

Rural and Regional Adjustment (Fisheries Structural Adjustment Scheme—Stage 3 and Other Matters) Amendment Regulation 2024

Explanatory Notes for SL 2024 No. 67

made under the

Rural and Regional Adjustment Act 1994

General Outline

Short title

Rural and Regional Adjustment (Fisheries Structural Adjustment Scheme—Stage 3 and Other Matters) Amendment Regulation 2024.

Authorising law

Sections 3, 10, 11 and 44 of the *Rural and Regional Adjustment Act 1994* (the RRA Act).

Policy objectives and the reasons for them

Background

Fisheries Structural Adjustment

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, then 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 (Gulf). 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 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 consistent with that for the GBR and Great Sandy regions;
- undertaking consultation on potential gillnet free areas in the Gulf.

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

- financial assistance for 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;
- support for employees such as deckhands and skippers;
- support for making hammerhead shark a no-take species for commercial fishers;
- grants and support for reskilling and retraining;
- funding to develop a whole-of-government strategy to accelerate and adopt innovative best-practice sustainable aquaculture in Queensland;
- funding, 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
- funding for developing and growing sustainable regional jobs, tourism opportunities and supporting master fishers training and threatened species protection.

The *Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023* commenced in late 2023. The *Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023* implemented Stage 1 of the Fisheries Structural Adjustment Package by :

- amending 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; and
- reducing 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, to take effect on 31 December 2023.

On 14 March 2024, closing dates for Stage 1 of the Fisheries Structural Adjustment Package were extended.

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 discussion paper received 4,104 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 Traditional Owner groups in the Gulf. 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 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 and approved the drafting of amendments to the *Fisheries Declaration 2019* to implement the new gillnet free areas in the Gulf.

On 17 May 2024, the *Fisheries (Structural Reform Stage 2) and Other Legislation Amendment Regulation 2024* commenced. The *Fisheries (Structural Reform Stage 2) and Other Legislation Amendment Regulation 2024* implemented Stage 2 of the Fisheries Structural Adjustment Package by:

- amending the *Fisheries Declaration 2019* to introduce new gillnet-free areas in the Gulf and consolidated where relevant the existing net free areas; and
- introducing a new assistance scheme under the *Rural and Regional Adjustment Regulation 2011* to deliver Stage 2 of the structural adjustment assistance for holders of fishing authorities affected by the new gillnet-free areas in the Gulf, as well as employees (skippers and crew members) and particular licence holders who were not accommodated in Stage 1.

Extension of the closing date for eligibility for the Vessel Tracking Rebate Scheme

The Vessel Tracking Rebate Scheme was implemented to assist holders of eligible fishing licences by offsetting the costs incurred for:

- buying new vessel tracking units from authorised suppliers for installation in eligible boats authorised for use under the licences, and/or
- having vessel tracking units professionally installed in the eligible boats.

The prescribed period for eligibility for the Vessel Tracking Rebate Scheme currently ends on 30 June 2024. However, the roll-out of vessel tracking units has taken longer than anticipated. A decision was made therefore to extend the closing date for eligibility for this Scheme, to ensure all affected fishers have an opportunity to receive assistance as originally planned and budgeted. Extending the scheme end date to 30 June 2027 ensures financial assistance remains available and the closing date aligns with the duration of the Sustainable Fisheries Strategy reforms.

On 10 May 2024, The Honourable Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities, approved the drafting of Stage 3 of the structural adjustment, including an extension of the closing date for eligibility for the Vessel Tracking Rebate Scheme.

Objectives

The *Rural and Regional Adjustment (Fisheries Structural Adjustment Scheme—Stage 3 and Other Matters) Amendment Regulation 2024* (Stage 3 Regulation):

- implements Stage 3 of the fisheries structural adjustment to introducing a new financial assistance scheme to provide assistance to former gillnet fishers wishing to surrender usable nets and remove gillnet equipment from their boats, and to provide assistance to eligible businesses to assist them to adjust to the structural reforms,
- extends the closing date for the Vessel Tracking Rebate Scheme's prescribed period to 30 June 2027.

Achievement of policy objectives

Financial assistance scheme for Stage 3 of the fisheries structural adjustment program

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 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 Stage 3 Regulation will prescribe a new schedule which will set out the scheme in detail for holders of fishing authorities that are to be eligible for assistance. This will enable QRIDA to administer the financial assistance scheme.

Payment will be made to eligible applications in the order that applications are received, until the funding allocation is exhausted.

Buyback of gillnets

Former holders of licences with N1, N2, N3 or N4 fishery symbols written on them and fishing history in the GBR region or Management Region 5 during the relevant period will be eligible for collection and buyback of surrendered gillnets. Additionally, licence holders in the Gulf that surrender either their licence or N3 symbol will be eligible. The exception will be those who hold a N15, NX, N10, K or N3 fishery symbol at the time of application because their nets would not be considered stranded assets.

For consistency with Stage 1 and 2, the relevant period for fishing history on the East coast refers to all or part of the period starting from the commencement of reforms under the Queensland Sustainable Fisheries Strategy (1 September 2021) and ending at the announcement of structural adjustment reforms (30 June 2023).

The priority for assistance is nets in useable condition, noting that many fishers also tend to possess spare netting material. Payments will be made for useable nets on a price per metre basis up to a maximum amount for each former symbol that was held. The payments per metre are based on 50% of replacement costs for materials (50% of costs is estimated at \$11/m) and labour (50% of costs is estimated at \$1.50/m). Caps will be applied based on the amounts of net that were allowable under the various symbols. The maximum payment will be:

- for N1 symbol - \$15,000;
- for N2 by itself (which also authorised the use of N1 equipment), or N2 and N1 - \$45,000;
- for N4 by itself (which also authorised the use of N1 equipment), or N4 and a N1 - \$60,000; and
- for N2 and N4, or N2 and N4 and N1 - \$100,000.

Former holders of licences who surrendered a N3 symbol and/or a licence that previously had a N3 symbol on it as part of Stage 2 will be eligible for collection and buyback of surrendered gillnets provided they do not have a N3 symbol at the time of application. The payments per metre will be consistent with the buyback of nets for the GBR and Great Sandy regions. The funding cap is \$30,000.

N11 nets will not be eligible for payment because N11 nets can still be used in the Gulf, including within the new Gulf gillnet-free areas, as well as the East coast. N11 nets were not subject to the same restrictions as large-mesh gillnets under the fisheries structural adjustment program.

The Department of Agriculture and Fisheries (DAF) will arrange, via contract, for a third party to undertake the logistical aspects of collecting and/or receiving nets; assessing net condition; estimating net length; tracking and reconciling the surrendered nets; and recycling or otherwise disposing of the nets and associated rope, floats and weights. The contracted party will also be responsible for obtaining a general fisheries permit for possession of these nets which would otherwise be unlawful under fisheries legislation.

Unusable netting material may also be surrendered for free disposal, but no payment will be made for these materials.

Payments to cover the cost of removing equipment related to the use of gillnets from boats

Owners of vessels registered to eligible fishing licences (ie. licences with N1, N2 or N4 fishery symbols written on them and fishing history in the GBR region or Management Region 5 during the relevant period) will be eligible for payments to cover the cost of removing any gillnet fishing equipment from their vessels, including marine surveying costs directly related to the removal of such equipment. The exception will be vessels registered to a fishing licence with a N15, NX, N10 or K fishery symbol written on it at the time of application, because such vessels may still be used for gillnet fishing. Similarly, this assistance category does not apply to the Gulf region because net fishing under the N3 fishery symbol will be able to continue. The maximum payment will be:

- for vessels registered to primary commercial fishing licences (PCFLs) with N1 and/or N2 symbols - \$50,000; and
- for vessels registered to PCFLs with an N4 symbol - \$100,000

Owners of vessels registered to eligible fishing licences will be eligible for payments to cover the cost of removing any gillnet fishing equipment from their vessels. An eligible licence is a licence that had an N3 written on it, if the N3 symbol and/or the licence was surrendered, provided there is no N3 symbol held at the time of application.

The maximum amount of assistance will be equivalent to the maximum amount offered for N2 symbols, ie. \$50,000. This is because the N3 symbol, like the N2 symbol, provides for taking of barramundi and with the same gillnet fishing equipment.

Applicants who are eligible for the GBR region and the Great Sandy region as well as the Gulf region will be able to apply for both, provided their overall payment does not exceed the maximum amount per symbol.

Holders of N11 symbols who do not also hold N3 symbols will not be eligible because N11 nets do not require specialised equipment such as reels to be fitted onto vessels.

Commercial diversification grants

Eligible businesses that are able to provide evidence that they relied for more than 75% of their income on fish taken under retired fishery symbols, and/or from fisheries in the Great Sandy region affected by commencement of the *Marine Parks (Great Sandy) Zoning Plan 2024*, will be able to apply for grants of up to \$100,000 to diversify their businesses, which must be matched by cash contributions from the applicant. A single application may apply to both the GBR and the Great Sandy regions provided the applicant can demonstrate an overall loss of income of at least 75%, and provided the maximum payment amount of \$100,000 is not exceeded.

Applicants will be required to prepare a diversification plan, which must be:

- practically feasible;
- reasonably likely to return value for money for the eligible business; and
- reasonably likely to improve:
 - the profit of the eligible entity;
 - the number people employed by the eligible entity; and

- the resilience of the eligible entity.

Day-to-day business expenses such as insurance premiums, rates, rent, utilities expenses, and wages are ineligible.

The priority for the GBR will be businesses that were reliant on the N1, N2 and N4 symbols that were retired on 31 December 2023. Businesses will be eligible if they can demonstrate that, for example, their product was supplied by one or more holders of a licence with a N1, N2, or N4 fishery symbol written on it and with fishing history during the relevant period. However, businesses would also be eligible if they can demonstrate that the loss to their income is due to other factors that can be linked directly to the removal of N1, N2 and N4 fishery symbols.

For consistency with Stage 1 and 2, the relevant period for fishing history on the East coast refers to all or part of the period starting from the commencement of reforms under the Queensland Sustainable Fisheries Strategy (1 September 2021) and ending at the announcement of structural adjustment reforms (30 June 2023).

The assistance for the Great Sandy region will be similar to assistance for the GBR region, except that loss of income must be linked to one or more of the fishery symbols affected by the changes to zoning or management related to the commencement of the *Marine Parks (Great Sandy) Zoning Plan 2024*, that is, N1, N2, N10, N11, C1, C, K8, L1, L2, L3, T1, T2, T5, T6, T7, A1 or A2.

Extension of the closing date for eligibility for the Vessel Tracking Rebate Scheme

The policy objective will be met by a minor amendment to Schedule 33 of the *Rural and Regional Adjustment Regulation 2011* to extend the closing date for the Scheme's prescribed period from 30 June 2024 to 30 June 2027.

Consistency with policy objectives of authorising law

The Stage 3 Regulation 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.

Inconsistency with policy objectives of other legislation

The Stage 3 Regulation is not inconsistent with the policy objectives of any other legislation.

The Stage 3 Regulation has been prepared in consideration of the GSMP Zoning Plan Review Outcomes.

Alternative ways of achieving policy objectives

Status quo

If additional financial assistance is not provided, the Taskforce recommendations would be only partially implemented, and affected stakeholders who were not accommodated under Stages 1 and 2 will be left without assistance. Given that a portion of the

stakeholders identified by the Taskforce have been able to receive assistance under Stages 1 and 2, this situation would be demonstrably unfair.

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.

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 Explanatory Notes for the *Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023*.

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.

Benefits and costs of implementation

In addition to the impacts identified under Stages 1 and 2 of the structural adjustment program, holders of relevant fishing licences will be impacted by the loss of value in stranded assets such as gillnets and gillnet equipment.

Businesses will also be impacted if they were largely reliant on fisheries using the fishery symbols N1, N2 and N4 that were retired on 31 December 2023, or fisheries affected by the changes to zoning or management related to the commencement of the *Marine Parks (Great Sandy) Zoning Plan 2024*.

In recognition of impacts resulting from the structural adjustment program, the Queensland Government has dedicated appropriate funds to a financial assistance scheme to provide assistance to former gillnet fishers wishing to surrender usable nets,

and remove gillnet equipment from their boats, and to provide assistance to eligible businesses to assist them to adjust to the structural reforms.

Former holders and lessees of primary commercial fishing licences on which N1, N2, N4 fishery symbols were written prior to 31 December 2023, or N3 fishery symbols if the holder surrendered the N3 and/or licence, will be able to apply for:

- approximately 50% of the cost of usable mesh nets surrendered to the Queensland Government, up to a maximum amount per applicant ranging from \$15,000 to \$100,000 depending on the symbols held,
- reimbursement of the costs of removing equipment related to the use of relevant mesh nets from their boats, up to a maximum amount per applicant ranging from \$50,000 to \$100,000 depending on the symbols held.

Eligible businesses that are able to provide evidence that they relied for more than 75% of their income on fish taken under particular fishery symbols, or from particular parts of the Great Sandy region, will be able to apply for grants of up to \$100,000 to diversify their businesses, which must be matched by cash contributions from the applicant.

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

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).

FLPs that are not in the LSA

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 Stage 3 Regulation provides for a new financial assistance scheme.

The Stage 3 Regulation 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 LSA, 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.

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.

More than 100 submissions were received by the Taskforce through an online engagement site (eHub) 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.

On 10 October 2023, DAF released the discussion paper ‘Gulf of Carpentaria Inshore Fishery: Consultation on gillnet-free zones and fishery reforms’. Additional consultation was undertaken in March 2024 with Traditional Owners, the Gulf of Carpentaria Inshore Fishery Working Group, and the Sustainable Fisheries Expert Panel.

Government

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 Stage 3 Regulation, feedback from DPC and QT was incorporated.

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

Regulatory impacts for the Fisheries Structural Adjustment Package as a whole were considered in the Explanatory Notes for the *Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023*. 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 DAF 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 DAF 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, DAF will undertake a post implementation IAS consistent with *the Queensland Government Better Regulation Policy* for the changes related to GBR commitments to UNESCO. This analysis will include the phasing out of gillnet fishery symbols and structural reform in the GBR as well as changes to the Great Sandy Marine Park, and will include a qualitative and quantitative assessment of the costs and benefits arising from the introduction of the gillnet free areas in the Gulf, the extent and adequacy of the increased protection being afforded to threatened, endangered and protected species and review the effectiveness and adequacy of the structural adjustment scheme to offset the economic impacts to fishers and Gulf communities.