the new ITQ fisheries.

Clause 151 replaces section 109 (Application of division) to ensure replacement quota certificates are also captured under division 3 (Quota authority certificates), and to provide the common names of the different types of quota certificates including for example, effort unit certificate, C1-ITQ certificate.

Clause 152 amends the heading of section 110 so that it states 'Content of quota authority certificates generally'.

Clause 153 replaces section 111 (Only 1 line certificate to be issued for line units) with a broader provision that applies to all those fisheries where there are more than one type quota authority. The replacement provides that if a person holds more than one type of effort units, line units, hand-harvest ITQ units, C1-ITQ units or ENL-ITQ units, only one quota authority certificate may be issued to the person by the chief executive that will

cover all the types of effort units, line units, harvest ITQ units, C1-ITQ units or ENL-ITQ units held by the person.

Clause 154 replaces section 117 (Eligibility of transferee for particular quota units) with new section 117 (Eligibility of transferee for quota units) to broaden the application of the provision to all quota authorities. The provision restricts the transfer of a quota unit to a holder of a primary commercial fishing licence for the commercial fishery in relation to which the quota unit has been issued.

Clause 155 amends section 119 (Entitlement of transferee) to reflect the new effort units in the east coast trawl fishery.

Clause 156 Inserts new Chapters 5 (Logbook requirements) and 6 (Notice requirements).

Clause 156 inserts new Chapter 5 (Logbook requirements) to provide for standardised logbook requirements that apply across all commercial fisheries.

Most of the standardised reporting requirements only apply for fisheries (hereafter 'catch quota fisheries') for which a total quota entitlement is provided for under the Fisheries Quota Declaration (other than the east coast trawl fishery), or a species of fish for which a prescribed commercial catch is provided for under the Fisheries Declaration.

There are existing obligations for commercial fisher licence holders acting under a commercial fishing boat licence or commercial harvest fishery licence to complete and submit logbooks for commercial fishing activities to the chief executive. The existing obligations are imposed by notice under section 118 of the Act. Similarly, there are existing reporting obligations for existing ITQ fisheries imposed as conditions of the ITQ units. New chapter 5 makes these requirements more consistent and transparent by prescribing standardised obligations in the Commercial Fisheries Regulation.

The new standardised logbook requirements do not give rise to any new obligations, they merely consolidate the existing logbook obligations into requirements that apply across all fisheries. Most of the standardised reporting requirements only apply for fisheries (hereafter 'catch quota fisheries') for which a total quota entitlement is provided for under the Fisheries Quota Declaration (other than the east coast trawl fishery), or a species of fish for which a prescribed commercial catch is provided for under the Fisheries Declaration.

There are also requirements to report interactions with threatened, endangered and protected (TEP) species to enable Queensland to assist the Australian Government to assess the environmental performance of fisheries and promote ecologically sustainable fisheries management under the *Environment Protection and Biodiversity Conservation Act 1999 (Cwlth)*.

New chapter 5 comprises parts 1-4.

Part 1 (Preliminary) states that chapter 5 prescribes conditions for primary commercial fishing licences and commercial fisher licences. Part 1 defines 'approved logbook' and the two approved logbooks i.e. 'approved logbook (commercial fishing)' and 'approved logbook (TEP animal interaction)' that are required to record information under parts 3 and 4 of chapter 5. Part 1 also prescribes how a holder of a primary commercial fishing licence may obtain

approval from the chief executive for a logbook to record the prescribed information.

Part 2 (Requirements for approved logbooks) provides that a commercial fisher in control of a fishing operation must either physically possess or have access to each approved logbook before the fishing operation starts, and prescribes when and how the holder of a primary commercial fishing licence is to give the approved logbooks to the person who is in control of the fishing operation.

Part 3 (Requirements for approved logbooks (commercial fishing)) and Part 4 (Requirements for approved logbooks (TEP animal interaction) prescribe the content of an entry, when entries are to be made, when the approved logbooks must be made available for inspection, when copies of each entry for a day of the fishing operation or interaction with a TEP interaction in the approved logbook must be sent to the chief executive, and when the completed parts of the logbook for each month of the fishing operation must be sent to the chief executive.

Clause 156 inserts new Chapter 6 (Notice requirements) and provides requirements to give notices to the chief executive which are prescribed conditions for a primary commercial fishing licence and a commercial fisher licence.

New chapter 6 comprises parts 1 (Pre-trip notices) and 2 (Other notices).

Pre-trip notices generally must be given each time a commercial fisher uses an authorised boat for a fishing activity. If the purpose of the fishing activity is to take fish commercially under a primary commercial fishing licence, a pre-trip notice must include details about the proposed landing place. Otherwise, the pre-trip notice does not need to include the proposed landing place, but must state whether the purpose of the fishing trip is to carry out recreational fishing.

Part 1 includes provisions which allow for the proposed landing place to change in limited circumstances. The only circumstance in which pre-trip notices are not required is if the commercial fisher proposes to take fish under one or more of the following fishery symbols: 'L4', 'N3', 'N12' and 'N13'.

Pre-trip notices are an important way of managing Queensland's commercial fisheries because they verify whether or not fish will be taken commercially each time a commercial fisher engages in a fishing activity. This reduces the risk of commercial fishers claiming to have taken product 'recreationally', including to avoid deductions against quota, when in fact the purpose of the fishing operation was commercial in nature.

The other notices required to be given to the chief executive, under part 2, apply to commercial fisher licence holders operating in a catch quota fishery, with minor exceptions. For example, catch disposal records are required in all catch and effort quota fisheries other than the coral fishery.

Generally speaking, the purpose of the notices under part 3 is to ensure that the number of fish being caught commercially can be verified, which ensures that there is an accurate record of catch taken against quota entitlement or the prescribed commercial catch. The key notices required to be given to the chief executive in catch quota fisheries and the circumstances where they are given are the following:

- prior notices - which must be given before a boat is landed or, if fish are taken without using a boat, before the fish are loaded onto a vehicle. Prior notices must include all the information prompted by the system used to give the notice. This information will include details of the catch, such as the number of individual fish or containers of fish and the species of fish. Together with weight notices, catch disposal records, retained fish notices and transshipment notices, prior notices reduce the risk of the black-marketing of fish, by ensuring that each fish that is caught on a commercial fishing trip is accounted for;
- emergency notices - which must be given if, because of a medical emergency or extreme weather event, the landing place will differ from the landing place proposed in the pre-trip notice. Emergency notices must include all the information prompted by the system used to give the notice, including the new landing place;
- retained fish notices - which must be given each time fish are retained on board the boat (i.e. not disposed of) from a fishing operation. A retained fish notice must include all the information prompted by the system used to give the notice. This will include information such as the number of individual fish or containers of fish being retained and the species of fish being retained;
- transshipment notices - which must be given when product is transferred to another vessel. The notice must include all the information prompted by the system used to give the notice. This will include information such as the number of individual fish or containers of fish being transhipped and the species of fish being transhipped. There is also a requirement to keep fish that has been transhipped separate from all other fish on the transport vessel;
- weight notices - which must be given when fish are weighed. The requirement concerning when to weigh the fish differs depending on the species, but is generally within 24 hours after the fish have been unloaded. The weight of the fish must be worked out using a scale that is verified or certified under the *National Measurement Act 1960* (Cwlth). A weight notice must include all the information prompted by the system used to give the notice. This will include information such as the weight of individual fish or containers of fish and the species of fish that were weighed; and
- catch disposal records - which must be completed each time fish are disposed of, and given to the chief executive within 24 hours after the record is made if the record is electronic, otherwise within 7 days after the record is made. Disposing of fish can mean selling the fish by wholesale or retail, throwing away spoilt fish and keeping fish in storage or for personal consumption. A catch disposal record must include the particulars of the fish being disposed of including the form, species and weight of the fish. A copy of the catch disposal record must remain with the product after it is disposed.

Notices given to the chief executive under parts 1 and 2 may be given using the AIVR system or in another way approved by the chief executive.

The requirements for a prior notice and weight notice replace existing requirements to give a prior notice and unloaded fish notice which were previously prescribed separately for existing ITQ fisheries in the relevant schedule of the Commercial

Fisheries Regulation for the fishery. The new Chapter 5 consolidates the reporting requirements and applies them across all catch quota fisheries (with some exceptions). These reporting provisions are new obligations for the new catch quota fisheries, but for existing catch quota fisheries, the requirements do not give rise to any new obligations.

Clause 157 inserts new chapter 7, part 2, division 3 (Amendments commencing on 1 September 2021) to provide for new transitional sections 172-179.

New section 172 (Entitlement under effort units for 2021 effort year) provides for the calculation of the entitlement for the 2021 effort year in the trawl fishery. The entitlement is worked out by adding the holder's current effort unit entitlement (before commencement) to the holder's effort units on commencement, and dividing the total by two. Therefore, despite the re-allocation (the new entitlement) of effort units that will take effect on 1 September 2021, the holder of the effort units cannot take double the amount they would be able to take in an ordinary effort year.

New section 173 (First C1-ITQ year) provides that the first C1-ITQ year is a ten month period commencing on 1 September 2021 and ending 30 June 2022. Despite this, the provision provides that the entitlement under an ENL-ITQ unit in this ten month period is the amount it would be in a full year.

New section 174 (First ENL-ITQ year) provides that the first ENL-ITQ year is a six month period commencing on 1 September 2021 and ending 31 December 2021. Despite this, the provision provides that the entitlement under an ENL-ITQ unit in this four month period is the amount it would be in a full year.

New section 175 (First hand-harvest ITQ year for R-ITQ units) provides that the first harvest ITQ year for R-ITQ units is a nine month period from 1 January 2021 to 30 September 2021. Despite this, the entitlement under an R-ITQ unit in the nine month period is the amount it would be in a full year. Any prescribed lobster caught between 1 January 2021 and 1 September 2020 will be counted against the quota entitlement for the first year.

New section 176 (First hand-harvest ITQ year for hand-harvest ITQ units other than R-ITQ units) provides that the first hand-harvest ITQ year is from 1 July 2021 to 30 June 2022, and the entitlement for an ITQ unit under section 106T applies for that period. Any prescribed hand-harvest ITQ fish caught between 1 July 2021 and the commencement will be counted against the holder's hand-harvest ITQ units for the first year.

New section 177 (Logbooks) provides, that the logbook reporting requirements prescribed under chapter 5 will only apply for fishing operations after commencement (on 1 September 2021). The current logbook requirements applying to a licence prior to commencement will continue to apply to fishing operations that started before the commencement.

New section 178 (Reporting requirements) provides that the former reporting requirements continue to apply to fishing operations that started before the commencement (on 1 September 2020).

New section 179 (Requirements to check fishing apparatus) provides that the requirement to check fishing apparatus under the prescribed sections in subsection (1) will apply as if the fishing apparatus was set on commencement.

Clause 158 omits schedule 1 (Commercial harvest fisheries) to omit all provisions specific to the existing commercial harvest fisheries, which have been re-inserted as new schedule 7A by clause 169. The commercial harvest fisheries (now commercial hand-harvest fisheries) have been moved to a new schedule 7A to recognise the bespoke nature of these fisheries and that they are relatively minor obscure compared to the other commercial fisheries.

Clause 159 replaces schedule 2 with a new Schedule 2 (East coast trawl fishery).

New schedule 2 is largely based on the provisions in the previous schedule 2, including provisions that prescribe the fishery symbols and fishery area, and the authorisations and conditions of the east coast trawl fishery, including what fish can be taken in the fishery area. The key changes to schedule 2 include:

- aligning what is considered an authorisation of the fishery and what is considered a condition of the fishery with the other commercial fisheries. Generally, everything that relates to the activity of fishing is considered an authorisation, while everything else, for example, the possession of fishing apparatus, is considered a condition;
- creating six management regions to manage fish stock levels on a regional basis for the east coast trawl fishery - the northern trawl region, central trawl region, southern inshore trawl region, southern offshore trawl region A, southern offshore trawl region B and Moreton Bay trawl region;
- providing a new description of the T7 area which has been expanded to include the area north of the Burnett River;
- clarifying the weighting requirements for bigeye bycatch reduction devices by specifying the number, size and weight of chain links required for bigeye bycatch reduction devices in the east coast trawl fishery; and
- updating the terminology to reflect the new trawl regions and effort units.

Clause 160 amends schedule 4, part 1 (General netting and ocean beach fisheries) to:

- amend section 25 to provide that net apparatus cannot be used to take crabs;
- insert new section 29 to provide that prescribed ENL-ITQ fish in an ENL management region can only be taken with unused ENL-ITQ entitlements; and

Clause 161 amends schedule 4, part 2 (Net fishery (east coast no.1)) to:

- prohibit the use of net apparatus to take crab by amending section 37 to prevent the taking of crabs in the commercial net fishery;
- introduce a maximum ply rating for a general purpose mesh net used in waters other than waters in a river or creek, south of the northern bank of Baffle Creek to require the mesh nets to be made of monofilament is no more than 1.25mm in diameter; and
- introduce a maximum ply rating for a set mesh net used in offshore waters other than waters north of Baffle Creek (other than those prescribed in section 51 (Use of set mesh nets in offshore waters of Keppel Bay)) to require the mesh nets to be made of monofilament is no more than 0.5mm in diameter.

Clause 161 amends schedule 4, part 3 (Net fishery (east coast no.2)) to:

- prohibit the use of net apparatus to take crab by amending section 61 to prevent the taking of crabs in the commercial net fishery;
- reduce the maximum allowable set mesh size for nets used under the 'N2' fishery symbol from 215mm to 178mm to minimise the risk of protected species interactions by amending sections 63(1)(b)(i), 64, 65(1)(b)(i) and (5),66(1)(b)(i) and 67; and
- introduce a maximum ply rating for a set mesh net used under the 'N2' to require the mesh nets to be made of monofilament no more than 0.5mm in diameter by amending sections 63(1), 64, and 67.

Clause 162 amends schedule 4, part 4 (Net fishery (east coast no.3)) to:

- prohibit the use of net apparatus to take crab by amending section 76 to prevent the taking of crabs in the commercial net fishery; and
- introduce a maximum ply rating for a set mesh net used under the 'N3' to require the mesh nets to be made of monofilament no more than 0.5mm in diameter by amending section 77.

Clause 164 amends schedule 4, part 5 (Net fishery (east coast no.4)) to:

- prohibit the use of net apparatus to take crab by amending section 90 to prevent the taking of crabs in the commercial net fishery; and
- align bycatch reduction devices with best practice standards to require tunnel net apparatus to meet minimum escape vent requirements by amending section 92.

Clause 165 inserts a new part in schedule 4. New Part 10 (Management regions) establishes five management regions for the commercial line fisheries and commercial net fisheries commonly known as the east coast inshore fishery, to manage fish stocks on a regional basis. The five management regions correlate to the ENL-ITQ units and the species of fish that can be taken in those regions if ENL-ITQ units are held.

Clause 166 amends schedule 5 (Spanish mackerel commercial fishery) to replace section 8 (Fish may be taken only with unused SM unit entitlements) to omit the requirement for spanish mackerel to be taken from a boat because there is a general requirement that commercial fishers must use a boat to take fish commercially unless they are fishing in a hand-harvest fishery. Clause 166 also omits part 5 (Conditions for SM units and commercial fisher licences), which included a number of provisions relating to reporting for SM units which are no longer required due to the standardisation of reporting in new Chapter 4A.

Clause 167 amends schedule 6 (Reef line commercial fishery) to replace section 7 (Regulated coral reef fin fish may be taken only with unused entitlements) to omit the requirement for coral reef fin fish to be taken from a boat because there is a general requirement that commercial fishers must use a boat to take fish commercially unless they are fishing in a hand-harvest fishery.

Clause 167 also omits schedule 6, part 5 (Conditions for line units and commercial fisher licences) which included a number of provisions relating to reporting for line units that are no longer required due to the standardisation of reporting in new Chapter 5.

Clause 168 amends schedule 7, part 1 (Commercial crab fishery) to amend section 5 of schedule 7, part 1 (Commercial crab fishery) to require crab apparatus used in the two mud crab management regions to have escape vents that meet minimum requirements. This amendment aligns these bycatch reduction devices with best practice.

Clause 168 also inserts a new section 8 (Fish may be taken only with unused entitlements) of schedule 7 which provides that crabs can only be taken with unused C1-ITQ entitlements, and that for mud crab specifically, a holder can only act under EC1-ITQ units or GC1-ITQ units if the holder has, or is acting under, an entitlement of at least 1.2 tonnes of mud crabs for each type of unit.

Clause 168 also inserts a new Division 4 (Management regions) which establishes the crab management regions to manage fish stocks on a regional basis. The new management regions are the Mud crab Gulf of Carpentaria management region, Mud crab east coast management region, and the Blue swimmer crab management region. The management regions correlate to the C1-ITQ units and the species of crab that can be taken in those regions if C1-ITQ units are held.

Clause 169 inserts new schedule 7A (Commercial hand-harvest fisheries) which provides for the authorisations and conditions for all the commercial hand-harvest fisheries that were previously provided for in schedule 1, and inserts a number of new authorisations and conditions for most hand-harvest fisheries that were previously contained in licence conditions.

The key changes to management arrangements in schedule 7A are:

- clarifying the number of persons who can take fish in each harvest fishery by providing that the maximum number of persons who can physically take fish in each hand-harvest fishery is:
 - For the aquarium fish and coral fisheries—3
 - For the sea cucumber fishery—6
 - For the trochus fishery—10
 - For the crayfish and rocklobster and eel fisheries—1
 - For the shell grit and star sand fisheries—only the licence holders
 - For all other hand-harvest fisheries—2;
- updating the area description of the sea cucumber fishery;
- providing that fish can only be taken in the relevant hand-harvest fishery if the holder holds unused quota entitlement for that fishery;
- aligning management arrangements for the juvenile eel fishery with the eel fishery where relevant; and
- omitting primary and tender boat requirements so that the rules that apply for primary and tender boats are those as provided for by the Australian Maritime Safety Authority.

Clause 170 omits part 1 (Commercial crayfish and rocklobster fishery) of schedule 8 because the arrangements for the commercial crayfish and rocklobster fishery have been moved to schedule 7A with the other hand-harvest fisheries.

Clause 171 amends schedule 8, part 3 (Commercial trawl fishery (fin fish)) to replace section 23 to clarify that prescribed whiting may only be taken with unused T4-ITQ entitlements. Clause 171 also omits part 3, division 3 due to the standardisation of reporting.

Clause 172 replaces schedule 9 (Defined port areas) which previously prescribed defined port areas, and replaces it with a new schedule 9 (Fish and management regions for particular quota units) that lists the fish and management regions for particular quota units. Defined port areas have been omitted from the Commercial Fisheries Regulation because defined port area has been defined by reference to the *Transport Infrastructure (Ports) Regulation 2016* in clause 174.

New schedule 9 (Fish and management regions for particular quota units) provides for the different types of line units, ENL-ITQ units, C1-ITQ units and hand-harvest ITQ units and the types of fish that may be taken under each of these different types of line units, ENL-ITQ units, C1-ITQ units, and Harvest ITQ units. For example, a holder of a BM1-ITQ unit can only take barramundi in the east coast inshore management region 1 under ENL-ITQ units.

Clause 173 amends schedule 10 (Effort unit conversion factor for boats) as a consequence of removing the existing 70 hull units restriction on boats in the east coast trawl fishery. It provides the effort unit conversion factor for boats with 70-120 hull units.

Clause 174 amends schedule 11 (Dictionary) to omit redundant terms and include new definitions. For example, 'Defined port area' has been defined by reference to the *Transport Infrastructure (Ports) Regulation 2016*. Clause 174 also amends existing definitions to reflect the new licensing arrangements

Part 2 – Amendment of *Fisheries Declaration 2019*

Clause 175 (Declaration amended) provides that this part amends the Fisheries Declaration.

Clause 176 amends section 25 (Exception for commercial fishing) to amend the definition of 'landing place' to update the reference provided for the location of the prior notice provisions from 'schedule 6. Part 5' to chapter 6, part 2, division 2'.

Subsection (2) is amended to replace the definition for 'authorised boat' to align with the new licensing arrangements, and amend the definition of 'relevant landing place' by updating the reference which directs the reader to the relevant provision.

Clause 177 omitting chapter 2, part 12, division 1 (Southern offshore trawl region and southern inshore trawl region) as a consequence of the establishment of the southern inshore trawl region and the southern offshore trawl region management areas by clause 159 (which replaces schedule 2 of the Commercial Fisheries Regulation).

Clause 178 amends section 92 (Possessing or using trawl nets to take fish under T1 licences in regulated period) to replace references to 'T1 licence' with 'primary commercial fishing licence for the east coast trawl fishery' to extend the trawl restrictions to all commercial fishers when in the reef world heritage area. This amendment is a consequential amendment as a result of establishing the new east coast trawl regions in the Commercial Fisheries Regulation.

Clause 179 amends section 94 (Regulated waters to which division applies and their regulated periods) to amend the entry for Moreton Bay outside M1 and M2 area to omit 'M1 and M2' and replace it with 'Moreton Bay trawl region' to reflect the new trawl

management region for those waters provided by the amendment of the Commercial Fisheries Regulation by clause 159.

Clause 180 amends the heading of chapter 3, part 3, division 3 by replacing 'regulated' with 'particular' to correctly reflect that the section applies to those regulated waters that are subject to a regulated waters declaration.

Clause 181 amends section 110A (Saucer scallops in particular waters in particular period) to divide the southern offshore trawl region into 'southern offshore trawl region A' and 'southern offshore region B'.

Clause 182 amends schedule 1 (Regulated waters) to:

- omit redundant entries for the southern offshore trawl region, southern inshore trawl region, central trawl region and northern trawl region as a consequence of the establishment of the new trawl management regions in schedule 2 of the Commercial Fisheries Regulation inserted by clause 159; and
- amend the entry for Moreton Bay outside M1 and M2 area to omit 'M1 and M2' and replace it with 'Moreton Bay trawl region' to reflect the new trawl management region for those waters provided by the amendment of the Commercial Fisheries Regulation by clause 159.

Clause 183 amends schedule 2 (Regulated fish declarations), part 2 as follows:

Swim bladders

Clause 183 amends the entry for barramundi and king threadfin and scaly jewfish entries, to provide that a commercial fisher acting under a prescribed symbol (e.g. N3 for barramundi) may only possess swim bladders of the fish in the prescribed manner in waters west of longitude 142°31'49" east. The restrictions on the possession of swim bladders is necessary because of their high value on the black market which provides an incentive for over-fishing which could threaten stock levels.

Restriction on filleting of particular species

Clause 183 also inserts the following new entries of fish which provide for a form requirement that prohibits the filleting of those fish in particular waters:

- dusky flathead
- grey mackerel
- school mackerel
- sea mullet
- spotted mackerel
- tailor
- whiting
- yellowfin bream.

This is because the difficulties associated with identifying filleted fish pose a real risk of undermining the effective enforcement of management measures introduced, including quotas, size limits and no-take provisions. Therefore, the fish may only be possessed on a commercial fishing boat as a whole fish with fins naturally attached, or gilled and gutted

in waters east of longitude 142°31'49" east.

Spotted mackerel

Clause 183 also amends the entries for spotted mackerel to:

- allow a person to take or possess a maximum of 50 spotted mackerel using a commercial fishing net for trade or commerce until the prescribed commercial catch for the fish is 140 tonnes; and
- prohibit a person from taking or possessing the fish for trade or commerce if the prescribed commercial catch for the fish is more than 140 tonnes.

The removal of the stepped reduction in catch limits for net fishers (currently a possession limit of 15 applies to net fishers once the prescribed commercial catch has reached 100 tonnes), followed by a full prohibition on commercial take once the prescribed commercial catch of 140 tonnes is reached (currently the possession limit of 15 then applies to all commercial fishers), is consistent with management of other species under a competitive catch quota.

Clause 184 amends schedule 5 (Dictionary) to omit the redundant definitions of 'effort units', M1 and M2 area' and Moreton Bay (trawling) as result of new trawl management regions.

Part 3 – Amendment of *Fisheries (General) Regulation 2019*

Clause 185 (Regulation amended) provides that this part amends the General Fisheries Regulation. A note directs the reader to further amendments in schedule 3.

Clause 186 inserts new sections 15A (References relating to fishing operations), 15B (Meaning of commercial fisher in control of a fishing operation), 15C (References to land a boat and a landing place for a boat) and 15D (References to land a fish and a landing place for fish taken without a boat). New section 15A prescribes when a fishing operation conducted under a primary commercial fishing licence starts and ends using boats for seine fishing and other fishing. New section 15D prescribes when a boat 'lands' and what is a 'landing place' for fish brought ashore with and without a boat

Clause 187 amends section 66 (Criteria for suspending effort units) to reflect the new management arrangements for the east coast trawl fishery by omitting T1 effort units or T2 effort units and replacing it with a reference to effort units for a trawl region. The example has also been updated to reflect these changes.

Clause 188 amends section 82 (Definitions for part) to omit the definition of 'landing place' because clause 156 provides new definitions of 'proposed landing place' and 'new landing place' as part of the new notice requirements in new chapter 6.

Clause 189 amends section 85 (Periods during which equipment must be working properly) to prescribe the start and end times for the periods that vessel tracking equipment must be working for relevant boats used for seine fishing and other fishing.

Clause 190 amends section 100 (Definitions for chapter) to replace the definition of 'relevant authority' to reflect the new licensing arrangements.

Clause 191 replaces chapter 5, part 4 to provide for the information requirements for the wholesale sale of fisheries resources. The information requirements apply if fisheries resources are sold by a person and the buyer is a person engaged in the business of selling fisheries resources by wholesale or retail and intends to resell any of the fisheries resources for trade or commerce.

These information requirements generally reflect the existing information requirements. The majority of changes are to the quantity particulars that must be contained on the docket of sale that a seller must give to the buyer and which the seller must retain. The quantity particulars are details relating to particular species of fish that are managed through a quota.

The information requirements have also been amended to provide that the information requirements for the wholesale sale of fisheries resources will be satisfied if the seller is a commercial fisher who took the fish and the seller gives the buyer a copy of the catch disposal record made by the seller.

Clause 192 amends section 130 (Prescribed matters for evidentiary certificates) to specify the information stated to be from, or a summary of information from, a document required to be kept under chapter 5 is chapter 5 of the Commercial Fisheries Regulation.

Clause 193 inserts a new Chapter 7, part 2, division 3 (Amendments commencing on 1 September 2021) to insert new transitional provisions contained in sections (160-163).

New section 160 (Fees for fishery symbols and quota authorities for financial year starting 1 July 2021) is a transitional provision that the fees that will apply on commencement prescribed in chapter 6, part 4 and schedule 6, part 2 to the fishery symbols and quota authorities for the financial year starting on 1 July 2021.

New section 161 (Continued application of chapter 5, part 2) provides that if immediately before commencement, the requirements in sections 102 (Authority holder to provide approved form, 103 (Person in control to keep approved form) and 104 (Person in control to return approved form) continue to apply to the relevant authority holders as if the relevant period has started but not ended before commencement as prescribed under the omitted chapter 5, part 2 of the General Fisheries Regulation.

New section 162 (Continued application of chapter 5, part 3) provides that if immediately before commencement, the requirements in sections 106 (Authority holder to provide approved form, 107 (Relevant person to keep approved form) and 108 (Relevant person to return approved form) continue as if the relevant period has started but not ended before commencement as prescribed under the omitted chapter 5, part 3 of the General Fisheries Regulation.

New section 163 (References to T1 effort units and T2 effort units) provides that where the context permits, a reference in a document to a T1 effort units refers to effort units for a trawl region, and T2 effort units refer to effort units for the southern offshore trawl region B.

Clause 194 amends schedule 4 (Matters for particular fisheries offences under the Act) to amend the entry for mud crab. Mud crab is a priority fish and it is an offence for a person to engage in trafficking activities in commercial quantities under section 89C of the

Fisheries Act. Commercial quantities of priority fish must be at least 5 times the recreational limit or at least 5 times the weight equivalent of the recreational limit prescribed by regulation. The reduction in the number of mud crab from 50 to 35, and the weight equivalent from 40 (or 20 if only meat) to 28 (or 13 if only meat) is a consequence of the reduction of the recreational possession limit for mud crab which is prescribed in the Schedule 2, part 2 of the Fisheries Declaration.

Clause 195 replaces part 2 of schedule 6 (Other fees) to prescribe fees for the new authorities including the new types of ITQ units.

Clause 196 amends schedule 10 (References relating to fishing apparatus) by inserting in part 2, new sections 18A and 21A which define 'diameter' and 'monofilament' of a net. The two definitions were previously provided in the Fisheries Declaration and have been relocated into the General Fisheries Regulation as they apply across the fisheries legislation.

Clause 197 amends schedule 11 (Dictionary) to omit redundant definitions for 'land' and 'landing place' and include new definitions. For example, 'Defined port area' has been defined by reference to the *Transport Infrastructure (Ports) Regulation 2016*.

Part 4 – Minor and consequential amendments

Clause 198 (Legislation amended) amends the legislation in Schedule 3.

Schedule 1 – Minor and consequential amendments of legislation commencing on notification

Schedule 1 makes minor and consequential amendments.

Commercial Fisheries Regulation

Schedule 1 amends the Commercial Fisheries Regulation including by:

- amending sections 98-101 to replace references to 'ITQ units' with 'C2-ITQ units' to reflect that ITQ units in the C2 fishery are now called C2-ITQ;
- amending the dimension of the flaps covering the escape hole of TEDS by amending section 169(2) to provide that they have a 3,380 mm width and 1.320mm length; and
- correcting sectional references and making minor grammatical and style changes.

Fisheries Declaration

Schedule 1 amends the Fisheries Declaration including by amending sections 15(a), 16(1)(a) and 19(1) to describe each licence by prefixing the symbol consistent with the new licensing arrangements. Section 150(4)(b) is amended to reflect current drafting practices by replacing 'at least' with 'no less than'.

General Fisheries Regulation

Schedule 1 amends the General Fisheries Regulation including by amending section 47(2)(a)(i) to replace 'beam' with 'breadth' as a consequence of the alignment of the way vessels are measured to the National Standards for Commercial Vessels.

Schedule 2 – Minor and consequential amendments of legislation commencing on 1 January 2021

Commercial Fisheries Regulation

Schedule 2 amends the Commercial Fisheries Regulation including by

- amending sections in the schedule to replace ‘a licence’ and ‘commercial fishing boat licence’ with ‘a primary commercial fishing licence’ to reflect the new licencing arrangements; and
- correcting a sectional reference in the definition of ‘assistant fisher’.

Fisheries Declaration

Schedule 2 amends the Fisheries Declaration to update the terminology by amending sections 90, 91, 93 and schedule 2, part 2 to replace boat with primary boat.

General Fisheries Regulation

Schedule 2 amends the General Fisheries Regulation by:

- amending section 47(2)(a)(i) to replace ‘commercial fishing boat licence’ with ‘primary commercial fishing licence’ as a consequence of the new licensing arrangements;
- amending section 73(h)(i) to clarify it is the primary boat mark for the M2 licence that must be included in the register that the chief executive is required to keep under section 73 of the Fisheries Act; and
- inserting a new definition of ‘assistant fisher’ which refers the reader to section 4 of the Commercial Fisheries Regulation for the meaning.

Other subordinate legislation

Schedule 2 amends the *Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004* and *Marine Parks (Great Sandy) Zoning Plan 2017* to replace reference to ‘commercial fishing boat licence’ with ‘primary commercial fishing licence’.

Schedule 2 amends the *Marine Parks (Moreton Bay) Zoning Plan 2019* by amending the definition of ‘dory’ to apply to a primary commercial boat in line with the new licensing arrangements.

Schedule 2 amends the *Rural and Regional Adjustment Regulation 2011* by amending the following definitions in schedule 33:

- ‘a commercial fishing boat licence’ by replacing it with ‘a primary commercial fishing licence’;
- ‘charter fishing licence’ in section 3 to clarify that the vessel tracking requirements only apply to unrestricted charter fishing licences from commencement; and
- ‘commercial harvest fishery licence’ in section 5 to provide for those commercial harvest fishery licences that have been transitioned into the requirements of a primary commercial fisheries licence.

Schedule 3 – Minor and consequential amendments of legislation commencing on 1 September 2021

Commercial Fisheries Regulation

Schedule 3 amends the Commercial Fisheries Regulation including by:

- amending section 3 to insert a new paragraph in the note to provide another example of how the definitions apply to other fisheries legislation;
- omitting redundant provisions including definitions such as 'Brisbane River mouth area—north' and 'Brisbane River mouth area—south'; and
- correcting sectional references and making minor grammatical and style changes.

General Fisheries Regulation

Schedule 3 amends the General Fisheries Regulation by amending schedule 11 to omit redundant definitions and insert new definitions for example terms used in the sale of fisheries resources including 'sale docket'.

Other subordinate legislation

Schedule 3 amends the *Marine Parks (Moreton Bay) Zoning Plan 2019* by updating references in schedule 5 from 'schedule 1' to 'schedule 7A' and 'schedule 1, part 12' to 'schedule 7A, part 13'.