

## Queensland



### Regulatory Impact Statement for SL 1999 No. 55

#### *Fisheries Act 1994*

## **FISHERIES (GULF OF CARPENTARIA INSHORE FINFISH) MANAGEMENT PLAN 1999**

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### **Title**

Fisheries (Gulf of Carpentaria Inshore Finfish) 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*, in particular sections 32 (making of management plans by fisheries agencies, etc.) and section 223 (Regulation making power).

### **Policy objectives**

Policy objectives are—

- (a) to maintain inshore finfish stocks at sustainable levels; and
- (b) to protect spawning target species; and
- (c) to minimise the effects of fishing on protected wildlife; and
- (d) to provide a viable commercial net fishery which provides economic and social benefits to local, regional and State economies; and
- (e) to provide a recreational fishery which provides economic and social benefits to local and regional economies; and

- (f) to satisfy the traditional or customary needs of Aborigines and Torres Strait Islanders.

These 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 *Fisheries Act 1994* as—

- (a) maintenance of biodiversity and the ecological processes on which fisheries resources depend; and
- (b) maintenance and improvement of the total quality of present and future life.

### **Legislative intent**

Policy objectives will be achieved by the proposed legislation by retaining—

- (a) regulated fish provisions;
- (b) current arrangements for the commercial fishery concerning the spawning and area closures, minimum legal sizes and fishing apparatus restrictions.

In addition, the Management Plan proposes the combining N3 fishery symbols on primary commercial fishing boat licences.

These arrangements are considered to be reasonable ways of achieving the plans objectives and have no appreciable cost on individual operators, the industry as a whole or the community.

### **Consistency with the authorising law**

The proposed legislation provides a range of management measures to ensure the sustainability of Gulf of Carpentaria inshore finfish resources. It was developed through a clearly defined process involving an Aexpertise based@ Queensland Fisheries Management Authority, a community and industry expertise based 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 the proposed legislation and current fisheries legislation;
- (b) achieving optimum community, economic and other benefits by ensuring the interests of all stakeholders are reflected in the proposed legislation; and
- (c) equity in access through the selective application of input and output controls provided under regulation including, licensing powers, temporal and spatial based fishing closures and fishing apparatus controls.

### **Consistency with other legislation**

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

### **Alternatives**

The alternatives for achieving the policy objectives are—

- (a) no regulation; or
- (b) self regulation; or
- (c) retaining current arrangements as reflected in the *Fisheries Regulation 1995*.

Although no regulation may be considered as an alternative management mechanism, it raises serious difficulties. The need for government involvement in fisheries management stems primarily 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 individuals harvesting the resource to conserve fishery stocks. This arises 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 individual catches in all fishing sectors and overcapitalisation and reduced financial returns in the commercial

fishing industry, and can place at risk the satisfaction of custom and tradition by indigenous groups.

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 among all users is clearly defined and is accepted as equitable. Ensuring that the allocation of fisheries resources and their level of utilisation is consistent with the needs of present and future generations, has been shown world-wide 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 so when there is no private ownership and no way for individuals in the various groups to “capture” the benefit of their good management, unless all parties are compelled to do the “right” thing.

In fact fisheries management currently involves heightened debate and indeed legal action, about the respective legal “rights” of commercial, recreational and indigenous users and their access to, or share of, the resource.

In this situation, self-regulation is unlikely to succeed and has been rejected by all governments in Australia and overseas. However, the actual extent, and form, of regulatory intervention does vary from place to place.

This is not to say that user groups do not promote various self-regulation management interventions. This is commonly the case with many current management arrangements having been proposed by various fishing groups. However, to give effect to these an appropriate regulatory framework needs to be in place.

Current management arrangements are not considered to be sufficient to achieve the long term sustainability of fisheries resources and are threatening the long term viability of the industry.

In an attempt to address increased fishing effort resulting from improved technology and efficiency in fishing operations, fisheries legislation is now beginning to affect industry viability. In addition, profitability at present catch levels for the average boat in the fishery appears to be marginal as the real price of the product paid to fishers has declined over the years.

Public education programs, increased enforcement and voluntary standards or codes of practice are not considered to be adequate alternatives in ensuring the long term ecological sustainable use of Gulf of Carpentaria inshore fin fish resources.

### **Cost-benefit assessment**

Set out below are the benefits and costs of implementing the management plan. This is done in a qualitative manner and is followed by a quantitative assessment, as far as this is practical.

#### ***Benefits to government***

- Enhanced capacity to reflect ecologically sustainable development principles in fishery management.
- Provides a greater range of management mechanisms to ensure the long-term objectives of the *Fisheries Act 1994*.
- Enhanced capacity for management to be more responsive to needs of the resource.

#### ***Costs to government***

- Cost of developing and reviewing the Management Plan as subordinate legislation.
- Cost of community education and consultation associated with developing and reviewing management.
- Cost of research and enforcement contributions.
- Cost of funding the buy-back scheme in recognition of community and resource sharing benefits arising from the buy-back scheme.

#### ***Benefits to industry***

- Greater certainty in the long-term sustainability of Gulf of Carpentaria inshore fin fish resources.

- Enhanced long-term profitability.
- Enhanced capacity for financial and strategic planning by participants.
- Limitations on numbers and activities of participants.
- Reduction in licence numbers

### ***Costs to industry***

- Contribution to research and enforcement costs.
- Some limitations on operations by industry for sustainability reasons.
- Annual contribution to fund buy-back scheme.

### ***Benefits to society***

- Increased community confidence in the ability of management agencies and resource users to manage Gulf of Carpentaria inshore fin fish resources.
- Improved management of tropical inshore fin fish resources in the Gulf of Carpentaria.
- Improved protection of tropical inshore fin fish resources and endangered species in the Gulf of Carpentaria.
- Long-term reduction in the contribution by society to costs of management.

### ***Costs to society***

- Nil

In discussing the costs and benefits of the management arrangements proposed in the Plan, a time perspective needs to be considered as part of the analysis.

Increased costs associated with the commercial buy-back scheme will be

offset in the long-term by future increases in industry viability.

Proposed arrangements, particularly the buy-back scheme, which will result in a reduction in licence numbers will provide commercial operators with a form of security (through the knowledge that the fishery resource is being harvested at a sustainable rate) which will enhance their financial and strategic planning capacity.

Other benefits lie in greater protection for the fishery from over-exploitation and, as a result greater confidence in the long-term sustainability of fishery resources.

The proposed legislation does not represent a significant change in the fundamental methods of fisheries management applied previously.

Greater protection of the resource will also protect and enhance any associated traditional and cultural rights of indigenous people.

The benefits to commercial operators, which involve not only commercial fishers but related small businesses, will be enhanced where the resource can be protected and its sustainability ensured into the future. As a result, regional economies dependant on fishing will also be sustainable.

Management costs would obviously fall as a result of Ano regulation or self-regulation, however, the risk to the future sustainability of the fishery would increase and threaten the value of all sectors of the fishery.

This would be an unacceptable risk for the government as custodians of the fishery for current and future generations. Such an approach has not received any support from government, industry or the community.

### **Fundamental legislative principles**

The proposed legislation is consistent with fundamental legislative principles.

The proposed legislation does not extinguish the right for Aborigines and Torres Strait Islanders to take, use or keep fisheries resources in accordance with Aboriginal tradition or under Island custom.

## ENDNOTES

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