

Queensland



Regulatory Impact Statement for SL 1999 No. 54

Fisheries Act 1994

FISHERIES (FRESHWATER) MANAGEMENT PLAN 1999

Title

Fisheries (Freshwater) Management Plan and consequential amendments to the *Fisheries Regulation 1995*.

Authorising Law

The proposed legislation is made under the provisions of the *Fisheries Act 1994* (“the Act”), in particular sections 32 (making of management plans by fisheries agencies and 223 (Regulation making power).

Policy objectives

In order to maintain, develop and, where appropriate, enhance freshwater fisheries resources for the benefit of the community, the policy objectives are:

1. to manage the harvest of freshwater fisheries resources in a manner which ensures the sustainability of the resources and, where possible, improves their conservation status, and ensures an equitable sharing of the catch;
2. to optimise the social and economic benefits from freshwater fisheries resources;
3. to minimise the risks of detrimental changes to local fisheries resources and the ecosystems on which they depend caused by the

introduction, establishment and spread of non-indigenous and *exotic* fisheries resources;

4. to manage the harvesting of *noxious fisheries* resources with the aim of controlling the abundance and spread of such *noxious fisheries resources*.

The strategies for achieving these objectives to be incorporated in the Management Plan include—

For objective 1:

Prescribing appropriate management arrangements, e.g. size limits, bag limits, closed seasons, closed waters and the type of gear which may be used, to ensure sustainability and an equitable sharing of the catch.

Managing the eel trapping fishery as a sustainable, limited entry fishery, while introducing a system of juvenile eel harvesting which can be monitored readily and ensures sustainability of the resource and equitable sharing of the catch.

Issuing broodstock collection permits which enable aquaculturists to operate effectively while maintaining sustainability of natural stocks.

For objective 2:

Maintaining and, where possible, enhancing recreational fishing opportunities based on natural fish stocks.

Encouraging the development of impoundment fisheries.

Enabling the enhancement of impoundment fisheries by the introduction of appropriate new species.

Introducing and managing a user-pays (recreational fishing permit) system for the enhancement of recreational fisheries in impoundments.

For objective 3:

Issuing approvals only for fish stocking plans which accord with the translocation principles and *the responsible approach to fish stocking*.

Encouraging the use of fish appropriate to the local catchment for

stocking farm dams and other waters on private land.

Evaluating the effectiveness of stocking programs.

Prohibiting the use of live fisheries resources as bait outside their natural range.

Increasing community understanding and acceptance of the need to prevent inappropriate stocking fisheries resources in Queensland waters.

For objective 4:

Issuing authorities to harvest noxious fish such as carp and tilapia using methods which enable immediate sorting of the catch and the return of non-target species to the water unharmed.

These objectives and the strategies for achieving the objectives have been adopted to assist the Queensland Fisheries Management Authority (QFMA) in delivering fisheries management which is consistent with the principles of ecologically sustainable development, which is defined in the Act as:

The maintenance of biodiversity and the ecological processes on which fisheries resources depend; and

The maintenance and improvement of the total quality of present and future life.

Legislative intent

It is proposed to introduce a management plan for the freshwater fisheries resources of Queensland.

Numerous management arrangements which apply to the fisheries resources which occur in the fresh, inland or non-tidal waters of Queensland presently are contained in the *Fisheries Regulation 1995* (“the Regulation”).

It is now proposed to incorporate those arrangements which refer solely to freshwater fisheries resources into a management plan. Additionally, some amendments are proposed to current arrangements in relation to bag limits, size limits and closed seasons for particular species targeted by recreational fishers. Closed waters, fishing apparatus which may be used

by recreational fishers, the management of noxious and non-indigenous fisheries resources, compliance and arrangements for charter operations are also matters which are sought to be addressed in the management plan.

New management arrangements are also proposed in relation to the translocation of fisheries resources in Queensland, the use of fisheries resources as live bait; the taking of freshwater fisheries resources for commercial purposes and the introduction of a recreational fishing permit for particular stocked impoundments.

The introduction of provisions requiring persons who are convicted of causing a fish kill to be liable for restitution is also proposed.

The specific arrangements proposed for inclusion in the management plan are set out in the draft management plan. This draft management plan is to be released for public comment, together with the RIS, and an overview of the management planning process and an indication of what stage the process is at, a summary of the consultation to date and an explanation in plain English of the elements of the proposed management arrangements.

Consistency with the authorising law

The proposed legislation provides a range of management measures to ensure the sustainability of Queensland's freshwater fisheries resources. It has been developed through a clearly defined process involving an expertise-based QFMA, a community expertise-based management advisory committee and through public consultation.

Through this process the following objectives of the Act will be met—

- a. sustainability of the resource, through the application of management measures available under current and proposed fisheries legislation;
- b. achieving optimum community, economic and other benefits by ensuring that the interests of all stakeholders are reflected in the proposed legislation; and
- c. equity in access to fisheries resources through the selective application of input and output controls and the introduction of a user-pays system for particular stocked impoundments.

Consistency with other legislation

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

Alternatives

The options and alternatives for achieving the policy objectives are—

- a. no regulation; or
- b. self regulation; or
- c. retaining current arrangements as reflected in the Regulation.

Although “no regulation” may be considered as an alternative management mechanism, it raised serious difficulties. The need for government involvement in fisheries management stems from the “open access” nature of fisheries resources. Experience worldwide has shown that where there is “open access” to fisheries resources, there is little incentive for fishers to conserve these resources. This occurs because there is no direct ownership of the resources and little incentive to protect these for the future. As these stocks become fully utilised, competition between fishers often leads to resource depletion. Left unmanaged, the resulting increase in fishing effort is reflected in lower catches and increased conflict between resources users, and can place at risk the satisfaction of custom and tradition by indigenous fishers.

The role of governments, as custodians of the resource, is to ensure that fisheries resources are used in an ecologically sustainable manner and as efficiently as possible. In doing so, governments have the responsibility of ensuring that the basis for sharing the resource amongst all users is clearly defined and equitable. Ensuring that the allocation of fisheries resources and level of utilisation is consistent with the needs of present and future generations, has been shown worldwide to require effective regulation

Self regulation by user groups would be unlikely to resolve the fundamental conflict about competition for access to the resource. This is particularly the case when there is no private ownership and no mechanism for fishers or groups of fishers to “capture” the benefits of their good management. Indeed, fisheries management currently involves heightened debate and even legal action regarding the respective legal “rights” of various user groups and their access to or share of fisheries resources.

In these circumstances, self regulation is unlikely to succeed and has been rejected by governments in Australia and overseas. However, the extent and form of regulatory intervention varies from place to place. This is not to say that fishers or particular groups of fishers do not promote various self-regulatory management arrangements. This commonly occurs, with many current management arrangements having been proposed by various fisher groups. However, an appropriate regulatory framework needs to be in place to give effect to these arrangements.

Current management arrangement for the freshwater fisheries resources of Queensland are not considered to be sufficient to achieve the long-term sustainability of these resources nor to maximise the community benefits which may be derived from these resources.

Public education programs, increased enforcement and voluntary codes of practice by themselves are not considered to be adequate alternatives to ensuring the ecologically sustainable use of Queensland's freshwater fisheries resources.

Cost-benefit assessment

Set out below are the benefits and costs of implementing the management plan.

Benefits to government

The implementation of the management plan will—

- (a) enhance the capacity to reflect ecologically sustainable development principles in fisheries management;
- (b) provide a greater range of management arrangements to ensure the objectives of the Act are met; and
- (c) enhance the capacity for management to be more responsive to the needs of the resource.

Costs to government

The costs to government of implementing the management plan will include—

- (a) developing and reviewing the management plan as subordinate legislation;
- (b) community education and consultation associated with developing and reviewing management arrangements;
- (c) research and enforcement contributions; and
- (d) establishment (but not on-going administration) of a user pays system for particular stocked impoundments.

Benefits to community

The benefits to the community of the implementation of the management plan will include—

- (a) greater certainty in the long-term sustainability of Queensland's freshwater fisheries resources;
- (b) increased community confidence in the ability of management agencies and resource users to manage Queensland's freshwater fisheries resources;
- (c) improved management of Queensland's freshwater fisheries resources;
- (d) maintenance or improvement in the conservation status of Queensland's freshwater fisheries resources; and
- (e) improvements in regional economies.

An indication of the economic benefits of the government's recreational fishing enhancement program in impoundments is provided by a pilot angler-expenditure trial conducted at Leslie Dam where some 200 visiting anglers were interviewed. Average expenditure within 30 km of the Warwick Post Office (reflecting the benefits directly to the community responsible for stocking) was \$13.50 per angler per day; based on the estimated 36,000 angler days for that particular creel survey; this represented a direct benefit to the local community of \$314,000 a year.

The management of freshwater fisheries on a sustainable basis will also protect and enhance associated traditional and cultural rights of indigenous people

Costs to community

The costs to the community of the implementation of the management plan will include:

contribution to research and enforcement costs; and

some limitations on access to fisheries resources by way of, for example, the type of gear that may be used and the number and size of fish which may be taken.

Management costs would obviously be less if either “no regulation” or “self regulation” was adopted. However, the risk to the future sustainability of Queensland’s freshwater fisheries resources would increase and threaten the viability of the fisheries which depend on them. This would be an unacceptable risk for the government as the custodians of Queensland’s fisheries resources for present and future generations. Such an approach has not received any support from government or the community.

Fundamental legislative principles

The proposed legislation is consistent with fundamental legislative principles.

The proposed legislation does not extinguish the rights of Aborigines and Torres Strait Islanders to take, use or keep fisheries resources in accordance with Aboriginal tradition or under Island custom. Further advice will be received from Parliamentary Counsel on this issue during preparation of the proposed draft management plan. Consequently, the information under this heading may be changed.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Primary Industries.