

Fisheries (Structural Reform Stage 2) and Other Legislation Amendment Regulation 2024

Explanatory Notes for SL 2024 No. 52

made under the

Fisheries Act 1994

Rural and Regional Adjustment Act 1994

General Outline

Short title

Fisheries (Structural Reform Stage 2) and Other Legislation Amendment Regulation 2024.

Authorising law

Sections 7, 52, 82, 218 and 223 of the *Fisheries Act 1994* (the Fisheries Act)

Sections 11 and 44 of the *Rural and Regional Adjustment Act 1994* (the RRA Act).

Policy objectives and the reasons for them

Background

On 28 November 2022, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Union for the Conservation of Nature (IUCN) released a report on the reactive monitoring mission to the Great Barrier Reef (GBR). The report recommended the GBR be listed as ‘in danger’ on the World Heritage List. The report included 18 recommendations. A priority recommendation was to “phase out destructive gill net fishing through appropriate mechanisms, including purchasing, and/or retiring all remaining industrial gill-net licences; retiring of other gill-net fisheries and the establishment of net-free sub-zones in areas of high conservation value for protected species”.

On 5 June 2023, the Honourable Tanya Plibersek MP, Commonwealth Minister for the Environment and Water; Senator Nita Green, Special Envoy for the GBR and Senator for Queensland; the Honourable Mark Furner MP, Queensland Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities; and the Honourable Leanne Linard MP, Queensland Minister for the Environment and the Great Barrier Reef, Minister for Science and Minister for Multicultural Affairs, released a joint media release announcing that over \$160 million will be delivered to significantly reduce net fishing and other high risk fishing activities impacting the GBR. This includes ensuring

the GBR is gillnet free by mid-2027 and committed to the establishment of new gillnet free areas in the Gulf of Carpentaria. As part of these reforms, Queensland Government was asked to declare threatened hammerhead sharks a no-take species for commercial fishers. Concurrently, the Queensland Government finalised the review of the zoning plan for the Great Sandy Marine Park (GSMP).

On the 17 July 2023, the Queensland Government announced the establishment of the independent Future Fishing Taskforce (the Taskforce) to provide expert advice to government on the best approach, design and implementation of a structural adjustment package for the GBR. The terms of reference made clear the need to consider also interconnected fisheries in the Gulf of Carpentaria (Gulf) and the GSMP zoning plan review (<https://www.daf.qld.gov.au/business-priorities/fisheries/commercial/future-fishing>).

The Taskforce sought input from subject matter experts, stakeholders and peak bodies and the Great Barrier Reef Marine Park Authority. The results of targeted consultation with affected commercial fishers and processors was also provided for consideration.

The Taskforce recommended, among other things:

- providing support and structural adjustment for commercial fishers displaced by increased protections. The Taskforce made detailed recommendations on financial assistance for authority holders, depending on the market value of the particular authority and the extent of impact from the reforms;
- providing payments to eligible employees who are impacted by the removal of gill net licences and changes to the GSMP;
- ensuring an approach to paying structural adjustment for implementing gill net free zones in the Gulf of Carpentaria consistent with that for the GBR and Great Sandy regions;
- undertaking consultation on potential gillnet free areas in the Gulf of Carpentaria.

On 25 October 2023, the Queensland Government approved the recommendations of the Taskforce and the associated indicative budget allocations in relation to a \$125 million Fisheries Structural Adjustment Package to phase out large mesh commercial gillnet fishing on the GBR and mitigate impacts related to changes to the GSMP Zoning Plan. The establishment of an interdepartmental governance committee (IDC), led by the Department of the Premier and Cabinet (DPC), was also approved to support the timely and effective delivery of all recommendations in the Report.

On 16 November 2023, the Queensland Government announced a structural adjustment package, which adopts all the recommendations made by the Taskforce. Key components of this package include:

- around \$90 million to financially assist eligible fishers and supply-chain businesses, including payments for licence packages, relevant symbols, relevant individual transferable quota (ITQ), nets and their disposal, boat refits, payments acknowledging loss of future income, and support for seeking independent advice;
- \$2.25 million to support employees such as deckhands and skippers; and
- \$1.5 million to support making hammerhead shark a no-take species for commercial fishers.
- \$1.5 million in grants and support for reskilling and retraining;

- \$15 million to develop a whole-of-government strategy to accelerate and adopt innovative best-practice sustainable aquaculture in Queensland;
- \$4.5 million, with matching Australian Government funding from the Fisheries Research Development Corporation, to support an evidence-based approach to developing and trialling sustainable alternative commercial fishing gear; and
- \$2.95 million for developing and growing sustainable regional jobs, tourism opportunities and supporting master fishers training and threatened species protection.

On 8 December 2023 the Queensland Government approved the Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023 SL No 194 (Stage 1 of the structural adjustment). This Amendment Regulation:

- Amended the *Rural and Regional Adjustment Regulation 2011* to prescribe assistance scheme no. 57, to be administered by the Queensland Rural and Industry Development Authority (QRIDA), for holders of fishing authorities affected by the structural reform.
- Reduced impacts on threatened, endangered and protected species within the GBR and the GSMP by consequential amendments to fisheries legislation. These amendments removed the fishing authorities associated with commercial gillnet fishing within the GBR and specific areas within the GSMP and prohibited the commercial take of hammerhead sharks in Queensland.

A 'Gulf of Carpentaria inshore fishery consultation on gillnet-free areas and fishery reforms - Discussion paper' was released for public consultation from 10 October 2023 to 11 December 2023 (<https://daf.engagementhub.com.au/gulf-of-carpentaria-fishery>). The Gulf discussion paper received 1,104 responses and recorded 93 per cent support from respondents for the implementation of the proposed gillnet-free zones. There was also majority support for extra areas to be protected as gillnet-free areas, prompting the need for further consultation and analysis. Additional consultation was undertaken in March 2024 with the Gulf of Carpentaria Inshore Fishery working group, Sustainable Fisheries Expert Panel and indigenous groups in the Gulf of Carpentaria. This additional consultation led to minor adjustments to some of the proposed boundaries to improve enforcement capabilities, mitigate economic impacts and support economic opportunities, views and aspirations of Traditional Owners.

On 14 March 2024 the Queensland Government approved amendments to assistance Scheme 57 to extend the closing dates.

On 23 April 2024, the Honourable Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities, considered the results of consultation to inform the final design and implementation of new gillnet free areas in the Gulf of Carpentaria and approved the drafting of amendments to the Fisheries Declaration 2019 to implement the new gillnet free areas in the Gulf of Carpentaria.

Objectives

Stage 2 of the structural adjustment will:

- Amend fisheries legislation to introduce new gillnet-free areas in the Gulf, commencing 17 May 2024, and where relevant consolidate existing Gulf net-free areas into the new areas. The new areas are:

- northern Gulf waters,
 - Pormpuraaw waters,
 - Topsy Creek,
 - Norman River,
 - Western Gulf waters.
- Introduce a new assistance scheme under the Rural and Regional Adjustment Regulation 2011 to:
 - facilitate voluntary surrender of N3 fishery symbols and licences for the Gulf region, and
 - provide payments for loss of income for:
 - employees (skippers and crew members) who worked for at least 20 days on vessels registered to eligible licences with fishing history in the GBR and Great Sandy regions,
 - employees (skippers and crew members) who worked for at least 20 days on vessels registered to eligible licences where the licence or N3 symbol have been surrendered in the Gulf region,
 - owners of N3 and N11 licences with fishing history in the new Gulf gillnet-free areas,
 - holders and lessors of eligible licences endorsed with aquarium fish fishery symbols (A1 and A2) who had fishing history in the Great Sandy region and were not included in Stage 1, and
 - holders and full-time lessors of licences with catch history in hammerhead sharks who are not eligible to receive payment under any other category.

Loss of income payments for aquarium fish and hammerhead sharks will be consistent with loss of income payments under Stage 1 of the assistance scheme.

A minor amendment will be made to assistance scheme 57 under the Rural and Regional Adjustment Regulation 2011, to remove any doubt of the original intention that payments for loss of income in the GBR region is only for fishing history under the retired net symbols, and within the regions, specified in the eligibility criteria.

Some minor amendments to the fisheries legislation are also required to achieve the original intent:

- correct an unintended restriction on N11 nets and recreational fishing apparatus in Dugong Protection Areas (DPAs). While large-mesh gillnets are now prohibited in DPAs, it was never intended to prohibit the smaller mesh nets that have historically been permitted.
- include the designation 'A' and 'B' against the relevant dugong protection areas, for clarity and consistency with Marine Parks legislation.
- refine the definition of the new Net Free North boundary so it does not unintentionally capture waterways that flow westward towards the Gulf.

Achievement of policy objectives

Financial assistance scheme for holders of fishing authorities, and their employees, who are affected by net fishery reforms in the GBR and Gulf regions and changes to the GSMP zoning plan

The policy objective of providing a financial assistance scheme will be achieved by amending the *Rural and Regional Adjustment Regulation 2011* to establish an assistance scheme as an approved scheme under the RRA Act. This enables the Queensland Rural and Industry Development Authority (QRIDA) to administer the scheme, as QRIDA can only provide financial assistance under an approved assistance scheme prescribed by regulation under the RRA Act.

The Amendment Regulation will prescribe a new schedule which will set out the scheme in detail for holders of fishing authorities that are to be removed by the Amendment Regulation. This will enable QRIDA to administer the financial assistance scheme.

Holders of eligible fishing authorities (licences, fishery symbols) and eligible employees (skippers and crew members) will be able to apply for:

- \$100,000 for the value of N3 fishery symbols and/or \$20,000 for the value of a primary commercial fishing licence in the Gulf region,
- payments representing four weeks probable lost income, to eligible employees (skippers and crew members), and
- payments representing three years probable lost income, to eligible licence holders and lessors.

Implementation of new gillnet-free areas in the Gulf

The policy objective of inserting new gillnet-free areas in the Gulf, in addition to the other minor amendments, will be achieved by consequential amendments to the *Fisheries Declaration 2019*.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the objectives of the RRA Act, which establishes QRIDA to administer assistance schemes that foster the development of a more productive and sustainable rural and regional sector in Queensland.

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

This subordinate legislation is not inconsistent with the policy objectives of any other

legislation.

The subordinate legislation has been prepared in consideration of the GSMP Zoning Plan Review Outcomes.

Alternative ways of achieving policy objectives

An alternative way to achieve the policy objective of reducing impacts on threatened and endangered species within the GBR and GSMP would be to maintain the status quo. However, this would be inadequate to address the significant issues in the World Heritage Area of the GBR and would be insufficient to prevent an 'in danger' listing for the GBR. Maintaining the status quo would not meet existing public commitments or provide additional protections to threatened, endangered and protected species in the Gulf.

Status quo

The status quo would be to do nothing further in terms of implementing the net fisheries structural adjustment program that has been approved by the Queensland Government. Specifically, it would mean not creating new gillnet-free areas in the Gulf region, and not providing financial assistance for key stakeholders affected by the structural adjustment reforms that were implemented on 31 December 2023.

If new gillnet-free areas are not implemented in the Gulf region, the risks to threatened, endangered and protected species (TEPS) would remain unacceptably high. These species are frequently caught as bycatch in the relatively unselective gillnets. There is also a risk of commercial fishing effort shift from the GBR region into the Gulf region. Net fishing is extremely restricted in the GBR as of 31 December 2023 (only the new restricted NX licences may continue and only for a limited time). The pressure of increased fishing effort on top of existing concerns about low biomass for key Gulf region species could risk the sustainability of fisheries stocks in the Gulf.

Taskforce considerations included:

- In the Gulf of Carpentaria, sawfish are classified as vulnerable or migratory and 3 species of turtle nest, forage and migrate between the Gulf and GBR waters.
- Of particular concern to the taskforce was that there is no network of marine parks or protected areas offering refuge to endangered or protected species in Queensland Gulf of Carpentaria waters, meaning their consideration of gillnet free zones in the Gulf of Carpentaria may be critical to mitigating the risks to these species. The taskforce noted that there are existing net closures in the Gulf of Carpentaria within select rivers and creeks.

The Taskforce recommendation allowed for further consultation to information the final design and implementation of the new gillnet free areas to reduce impacts on the commercial sector by reducing the size and/or number of new areas and better support economic opportunities, views and aspirations of Traditional Owners. In deciding the final gillnet free areas, extensive consultation was undertaken to determine the most appropriate locations that maximise the protection outcomes for protected species and limit impacts on the commercial sector. While licence holders will no longer be able to fish under a N3 fishery symbol in the gillnet free areas, other regions of the fishery will remain open and accessible to N3 fishery symbol holders.

If additional financial assistance is not provided, the Taskforce recommendations would

be only partially implemented, and many affected stakeholders who were not accommodated under Stage 1 will be left without assistance. Given that a portion of the stakeholders identified by the Taskforce have been able to receive assistance under Stage 1, this situation would be demonstrably unfair.

Variations to the structural adjustment package

The Taskforce provided recommendations to the Queensland Government on the best approach, design and implementation of structural adjustment for those impacted by changed fishing access in the GBR World Heritage Area and ensure alignment with the GSMP rezoning mitigation package.

Factors taken into account by the Taskforce are summarised in the *Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023* Explanatory Notes.

A three-week consultation period was provided during August 2023 and as a result of the feedback and submissions received, further refinements were made.

Additional options for assistance for those affected by structural adjustment included:

- other types of compensation for lost income, such as using a proxy such as logbook catch history as an indicator of current income levels,
- support payments for employees, such as skippers, crew,
- asset buyback including purchase of nets from licence holders, noting nets will become stranded assets and have the potential to be used illegally,
- support for downstream businesses, and
- grants for retraining.

Additional types of assistance may be considered as separate processes.

Alternatives for providing financial assistance

An alternative way to achieve the policy objective of providing a financial assistance scheme would be to have an entity other than QRIDA provide the assistance. However, QRIDA was established to provide assistance and support to the State's economy and has significant experience and expertise in administering grants funding. Given QRIDA's expertise, QRIDA is the most appropriate entity to administer the grants scheme.

Benefits and costs of implementation

Holders of relevant fisheries authorities and employees working on vessels registered to those fishing authorities will be impacted.

The new gillnet-free areas in the Gulf of Carpentaria will result in the commercial gillnet fishery losing access to some areas of gillnet fishing grounds.

Of the 83 available gillnet licences that can fish in the Gulf region under the N3 fishery symbol, only 55 licences have reported harvest within the new gillnet-free areas. The new gillnet-free areas impact less than 10% of the average annual harvest reported under the N3 symbol, with the fishery continuing in other regions.

Investment and increased effort warning notifications for all Queensland commercial fisheries have been in place since 6 March 2014, when the major review of Queensland fisheries management commenced. These 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. Persons not already involved in these fisheries must note this investment and increased effort warning notification when contemplating entering into these fisheries and are encouraged to seek their own independent advice prior to making any investment decisions (<https://www.business.qld.gov.au/industries/farms-fishing-forestry/fisheries/warnings>).

In recognition of these impacts, the Queensland Government has dedicated appropriate funds to a financial assistance scheme which is designed to help eligible authority holders mitigate some of the loss of value in their fishing authorities, as well as some of their loss of income.

Holders of eligible fishing authorities (licences, fishery symbols) and eligible employees (skippers and crew members) will be able to apply for:

- \$100,000 for the value of N3 fishery symbols and/or \$20,000 for the value of a primary commercial fishing licence in the Gulf region,
- payments representing four weeks probable lost income, to eligible employees (skippers and crew members), and
- payments representing three years probable lost income, to eligible licence holders and lessors.

Applicants will have the option to surrender N3 symbols for the Gulf region as well as their PCFL. This will help to address the issue of effort shift to areas outside the gillnet-free areas. Those who wish to exit the industry will receive a fair market price for their investments.

Payments for loss of future income will be available for eligible employees, representing four weeks' worth of probable future income.

The amount of assistance that may be given to an eligible employee is:

- for a skipper with a Commercial Fisher Licence - \$10,000,
- for a crew member - \$8,000.

Eligible employees in the GBR and GSMP region are skippers and crew members who:

- were employed for fishing at sea on a vessel registered to a primary commercial fishing licence, if that licence is eligible for payments for loss of income in the GBR or GSMP region due to being affected by the fisheries reforms that took effect on 31 December 2023,
- can demonstrate a period of employment for at least 20 days between the announcement of the decision to retire net fishery symbols and offer buyout packages (June 2023) and the date these reforms took effect (31 December 2023), and
- can demonstrate a period of unemployment subsequent to the management reforms taking effect (31 December 2023).

Eligible employees in the Gulf region are skippers and crew members who:

- were employed for fishing at sea on a vessel registered to a primary commercial

fishing licence, if that licence and/or a N3 symbol written on the licence were surrendered under this Scheme,

- can demonstrate employment for at least 20 days between the Gulf net fishing season commencing (1 February 2024) and the date the Gulf gillnet-free areas are to commence (17 May 2024), and
- are unemployed at the time of application.

Eligible skippers and crew will be required to demonstrate formal employment in the fishery as part of their application.

Payments for loss of future income will be available to eligible licence holders and lessors in relation to:

- net fisheries within the new gillnet-free areas in the Gulf region, for holders (but not lessors) of N3 and N11 symbols,
- the aquarium fish fisheries that have been directly impacted by changes to the GSMP zoning plan, for holders of A1 or A2 symbols, and
- hammerhead shark fisheries on the East coast affected by the prohibition on take of hammerhead sharks, for licence holders who are not eligible for other categories.

Loss of income payments are not being provided to lessors impacted by the Gulf of Carpentaria gillnet free areas as the N3 symbol will continue to operate, unlike the east coast where symbols were retired and recent reforms were made to introduce new management and reporting arrangements. Less than 10% of the fishery harvest is being impacted by the areas providing opportunities for lessors to continue to fish outside these areas. Further, lessors have not been able to access funding when spatial closures have been introduced in the past (such as the implementation of the recreational only fishing areas) so not paying lessors is considered consistent with previous schemes and policy approach. It should be noted that lessors in the GBR were able to access loss of income payments because the entire fishery was being retired and phased out, and this is not the case in the Gulf of Carpentaria. It should be also noted that catch history is linked to the primary commercial fishing licence holder, particularly for the Gulf of Carpentaria fishery which remains unallocated in terms of individual transferable quota.

Therefore, for the purpose of payments for loss of income in the Gulf region, a licence holder's catch history applies only to the owner regardless of whether it is fished under lease arrangements or not and lessors are not eligible for loss of income payments. Loss of income payments are calculated based on catch history and the proportional impact to each grid site within the new gillnet free areas, consistent with the GSMP methodology.

Risks associated with effort shift or concentration of fishers in the Gulf into a smaller area will be addressed through the voluntary surrender of certain symbols/licences in an attempt to remove effort.

Payments will be based on catch data records during the eligible period provided as part of commercial fisher's reporting requirements under the Fisheries Act. Daily logbooks record estimated weight and daily fishing locations, and end-of-trip weight notices provide accurate weights for the entire trip across multiple locations. Daily weight information for the calculations below will be based on the most accurate records available.

Calculations are determined as follows.

1. The weight of fish per day (kg)* caught within the relevant period is provided for each fishery grid square. The relevant period represents the most complete dataset

available from the reforms of the fisheries legislation under the Sustainable Fisheries Strategy to the announcement of the structural adjustment program in June 2023:

- a. for the Gulf region – between 1 July 2019 and 30 June 2023, or
 - b. for other regions – between 1 September 2021 and 30 June 2023.
2. A total weight per day is calculated:
- a. where fishing history is in the GBR or Gulf region:
 - i. the weight of all grid squares is combined into a single total per day; or
 - b. where fishing history is within the Great Sandy region:
 - i. the weight from each grid square is multiplied by the prescribed percentage contribution from each grid square (see “*Fisheries Structural Adjustment Tables*” documents on the DAF website)
 - ii. these weights are then combined into a single total per day.
3. Where there are missing months, the dataset is extrapolated:
- a. for the Gulf region – This step is not required because the dataset is complete across all four years, or
 - b. for other regions – The data in Step 2 is used to extrapolate an estimation of fish caught per day in a complete two-year period from 1 July 2021 and 30 July 2023. (The extrapolation consists of data for the period 1 September 2021 to 30 June 2023, plus July 2022 and August 2022 are counted twice and used to substitute the missing months. It is important to ensure July and August aren’t under-represented to address the fact that fish catch fluctuates with seasonality.)
4. The total weight of catch is then divided by the relevant number of years to estimate a ‘representative average year’ catch (kg/annum). For the Gulf region the catch is divided by four, for other regions the catch is divided by two.
5. The amount from Step 4 is multiplied by a price multiplier (89.62775 for aquarium fish and 17.82400588 for hammerhead sharks, for other fish see “*Fisheries Structural Adjustment Tables*” documents on the DAF website). (The price multiplier consists of the industry average beach price per year as determined by BDO Econosearch**, further adjusted for the Consumer Price Index to create projected prices for 2024, 2025 and 2026, which are then combined into a single total.)
6. The amount to be paid is:
- a. if the result from Step 5 is less than \$1,000 – the payment is \$1,000; or
 - b. if the result from Step 5 is between \$1,000 and \$4,999 – the payment is \$5,000; or
 - c. if the result from Step 5 is between \$5,000 and \$9,999 – the payment is \$10,000; or
 - d. if the result from Step 5 is over \$10,000 – the payment is the exact amount calculated in Step 5.

* For the aquarium fish fishery (symbol A1 and A2), fish are recorded by number rather than weight, and the price multiplier is per individual not per kg.

**BDO Econosearch were engaged to undertake economic and social data analysis on fisheries for Fisheries Queensland (<https://www.daf.qld.gov.au/business-priorities/fisheries/monitoring-research/data/economic-and-social-data>). Where a species had not been valued by BDO, a suitable substitute was used.

Provision is also made for owners of eligible licences who did not catch any fish in at least six consecutive months during the relevant period if special circumstances can be shown

to apply, such as illness or injury to the applicant or their dependents or a natural disaster. In those circumstances, the applicant's average catch for the remainder of the eligible period will be used to substitute the months for which zero catch was recorded. In practice, a lessor who is unable to catch fish for over 6 months due to illness or injury would not continue to lease the licence.

The final design and implementation of the new gillnet free areas in the Gulf of Carpentaria benefited from targeted consultation with Traditional Owners. Several Traditional Owner Groups provided submissions to the Gulf discussion paper including: Kowanyama Aboriginal Shire Council (joint submission with Sharks and Rays Australia and Abm Elgoring Ambung); Mapoon Aboriginal Shire Council; Aurukun Shire Council; Carpentaria Land Council Aboriginal Corporation; Kokoberrin Tribal Aboriginal Corporation. Further consultation was undertaken with Kowanyama and Pompokuraaw Traditional Owners to inform the final gillnet free areas.

QRIDA has extensive experience in administering grant, loan and rebate and payment schemes for government and is well placed to administer the schemes.

Other categories of impact from the reforms have also been identified, including:

- stranded assets such as commercial gillnets, which will no longer have resale value;
- boats previously used for gillnetting, which will need refitting to operate in other sectors;
- seafood processors, wholesalers and other receivers of seafood product who may have been heavily reliant on products from gillnet fishing.

These impacts will be considered as part of a separate process.

Consistency with fundamental legislative principles

The drafting instructions have been developed with regard to fundamental legislative principles (FLPs) as defined by section 4 of the *Legislative Standards Act 1992* (LSA).

Legislation should have sufficient regard to Aboriginal tradition and Island custom—LSA - 4(3)(j)

- Includes - **Consultation on proposed legislation**

Consultation on structural adjustment

Cultural Rights of Aboriginal peoples and Torres Strait Islander peoples protect the distinct cultural rights held by Aboriginal peoples and Torres Strait Islander peoples. This includes cultural heritage, practices, and observances, traditional language and expression, kinship ties, and distinctive relationship with the land, territories, waters, coastal seas and other resources. Aboriginal peoples and Torres Strait Islander peoples have had limited engagement and input into the proposals. The proposals will limit cultural rights – Aboriginal peoples and Torres Strait Islander peoples to the extent the proposals are inconsistent with an Aboriginal person's or Torres Strait Islanders person's beliefs, traditional knowledge system, connections and distinctive relationships with the land, territories, waters, coastal seas and other resources.

There was insufficient time for the Taskforce to consult in a respectful way with Reef Traditional Owners and other First Nations peoples. This is recommended to occur subsequently to the making of the Regulation and with reference to the aspirations already outlined by Reef Traditional Owners in the Reef 2050 Traditional Owner Implementation Plan.

The limited timeframe for the Taskforce report impacted the ability to undertake consultation with First Nations peoples, resulting in a recommendation to ensure future engagement and partnership with GBR Traditional Owners as the reforms are implemented.

FLPs that are not in the LSA

Ordinary activities should not be unduly restricted

- Includes - **Right to conduct business without interference**

Creation of additional gillnet-free areas

The creation of new gillnet-free areas in the Gulf region potentially infringes the FLP is potentially infringed because the taking and possession of fish using gill nets under existing N3 fishery symbols could be considered to be an ordinary activity that is being limited by this amendment. Implementing the new gillnet free areas will restrict holders of a PCFL endorsed with a N3 fishery symbol from exercising their rights to commercially take fish species within the new gillnet free areas.

The amendment is necessary to improve protections for threatened, endangered and protected species (TEPS) that occur within those areas, many of which migrate between the GoC and Great Barrier Reef (GBR). TEPS are often caught as bycatch in gillnets due to the relatively unselective nature of gillnets. The removal of net fishery symbols from the GBR on 31 December 2023 is expected to result in transfer of fishing effort from the GBR to the GoC, thus placing TEPS at even higher risk. TEPS are a common property resource of significant social and ecological value. In addition, the pressure of fishing effort shift from the GBR on top of existing concerns about low biomass for key Gulf region species could risk the sustainability of fisheries stocks in the Gulf.

A total prohibition on gillnet fishing is necessary due to the risks to TEPS from gillnets. The new gillnet free areas are consistent with, and an extension of, other net free areas in the Gulf region that were established to minimise risks from net fishing to sensitive habitats and TEPS.

Net fishing with apparatus permitted under the N11 symbol will be able to continue under relevant commercial fishing licences, only when product is harvested for purposes other than sale. The ongoing use of N11 apparatus for purposes other than sale is in recognition of the economic impacts this restriction would have to commercial fishing businesses that operate in remote regions and rely on bait to support their fishing operations, such as line and crab fishing operations.

In deciding the final gillnet free areas, extensive consultation was undertaken to determine the most appropriate locations that maximise the protection outcomes for protected species and limit the property-right impacts of commercial fisherman. During this consultation, impacted commercial fisherman were afforded the opportunity to inform the final design and implementation of the new gillnet free areas.

Abrogation of rights and liberties from any source must be justified

- Includes - **Privacy and confidentiality rights**

Requirements for financial assistance schemes

Part 6 of the Amendment Regulation provides for a new financial assistance scheme.

The subordinate legislation requires that applicants must give QRIDA any further documents or information it reasonably requires to decide the application for assistance. The use of this power could potentially affect the privacy and confidentiality rights of individuals if it is used to request information that would otherwise be confidential, such as bank statements. This power is a potential breach of section 4(2)(a) of the *Legislative Standards Act 1992*, as the legislation could be seen not to have sufficient regard to the rights and liberties of these individuals.

The potential inconsistency is justified, however, as this power can only be exercised in circumstances where it is reasonably necessary to obtain further information to decide the application. The exercise of this power will therefore be limited to circumstances where there are evidentiary deficiencies present in the information provided by the applicant that prevents QRIDA from properly assessing the application.

Legislation should have sufficient regard to the institution of Parliament - LSA 4(4) and 4(5)

Subordinate legislation should allow the subdelegation of a power delegated by an Act only—(a) in appropriate cases and to appropriate persons; and(b) if authorised by an Act—LSA - 4(5)(e)

Scheme references non-statutory document

Part 6 of the Amendment Regulation refers to a document called 'Fisheries structural adjustment tables—Stage 2', version 1.0, comprising tables and maps, which is hosted on the Department's website, to provide details for calculating payments based on probable future income.

The potential FLP issue is whether the legislation has sufficient regard to the institution of Parliament by allowing an external document that is not subject to Parliamentary scrutiny to prescribe figures to be used in the calculation of financial assistance payments.

The potential inconsistency is justified, because it would be impractical to include the details of lengthy tables and detailed maps in legislation. The external document is defined according to date and version number, so any changes that are made to the external document would require a further amendment to the Regulation.

Consultation

Community

Structural adjustment program

On the 17 July 2023, the Queensland Government announced the establishment of the independent Taskforce to provide expert advice to government on the best approach, design and implementation of a structural adjustment package for the GBR.

Key stakeholders, including representatives from the commercial and recreational fishing sector, academia and the conservation sector, were invited by the Taskforce to present at various meetings to aid deliberations. Affected commercial fishers and interested members of the community were also invited to make submissions to the Taskforce via the DAF eHub. The consultation eHub was open for almost four weeks and closed on 28 August 2023.

Stakeholders who met with the Taskforce presented a wide range of views. All sectors identified problems associated with fishery and geographical effort shift as being of central concern, urging that steps be taken to minimise perverse outcomes.

In total, 4,104 submissions were received, of which 343 were responses to the ehub discussion paper online survey and 3,781 were written submissions, from commercial fishers, recreational fishers, conservation organisations and First Nations peoples. Seventy-four per cent of submissions were received from commercial fishers. Concerns raised included:

- direct loss of income to their fishing business (over 30 per cent of respondents);
- the need to buy back various commercial fishing assets, including equipment such as nets, quota, fishery symbols, vessels and other ancillary equipment used for fishing (over 30 per cent of respondents);
- flow-on impacts to seafood related businesses (23 per cent of respondents); and
- effort shift into other fisheries or species of recreational importance (19 per cent of all respondents).

Members of the Reef 2050 Advisory Committee (an external stakeholder and partner-based committee) and Expert Panel were previously consulted on additional actions that could be undertaken to implement the Reef 2050 Plan and address the concerns of the WHC. They were also invited to meet with the IUCN and UNESCO during the Reactive Monitoring Mission in 2022.

Gulf gillnet free zones

On 10 October 2023, the Department of Agriculture and Fisheries released the discussion paper 'Gulf of Carpentaria Inshore Fishery: Consultation on gillnet-free zones and fishery reforms'. The consultation received 4,104 responses and recorded 93 per cent support from respondents for the implementation of the proposed gillnet-free zones. The consultation document and report are published online - <https://daf.engagementhub.com.au/gulf-of-carpentaria-fishery>

There was also majority support for extra areas to be protected as gillnet-free areas, prompting the need for further consultation and analysis by Fisheries Queensland.

The Honourable Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities, met with representatives from the Indigenous community of Kowanyama in Brisbane. Fisheries Queensland officers undertook further consultation with additional stakeholders, including with Traditional Owners from Kowanyama online on 7 March 2024 and on country in Pormpuraaw on 8

March 2024.

The Gulf of Carpentaria Inshore Fishery Working Group meeting was held on 12 March 2024 in Cairns to provide advice on proposed gillnet-free zones in the Gulf of Carpentaria. Communiqués from these meetings are published online – <https://www.daf.qld.gov.au/business-priorities/fisheries/sustainable/fishery-working-groups>

The Sustainable Fisheries Expert Panel met on 13 March 2024 to provide advice on proposed gillnet-free zones in the Gulf of Carpentaria. Panel members raised the importance of and opportunity to empower Indigenous communities to be economically independent and reasoned that gillnet-free areas around Indigenous communities would assist with this. Communiqués from these meetings are published online – <https://www.daf.qld.gov.au/business-priorities/fisheries/sustainable/sustainable-fisheries-expert-panel>

Government

The Department of the Premier and Cabinet (DPC), Queensland Treasury (QT), the Great Barrier Reef Marine Park Authority and QRIDA were consulted and provided advice to the Taskforce.

DPC and QT supported the amendment regulation, once issues they raised were resolved.

Previously, the Great Barrier Reef Interdepartmental Committee considered a range of actions to protect the GBR to respond to the concerns of the UNESCO. Chaired by the Department of Environment and Science, it included representatives from DAF, DPC, QT, Department of Regional Development, Manufacturing and Water, Department of Resources, Department of State Development, Infrastructure, Local Government and Planning, and Department of Transport and Main Roads.

Regulatory Impact Analysis

It is acknowledged that the amendments contained in the Amendment Regulation are significant, specifically those related to the establishment of new gillnet free areas in the Gulf of Carpentaria- as part of the GBR related commitments to UNESCO. A Summary Impact Analysis Statement (IAS) has been prepared and approved by the Director-General, DAF and the Minister for Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities. The key conclusion of the IAS was that on 24 August 2023, an exemption from Regulatory Impact Statement (now IAS) was approved for amendments to fisheries regulations to give effect to GBR related commitments to UNESCO regarding the phasing out of gillnet fishing. The approval acknowledged the importance of stakeholder consultation and engagement in the absence of a formal RIS and the department was requested to continue to engage with the fishing industry and relevant stakeholders on the policy changes.

While an exemption from a regulatory impact analysis was approved, ongoing stakeholder consultation is an important part of the process as outlined above. Both the Taskforce and department have sought, and will continue to seek, stakeholder feedback to inform the policy response and implementation of these changes. Stakeholder feedback was taken into account during refinement of policy options. In line with the exemption from a formal RIS, the Department of Agriculture and Fisheries will undertake a post implementation

impact analysis statement consistent with *the Queensland Government Better Regulation Policy* for the changes related to GBR commitments to UNESCO.

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