



Queensland

Fisheries Regulation 2008

Regulatory Impact Statement for SL 2008 No. 83

made under the

Fisheries Act 1994

Integrated Planning Act 1997

Marine Parks Act 2004

Nature Conservation Act 1992

State Penalties Enforcement Act 1999

Transport Operations (Marine Pollution) Act 1995



Title

Review of the *Fisheries Regulation 1995*

Introduction

Purpose of a Regulatory Impact Statement

Under the *Statutory Instruments Act 1992*, if a proposed regulation is likely to impose appreciable costs on the community or part of the community, a Regulatory Impact Statement (RIS) must be prepared, before the regulation is made.

A RIS is designed to determine whether or not a proposed regulation is the most efficient and effective way of achieving desired policy objectives. It does this by providing a mechanism by which the Government's policy deliberations are clearly documented and subject to public scrutiny.

The purpose of this document is, therefore, to explain the need for the proposed subordinate legislation and to present an evaluation of the likely costs and benefits that would flow from its adoption in comparison with other options explored.

All members of the community are invited to comment on the information presented in this RIS.

How to respond to this Regulatory Impact Statement

The closing date for providing comment on this RIS is Wednesday, 31 January 2007.

Written submissions should be sent to:

Mail: Fisheries Regulation Review
Department of Primary Industries and Fisheries
GPO Box 46
BRISBANE QLD 4001

Email: fishreg@dpi.qld.gov.au

Facsimile: (07) 3229 8146 marked 'Attention Fisheries Regulation Review'

Additional copies and further information

Additional copies of the Regulatory Impact Statement and draft Public Benefit Test are available from any Queensland Boating and Fisheries Patrol office, regional offices of the Department of Primary Industries and Fisheries in Townsville, Rockhampton, Longreach, Nambour, Toowoomba, the Northern Fisheries Centre in Cairns, the Southern Fisheries Centre at Deception Bay Southern, and the Primary Industries Building, 80 Ann Street, Brisbane. In addition, copies of the draft registered maps can be viewed at these offices. Alternatively, the RIS and maps can be downloaded from the department's website www.dpi.qld.gov.au/fishweb

Public access to submissions

If your submission contains information that you do not wish disclose to others, please mark it 'Confidential'.

Respondents wishing to make confidential submissions should be aware of the *Freedom of Information Act 1992*. Under the Freedom of Information Act, the department must, on application, grant access to documents in the possession of the department unless an exempt provision applies.

For example, if a submission contains information about a person's 'personal' affairs and it is in the public interest to protect that person's privacy, the 'personal' information in that submission will not be accessible under the *Freedom of Information Act 1992*.

Consideration of issues raised on the Regulatory Impact Statement

After the public comment period closes, the Government will consider issues raised by members of the community.

Further consultation may occur to address any concerns raised by the community prior to the development of a final position by the Government.

Further enquiries

For further information, call the Department of Primary Industries and Fisheries on 13 25 23 toll free.

Background

Review context

The *Fisheries Regulation 1995* (the Regulation) is the primary means by which the government sets out what rules apply to commercial and recreational fishing and other activities regulated under the *Fisheries Act 1994*. In addition to the current Regulation, there are also five statutory management plans regarding specific fisheries or species.

The *Statutory Instruments Act 1992* (SIA) provides for the automatic expiry of subordinate legislation on the first September after the ten year anniversary from the date the legislation was made. The *Fisheries Regulation 1995* (the Regulation) was ten years old on 30 November 2005 and was due to automatically expire on 1 September 2006. A 12-month extension Regulation has been granted under the provisions of the SIA, to allow enough time for public consultation and drafting of the new Regulation.

During 2005, a systematic evaluation of the entire Regulation was carried out in line with the requirements of the SIA, the Department of State Development, Trade and Innovation guidelines and the Terms of Reference approved by the former Minister for the Department of Primary Industries and Fisheries (see Appendix 1). The Fishing Industry Development Council expressed its support for the Terms of Reference for this review, and for the then Minister's direction that the review should result in a simpler and easier to use Regulation that would reduce duplication within the Regulation and between the Regulation and fishery Management Plans. The review was also guided by DPI&F's Regulatory Policy and Enforcement Policy.

Some important matters in the Terms of Reference have already been dealt with. In particular, the Fisheries Infringement Notice system (FINS) which provides for infringement notices at the 'lower end' of offences has been expanded to apply to a wider range of offences. A series of new FINS for commercial fishing offences and some additional recreational fishing offences came into effect in October 2005 through the *State Penalties Enforcement Regulation 2000* under the *State Penalties Enforcement Act 1999*. Further FINS are proposed in the near future for offences relating to aquaculture, fish habitat and quota offences.

A review of the fisheries licensing and fees system has also been completed. A new fisheries licensing and fees system, effective from 1 July 2006, has resulted in fundamental changes to licensing and fee arrangements, principally for commercial fishers. This followed an extensive review of the fisheries legislation and significant amendments and streamlining of the licensing and fees regime to ensure compliance with National Competition Policy (NCP) principles and Queensland Government policy on red tape reduction.

These reforms, including strengthening fishery access rights and removing impediments to business flexibility, have been undertaken at the same time as the broader review of the Regulation and have already been implemented under a separate consultation and legislative process. A range of matters identified during the Regulation review that were relevant to the licensing regime and tradability of fishing rights have already been resolved through the amendments for the new licensing and fees system.

Some important issues about the legislative and enforcement framework such as the need to consolidate key fisheries management provisions and associated offence provisions were identified during the Regulation review process. Appropriate amendments to the *Fisheries Act 1994* (the Act) have already been made through the *Fisheries Amendment Act 2006*. These changes to the Act will not commence until the necessary consequential amendments have been made to the Regulation.

Review process

DPI&F has undertaken a section-by-section analysis of the current Regulation. This involved staff reviewing every section and schedule of the Regulation, establishing the intent of each section and considering the need to retain these in the proposed new Regulation. Workshops were also held with several representatives of the Queensland Seafood Industry Association Inc. (QSIA) and the recreational fishing body, Sunfish Queensland Inc. (Sunfish). These workshops provided these stakeholders as well as fisheries staff with the opportunity to contribute to the analysis. In addition to this, the Queensland Boating and Fisheries Patrol also undertook a section-by-section analysis of the present Regulation in a separate workshop.

DPI&F also established several intra-departmental working groups to analyse and make recommendations on a wide range of issues raised by the Regulation review, in addition to the section-by-section analysis.

It is recognised that the Regulation covers important matters that are necessary for the sustainable and responsible management of Queensland's fisheries resources, which should be maintained in the interests of ecologically sustainable management of fisheries consistent with the main purpose of the Act. On the other hand, the review identified many areas where the Regulation needs to be streamlined and modernised, and unnecessary provisions removed. For example, there are provisions in the Regulation and management plans about the allocation process for various fishing authorities that are now essentially complete.

There are other provisions whose usefulness has expired, while other matters are now considered more appropriate for other regulatory tools such as policy or administrative guidelines, or simply undesirable for regulation. It is also acknowledged that certain fishery management provisions in the Regulation need to be addressed holistically through the established fishery management planning processes. Other existing fisheries management provisions might be relocated in the future to dedicated fishery management plans, for example for Spanish mackerel or harvest fisheries.

Much of the work to reform the Regulation has already been done through the licensing and fees review and Act amendments as described above. Overall, it is proposed that the replacement legislation should aim to achieve the same or similar fisheries resource management outcomes as the current Regulation, but in a clearer, more consistent and, where possible, less regulatory way. This will reduce duplication, improve clarity, reduce unnecessary regulation and remove any unintentional impacts of the current provisions.

Authorising law

The proposed legislation is to be made under Section 223 of the *Fisheries Act 1994*.

Policy objectives

The principal policy objective is to make a new fisheries Regulation that best achieves the purposes of the *Fisheries Act 1994* by:

- ensuring the Regulation has appropriate regard to fundamental legislative principles;
- reviewing the policy objectives of the legislation and ensuring the regulation best achieves the objective;
- ensuring only matters necessary and appropriate for regulation are included;
- ensuring the regulatory tools provided under the *Fisheries Act 1994* are used directly and consistently in fisheries subordinate legislation;
- ensuring mandatory obligations can be appropriately enforced;
- removing unnecessary duplication across fisheries subordinate legislation and between other State and Commonwealth legislation;
- removing redundant or spent provisions, correcting errors and drafting provisions in the clearest possible way; and
- employing modern drafting techniques to present information in a clear and logical way.

Legislative intent

The government's policy objectives will be achieved by the measures described below.

Modernising the Regulation

Modernising spatial information

Existing legislative environment

Spatial descriptions are critical to describing fisheries management arrangements. Spatial descriptions include definitions of particular fishery areas, fisheries closures, and areas where other fishing restrictions or obligations apply.

Spatial information in the Regulation is currently stated using a mix of three different geodetic baselines or datums — the framework used to define geographic coordinates. The way these datums are defined has changed through advances in technology, and the government standard is now a modern datum known as GDA 94. This datum is compatible with the coordinates produced by the Global Positioning System (GPS), the satellite-based system used universally for location and navigation.

For Fish Habitat Areas, recently produced registered plans already use GDA 94. However, earlier registered plans were developed on the base provided by the former Department of Natural Resources which used AGD 84 and in now outmoded software.

Currently, many of the areas and boundaries in the Regulation are described by latitude and longitude references. Using coordinates is an accurate and appropriate way to describe boundaries, but the long lists of latitudes and longitudes make up a very significant proportion of the bulk of the current Regulation and compared with maps are not a very user-friendly way of providing a view of an area or closure.

In some areas, outmoded methods have been used to describe boundaries, notably fishing boundary signs called F↑B signs (which have sometimes been unlawfully moved or removed), and navigation buoys which may be moved for various reasons. This type of boundary definition is unsatisfactory for compliance and enforcement purposes.

Another issue is that there are some positions and boundaries that are not clearly described in the current Regulation. Where boundaries are stated verbally, such spatial descriptions rely on commonly used terms such as Queensland waters, tidal waters, the foreshore and high water. Although the terms are familiar, there is no standard definition for them across Queensland Government legislation. Also, there are certain cases where the definition in the Regulation is unique or unusual or where the number of terms defined could be rationalised. For example, the name or description used for a place may not be well known, the meaning may be ambiguous, or physical coastal features mentioned may have changed over time. These make the descriptions unreliable for compliance, enforcement or prosecution purposes.

Proposal

Several changes are proposed to improve the ways in which spatial information is provided in the Regulation.

Geodatum

Firstly, it is proposed to standardise the geodatum used in line with current government policy.

Any latitude or longitude references in the Regulation for fisheries closures will therefore be restated in GDA 94 in the new Regulation.

For Fish Habitat Areas, older registered plans developed on the basis of using AGD 84 will be progressively updated to GDA 94 upon future revision of the these plans.

Use of registered maps

To better deal with boundaries currently expressed as lists of latitudes and longitudes, it is proposed to use registered plans or maps wherever possible to describe fisheries closures in the Regulation, as already occurs for Fish Habitat Areas. This would be much more user-friendly than the existing latitude and longitude references, and generally more reliable for compliance, enforcement and prosecution purposes. This approach would also substantially reduce the bulk of the current Regulation.

Once finalised, these registered maps of fisheries closures would be made permanently available on the DPI&F website, with hard copies available for inspection in central and regional offices of the department. The registered maps would be numbered and form part of the legislation, and the existing latitude and longitude coordinates and any verbal descriptions used to develop individual maps would be included with each map. Mapping is largely completed for most fishery closures but as this is a major task, it will be necessary to adopt a staged approach to the introduction of registered maps.

The draft maps completed so far will be provided on the DPI&F website during the consultation period for the RIS, with hard copies available for inspection in central and regional DPI&F offices. This will enable fishers and other stakeholders to view and provide comments about the draft maps.

Use of coordinates to define fishing boundaries

To overcome the problems associated with using fishing boundary or F \uparrow B signs, spear fishing SF \uparrow B signs and navigation buoys, it is proposed that geographic coordinates be used where possible in future to describe these boundaries in the Regulation. This is a major task requiring site inspections for ‘ground-truthing’ of boundaries in the field, and will require input from local stakeholders. This task will be tackled progressively over time and cannot be conducted within the timeframe of the Regulation review. If correctly positioned, the existing F \uparrow B and SF \uparrow B signs might be retained as additional guidance.

Other boundary descriptions that are currently verbally defined will also be progressively replaced with geographic coordinates. Where there are locations such as river mouths where the intended boundaries unclear, and if boundary definitions might impact on fisheries management arrangements, it would be more appropriate to resolve these through the established management planning processes than through the Regulation review.

Clarity and consistency with other legislation

Although there is no government standard currently used for spatial descriptions across Queensland legislation, it is proposed that terms used in the Regulation should be consistent with those used in other non-fisheries legislation. This will help to provide clarity and consistency across the legislation. For instance, where it is necessary to describe boundaries along the tidal interface, it is proposed that a common approach with other State and Australian Government departments be adopted to provide clarity and consistency with other legislation.

Options and alternatives

One alternative is to remake the Regulation without amendment to latitudes and longitudes or boundary definitions, and without taking up contemporary technology for boundary definitions. Under this approach latitudes and longitudes, F \uparrow B boards, a mix of geodetic systems and unsatisfactory verbal descriptions would be retained.

However, failure to update to GDA 94 will mean that the Regulation will continue to use geodetic systems that are out of date and contrary to government policy. Additionally, a very significant proportion of the Regulation schedules defining fishery areas and closures would be retained. This option will perpetuate a long and cumbersome Regulation; and the result will be failure to make the transition to contemporary and much more easily applied means of identifying and locating boundaries.

The proposal to standardise all longitudes and latitudes to GDA 94 will provide consistency with government policy, with contemporary systems used in other state and federal legislation and with GPS coordinates. The use of registered maps to replace lists of coordinates, and the use of terminology and tidal boundaries where verbal descriptions are still required along the coast, will provide major and immediate improvements in the clarity of the new Regulation and significantly streamline the bulk of the Regulation.

The proposal to progressively replace unsatisfactory verbal descriptions and F \uparrow B boards with geographic coordinates will likewise improve clarity for stakeholders and enhance compliance and enforceability.

The result will be subordinate legislation that will enhance the capacity of the commercial fishing sector, and generally the recreational fishing and boating sector, to interpret boundaries. The use of contemporary technology as proposed will be more user-friendly than the existing latitude and longitude descriptions and more reliable for enforcement and prosecution purposes. The overall result will be a better standard of legislation, and enhanced compliance and enforceability.

Modern presentation

Existing legislative environment

The current Regulation is long and complex, and has been amended on numerous occasions over the past decade, and some of the information is difficult to find and interpret.

Proposal

It is proposed to request that the provisions of the Regulation be redrafted based on the policy intent to take full advantage of opportunities for more modern presentation. Since the Regulation was drafted, there have been changes to drafting conventions that now provide much greater flexibility in the presentation of material, for example the use of tables to consolidate detailed information about regulated fish in a single point of reference.

Options and alternatives

One approach would be to continue with the current presentation style of the Regulation. This is not desirable as the information is often difficult to find and it would be inappropriate to continue out-dated drafting practices.

The preferred option of using modern presentation and contemporary drafting styles will help to make the Regulation more readable and user-friendly.

Standard use of fish names

Existing legislative environment

The Regulation and some management plans generally refer to fish by the common name. Because the same common names are used in different regional areas, or by different authors to refer to different species, the Regulation currently includes a schedule detailing the scientific name of many of the fish referred to, and cites specific reference texts to guide the identification of the species.

Amendments to the Regulation are frequently required because advances in taxonomy have required changes to the scientific name stated in the Regulation and/or a management plan, or because key references have gone out of print or are out of date. Additionally, the references provided as a guide to identification do not necessarily provide a complete description of the fish species and this could cause problems if identification became critical to the enforcement of particular management arrangements.

Because the use of common fish names is often inconsistent and may vary according to region, the Regulation currently includes a schedule detailing the scientific names and cites specific reference or taxonomic texts. Some of these references are inadequate or have been superseded by new taxonomic studies, leading to confusion for fishers and enforcement officers. Not only is this confusing, but in a few cases it has resulted in inconsistent management arrangements being prescribed for the same species.

Proposal

It is recommended that the standard names in the Australian Fish Names Standard, a uniform list of names for Australian fishes, be used in the Regulation and more generally in all fisheries legislation. This standard has been developed by CSIRO Marine and Atmospheric Research, the Fisheries Research and Development Corporation, and Seafood Services Australia in conjunction with authors of fish books, fish taxonomists, recreational anglers, aquarists, and the fishing industry.

The interpretation of the standard names would be based on a listing of the relevant scientific name and a reference to the taxonomic description of the fish. The Standard may be supplemented by additional names on the DPI&F website where they are not included in the Standard list. The list would be available for viewing on the DPI&F website and in central and regional DPI&F offices, with hard copies available upon request.

Over time, the internet listing could be extended to provide illustrated information in addition to the taxonomic reference to help with field identification and distinguishing between some closely related species. Although inadequate for full taxonomic identification of fish species, this illustrated 'field guide' style of information has already been provided for coral reef fin fish both as a booklet and on the internet and has proved extremely popular with stakeholders.

Options and alternatives

One option would be to retain the *status quo*. This is not desirable, as it would mean continued inconsistencies with the national standard of fish names and would perpetuate confusion. It is also contrary to one of the key principles of the Regulation review, to streamline and simplify the legislation.

While there will be regional preferences for some fish names over those proposed in the Australian Fish Names Standard, the use of one unambiguous name per species is highly desirable. This is the preferred option and, overall, will help reduce confusion over fish names, and enhance compliance with fisheries management provisions.

This approach will also overcome existing problems of citing references in the Regulation that subsequently go out of print or otherwise become out of date. It will also serve to streamline the contents of the subordinate legislation by removing the need to list scientific names and references within the legislation.

Key fisheries management provisions and associated offence provisions

Existing legislative environment

Many management arrangements have been implemented inconsistently or indirectly in the Regulation. Some are enforced through stand-alone offence provisions where they could have relied on the key offences in the Act. In addition, legislative tools have been applied inconsistently to achieve the same management outcomes. This situation has tended to complicate enforcement, particularly charge selection where an infringement has been committed. For example, a contravention by using a type or number of fishing apparatus other than that prescribed in the commercial fishery schedules to the Regulation may (as the legislation stands now) equally constitute the offences of contravening a fishery provision, using prohibited fishing apparatus and/or taking fish in a prohibited way.

To resolve these issues, amendments to the Fisheries Act have already been made to improve the effectiveness of key management provisions. These amendments cover matters such as fisheries closures, fishing gear, requirements about keeping or giving information, and allowing matters such as fish fillet size or the form in which fish may be processed to be brought under regulated fish provisions. The Act amendments require consequential amendments to the subordinate legislation to be made before they can be commenced. The intention is to re-categorise the existing provisions in the Regulation to match up with the amended key management tools and offence provisions in the Act.

Proposal

It is expected that most management arrangements will be enforced by reliance upon one of the key offences in the Act. These amendments recognise existing obligations and will not fundamentally change the existing fisheries management arrangements, but they are necessary to ensure consistent use of the key fisheries management tools and associated offences provided in the Act. As a result of the changes, the maximum penalties may increase for certain offences, but Fisheries Infringement Notices will continue to be available to deal with minor infringements at the 'lower end' of a range of offences.

In general, the provisions in the subordinate legislation will need to be linked to the appropriate provisions and offences under the Act. These are, in particular:

- Regulated fishing method or apparatus declaration — to be used where a method or gear is not permitted or is restricted;
- Regulated waters declaration — to be used to apply spatial or time restrictions on fishing;
- Obligations about keeping and giving information — requirements to keep or give information about fishing activities, e.g. docketts, Automated Interactive Voice Response quota reporting, Vessel Monitoring System information, logbooks;
- Regulated fish declarations — restrictions on taking or possession of fish. These would comprise take and possession limits (including unallocated limits on the total take of a species in a period), size limits, gender restrictions, processed form provisions such as fillet sizes; and
- Conditions of an authority — matters specific to a particular commercial fishery. The existing system of 'fishery provisions' would be converted into prescribed conditions.

Options and alternatives

Consolidation of key fisheries management tools in the Act and clarification of offence provisions has already been achieved, following consultation with peak stakeholder bodies, through the recent *Fisheries Amendment Act 2006*. These particular amendments will not commence until the subordinate legislation has been amended consequentially.

The Regulation amendments will not result in any substantial changes to management arrangements but will enable clearer translation of management tools and appropriate offences from the Act to the Regulation and management plans. Given that the Act has already been amended, the proposed amendments to the subordinate legislation are essential to provide the intended consolidation and clarity. Retaining the existing provisions in their current form is therefore not a suitable option.

Removing duplication, inconsistencies, ambiguities and redundancies across the fisheries legislation

Remove duplication and inconsistencies across the Regulation and fishery management plans

Existing legislative environment

The section-by-section review of the Regulation highlighted duplication within the Regulation and between the Regulation and the management plans. Specifically, the development of a series of statutory fishery management plans in the late 1990s as largely self-contained documents has led to much of the existing duplication of provisions. These plans contain the objectives for the management of particular fisheries and the ways in which the objectives are to be achieved, as well as the management arrangements or rules governing participation in the fishery. The development of statutory management plans has led to a significant number of amendments to the Regulation.

Currently, there are statutory management plans for five Queensland fisheries: the east coast otter trawl, spanner crab, freshwater, Gulf of Carpentaria and coral reef fin fish. Where there is no dedicated management plan for a fishery, its provisions are currently located in the Regulation; for example, the Spanish mackerel fishery provisions. When the first three statutory fishery management plans were introduced, one view was that they would be fully self-contained, so that all of the provisions that related to a particular fishery could be found within a single management plan. The aim of this approach was to make it easier for fishers and inspectors to gain a complete understanding of a fishery since all of the management provisions would be in one document.

A major disadvantage of this approach is that it has added an unnecessary level of complexity to the legislation. Over time, this situation has led to duplication and inconsistencies between the Regulation and the management plans. Under the existing model if a provision that was relevant to several fisheries needed to be amended, it would have to be amended in any relevant management plans and possibly also in the Regulation. For example, if an amendment to the take and possession limit on barramundi was suggested, changes would be required in the Regulation, the *Fisheries (Gulf of Carpentaria) Management Plan 1999*, and the *Fisheries (Freshwater) Management Plan 1999*.

This duplication has led to inconsistencies when, for example, amendments were made to a provision in the Regulation but not to the corresponding provisions in the management plans, or *vice versa*. There are also inconsistencies between the various management plans, in respect of definitions as well as fishery management provisions.

There are also a number of provisions where the meaning could be expressed in a clearer way, and in a few cases there are existing errors which need to be fixed.

Proposal

It is proposed to remove unnecessary duplication and inconsistencies occurring in the subordinate legislation, with the result that fishery management plans would no longer be self-contained documents. A matter that currently is located in more than one management plan, or in a single management plan and the Regulation, would in future be located in the Regulation only.

The proposed approach will promote greater clarity in the legislation, help to avoid stakeholder confusion, and enhance compliance and enforcement of management arrangements. It will also reduce fisheries management costs by reducing the need for legislative amendments across several pieces of legislation when a management provision is to be amended.

This approach will require standardisation of some definitions, some aspects of quota management that are common to several fisheries, and general provisions pertaining to the Vessel Monitoring System. Under this new model a management plan would deal with only those matters that are specific to a particular fishery, but will not duplicate broader provisions relevant to more than one fishery. Therefore, this proposal will require amendments to the management plans as a consequence of removing duplication and consolidating in the Regulation the general provisions applying to more than one fishery.

It is also proposed to retain the substance of some provisions but to redraft them in the clearest possible way. Identified errors in retained provisions are also proposed for correction.

Options and alternatives

The original concept of fully self-contained fishery management plans made good sense, at least in theory, in that it attempted to provide stakeholders with a single key piece of legislation relevant to their fishery. But the reality is that many aspects of fisheries management are likely to apply to more than one fishery, and this likelihood increases as contemporary approaches such as quota management and use of modern technology are applied to more fisheries. Attempting to maintain self-contained management plans will inevitably lead to duplication and overlap across the subordinate legislation, which is costly, confusing and contrary to effective fisheries management.

The option of relocating all the provisions of the fisheries management plans into the Regulation would be counter-productive and contrary to the aims of the review, as the result would be an enormous and confusing Regulation.

The preferred option is, therefore, to adopt the more streamlined and less complex approach of removing duplication and locating management provisions relating to more than one fishery in the Regulation. Preparation of management summaries describing the key elements of the management of particular fisheries would also be desirable. While these summaries would be educational but not legal documents, they would greatly assist in explaining to stakeholders the management objectives and key management measures for individual fisheries.

Consolidate regulated fish provisions in the Regulation

Existing legislative environment

As explained above, when the first three statutory fishery management plans were introduced in 1999, one view was that they would be fully self-contained, so that all the provisions that related to a particular fishery would be located within a single management plan.

However, the existing model means that provisions about regulated fish are scattered through the subordinate legislation. Fishers, especially recreational fishers, have complained that they are unsure where to look for the rules about regulated fish and should not be expected to know if rules about taking a particular fish are not in the Regulation but in a management plan. They are unsure where to look for the rules that will apply to them on a trip and are not always confident that they have found all of the provisions.

Proposal

The proposal is to consolidate all the regulated fish provisions that are relevant to a range of fishers and fisheries into the Regulation and so remove them from management plans. However, regulated fish provisions specific to a particular commercial fishery would remain in the relevant management plan. This is also consistent with the proposal that provisions relevant to more than one fishery should in future be located in the Regulation but not duplicated in management plans.

In line with the proposal discussed earlier to modernise the presentation of the Regulation, it is proposed to simplify the presentation of information about regulated fish by providing this information in the form of tables.

Options and alternatives

Retaining the existing situation, where regulated fish provisions are spread across various management plans and the Regulation, would be one option. This approach would not resolve the concerns raised that the current legislation is fragmented and not user-friendly.

Consolidating all the regulated fish provisions is the preferred option, and it is considered that this will best meet the needs of stakeholders and enforcement officers. Again, this approach is consistent with the objectives of simplifying and streamlining the legislation. The proposal will require amendments to the management plans.

Fisheries closures fully provided for under other legislation

Existing legislative environment

There is an increasingly complex relationship between fisheries management arrangements and closures to fishing introduced by other state or Australian government agencies, including the Environmental Protection Agency and the Great Barrier Reef Marine Park Authority.

There are some fishing closures that were originally introduced into the Regulation for fisheries management reasons that are now operationally redundant because other agencies have introduced closures to fishing that encompass them. For example, some of the fishing closures detailed in schedules to the Regulation are now closed to fishing as a result of the revised zoning for the Great Barrier Reef Marine Park (GBRMP) under the Representative Areas Program and the state's Great Barrier Reef Coast Marine Park. In many cases the areas closed to fishing through the GBRMP zoning are far larger than the fisheries closures. In such cases, signs and educational materials about the closures under fisheries legislation could lead people to believe — incorrectly — that these are the only areas closed to fishing.

Proposal

It is proposed not to retain closures in the fisheries legislation if an area is *fully* closed to fishing through some other legislation such as marine parks legislation. This approach is consistent with the principle of removing duplicated and redundant provisions from the Regulation.

The proposal will primarily include the removal of those spear fishing closures from the Regulation that are fully covered under other State or Australian Government legislation. However, the proposal will not result in any 'on-the-ground' changes to existing spear fishing closures, as it is recognised that spear fishing closures would more appropriately be reviewed under a separate process and with due consideration of resource allocation issues.

DPI&F would keep a close watching brief on relevant legislation administered by other State and Australian Government agencies, and would ask to be consulted on any proposed changes to the nature or extent of the closures in place under other legislation. In the unlikely event of removal of closures, such as no-take marine park zones by other departments, the original closures under fisheries legislation would be re-instated wherever necessary.

Options and alternatives

One approach would be to retain those existing closures that are now effectively duplicated under other legislation, especially the zoning plans for the GBRMP and the adjacent state coastal marine park. This option may be preferred by some stakeholders who would feel more comfortable with having fishing closures provided for under more than one jurisdiction or set of legislation.

The preferred option is to further streamline and simplify the Regulation by removing these closures from the fisheries legislation. This is considered a 'low risk' option as it is considered unlikely that marine park management agencies would remove or dramatically reduce no-take Marine National Park or 'green' zones put in place for biodiversity conservation purposes. Such changes to zoning would include significant consultation and therefore DPI&F would have ample opportunity to re-introduce closures under fisheries legislation if necessary.

There may be differing views among stakeholders about this proposal. This option will be thoroughly canvassed and there will be close consultation with relevant government agencies especially the Environmental Protection Agency and the Great Barrier Reef Marine Park Authority, before a final decision is reached.

Minimal impact activities in Fish Habitat Areas

Existing legislative environment

Some activities managed under the fisheries legislation, such as aquaculture, removal of, or damage to, marine plants, and works in declared Fish Habitat Areas, are classed as fisheries development. Proposals for such activities may require a Resource Allocation Authority under the fisheries legislation and are assessed under the Integrated Development Assessment System under the *Integrated Planning Act 1997*.

As the Regulation stands now, educational, monitoring and research activities in declared Fish Habitat Areas require a specific Resource Allocation Authority even though they could be covered by a self-assessable code and these activities will have minimal impacts on the environment.

Proposal

It is proposed to broaden the scope of a self-assessable code MP05 *Works for educational, research or monitoring purposes in a declared fish habitat area or involving the removal, destruction or damage of marine plants* to include legitimate minimal impact research, educational and monitoring works in declared Fish Habitat Areas without the requirement for a Resource Allocation Authority.

It is also proposed to resolve some minor inaccuracies and definitions in the Regulation relevant to fisheries development. These proposals will further reduce regulation and red tape, and improve the clarity of the legislation.

Options and alternatives

One option is to maintain the existing situation, where a specific authority in the form of a Resource Allocation Authority is required for minimal impact research, education and monitoring works in declared Fish Habitat Areas. This is not desirable, as it will maintain a level of regulation that is considered unnecessary to achieve the desired outcome for the protection of Fish Habitat Areas.

Given the low impact nature of the activities and the likely community benefits of research, monitoring and education, the preferred option is to allow low impact activities of this nature to be covered by broadening the scope of the existing self-assessable code. Removing the need for a separate permission — the Resource Allocation Authority — will be consistent with meeting the Regulation review’s objective of reducing red tape and unnecessary regulation.

Matters proposed for removal from legislation

Existing legislative environment

The Regulation contains a range of provisions that are no longer required because they have fulfilled their purpose. Other existing provisions cover matters that do not need to be in legislation and would be better dealt with through established administrative processes.

The Regulation and management plans currently contain various ‘spent’ provisions about completed quota allocation processes, for example in the coral reef fin fish, spanner crab and east coast otter trawl fisheries. The allocation processes have been completed, and so the provisions are no longer required.

The Regulation also contains provisions about covering boat marks on commercial fishing boats in situations where the recreational fishing is legitimately being carried out. The legislation has ‘flip-flopped’ on the requirements for boat marks, but this issue needs to be considered in the context of recent reforms to the fisheries licensing arrangements including confirmation of rights of commercial fishers to fish recreationally provided they comply with the usual recreational fishing and any other fishery-specific requirements.

Currently, the Regulation makes it an offence to interfere with official signs unless the person has a reasonable excuse, although this is covered under other legislation. Also, the Regulation describes how fishers are to be notified about their quotas, but the notification process is becoming less relevant to quota holders because DPI&F is providing more methods for fishers to monitor their own quota usage.

Proposal

It is proposed that various matters be removed from the legislation where they are unnecessary or are no longer considered appropriate for legislation. It is proposed to remove spent provisions in the Regulation and management plans about completed quota allocation processes, for example in the coral reef fin fish, spanner crab and east coast otter trawl fisheries. As the allocation processes have been completed these provisions are no longer required. The previous legislative provisions will still apply in the case of any outstanding appeals to the Fisheries Tribunal about the allocation decisions.

It is recommended that the legislation is silent on whether a person using a commercial fishing boat for recreational fishing must cover or remove a boat mark, as the fisher is not required to take any special action when fishing recreationally using a commercial boat. The right of commercial fishers to fish recreationally, but in compliance with recreational fishing rules, has recently been confirmed in the context of the fisheries licensing reforms.

It is proposed to remove the stand-alone offence relating to interfering with official signs, unless the person has a reasonable excuse. The main incentive to interfere with official signs has been to change the described closure area by moving the F¹B boundary signs. However, this incentive will diminish if the proposal not to use these signs in spatial descriptions is progressively adopted. Importantly, vandalism of signs is a matter that can be dealt with by the police under criminal law.

It is proposed that the legislation is silent on how fishers are notified that they have filled or are about to fill their quota. The Regulation describes how fishers are to be notified about their quotas, but the notification process is becoming less relevant to quota holders because DPI&F is providing more methods for fishers to monitor their own quota usage. DPI&F's existing administrative practices for notifying quota will not be affected.

Options and alternatives

The option of retaining various 'spent' or unnecessary provisions is not sensible. For example, matters relating to boat marks, interfering with signage and quota notification, although adequately covered under other legislation or existing administrative processes, would continue unnecessarily in the fisheries legislation.

The preferred option of removing these out of date and unnecessary provisions will have no negative impacts on stakeholders and will further streamline and tidy up the Regulation.

Consistency with authorising law

The proposed new Regulation is consistent with the main purpose of the *Fisheries Act 1994* which is 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 to promote ecologically sustainable development.

Consistency with other legislation

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

Cost-benefit assessment (Draft Public Benefit Test)

The Queensland Government is a signatory to the national Competition Principles Agreement that requires a public benefit test be undertaken on proposed new legislation or amendments to existing legislation. A guiding principle of the Competition Principles Agreement is that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Importantly, both of the criteria identified above must be satisfied, and it must also be demonstrated that there are not less restrictive ways to obtain the desired outcomes.

Costs and benefits of broader options and alternatives

At the broadest level, the following options may be considered:

- Retain the existing Regulation;
- Remove the provisions of the Regulation altogether, i.e. no Regulation; and
- Remake the Regulation, i.e. provide a new Regulation.

Retain the existing Regulation

This proposal is inconsistent with National Competition Policy (NCP) principles in that it would make no attempt to remove unnecessary restrictions on competition. It would also be quite contrary to the requirements of Queensland's Statutory Instruments Act which provides for the automatic expiry of subordinate legislation on the first September after its ten year anniversary. Under this legislation it is necessary to review all subordinate legislation and remake the legislation as necessary following appropriate review.

Retaining the existing Regulation would also be inconsistent with a range of government policy, including the guidelines of the Department of State Development, Trade and Innovation for regulatory reform. Furthermore, DPI&F and fisheries stakeholders recognise that there are many deficiencies in the Regulation in its current form and that it would not be in the public interest to retain it 'as is'.

Retaining the existing Regulation is, therefore, not an option that can be further considered.

No Regulation

Although no legislative intervention may be considered as an alternative management mechanism, it raises serious difficulties. Experience worldwide has shown that where access to fisheries resources is unregulated, there is little incentive for individuals harvesting the resource to use fish stocks responsibly. As these stocks become fully utilised, competition between users often leads to resource depletion or economic inefficiency. Left unmanaged, the resulting increase in fishing effort is reflected in lower individual catches in all fishing sectors, over-capitalisation and reduced financial returns in the commercial fishing industry. Ultimately, unmanaged fisheries resources will collapse completely.

The main purpose of the Fisheries Act is 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. A further purpose of the Act is to reduce the possibility of shark attacks on humans in coastal waters of the State adjacent to coastal beaches used for bathing. The stated purposes of the Act recognise that government has a responsibility to manage the use of Queensland's fisheries resources in a way that maximises the benefits to the community.

Recent reforms to Queensland's fisheries legislation, in particular the new licensing and fees regime, have recognised the need to remove unnecessary barriers to competition and business flexibility, and to clarify and strengthen fishery access rights. At the same time, these comprehensive reforms have been achieved within a fisheries management framework that recognises that regulation of access and use of fisheries resources is essential in the interests of all fishing sectors and the wider community.

The option of 'no regulation' is therefore considered inconsistent with the objectives of the Act and against the interests of all sectors of the community.

Remake the Regulation

The third and preferred option is to remake the Regulation so that there is appropriate subordinate legislation to allow the purposes of the Act to be achieved. This RIS reflects the intention of this review — that there will continue to be a Fisheries Regulation, but that the new Regulation will be modernised, streamlined, and only contain provisions that are necessary to include in legislation for responsible fisheries management consistent with ecologically sustainable development.

In general terms, therefore, it is considered that in making the Regulation, the benefits of any restrictions to the community as a whole will outweigh the costs, and that the objectives of the legislation can in certain circumstances only be achieved by restricting competition.

The remainder of this Draft Public Benefit Test will, therefore, concentrate on considering the costs and benefits of retaining certain provisions about the management of fisheries resources in the Regulation, and of the various measures proposed to simplify the Regulation and remove unnecessary provisions.

Costs and benefits of specific proposals, options and alternatives

No new 'restrictions on competition', as that term is understood for the purposes of National Competition Policy (NCP), are proposed, nor will there be any additional fisheries management restrictions introduced as a result of this proposal.

A number of significant changes to the fisheries legislation have already been made as a result of an extensive NCP review process. Those changes include amendments to the *Fisheries Act 1994*, the recent introduction of a new NCP compliant fisheries licensing and fee regime and changes to the Fisheries Infringement Notice system. The bulk of the changes required to bring fisheries legislation into compliance with NCP requirements have already been implemented.

The legislative amendments currently proposed will retain a range of existing restrictions on fishing activities that are necessary for effective fisheries management, resource allocation and enforcement. Those restrictions have already been assessed as part of the NCP review process and have been found necessary in order to ensure that the fisheries resources to which they apply remain sustainable.

Therefore no changes to these management arrangements are being proposed as part of this exercise. Any future changes will be dealt with separately through the established fisheries management planning and public consultation processes.

The following proposed legislative amendments have been tested for compliance with NCP requirements. They are addressed individually below and in summary form in Table 1 on page 25.

Key matters to be retained

It is proposed that a range of existing fisheries management provisions be retained in the remade Regulation. These provisions include closed seasons and areas, restrictions on the type and amount of fishing gear that may be used, size and bag limits, gender and processing restrictions, regulated fish and information requirements.

These provisions are in place in order to ensure that fisheries resources are not over exploited. They have already been assessed under the NCP review of the fisheries legislation and been found to be necessary to ensure sustainability of the fisheries resources to which they apply. They have also been found to provide significant net public benefits. Any future changes to these management arrangements will be carried out as a separate exercise.

Costs and benefits to government

The costs to government relate to the costs of managing Queensland's fisheries resources for the benefit of industry and of the wider community. Those costs will be unchanged as a result of retaining the fisheries management provisions. The benefits to government are not necessarily quantifiable in dollar terms, but relate to the government's ability to carry out its responsibilities to manage Queensland's fisheries resources in an effective manner on behalf of the community.

The net benefits to government are positive.

Costs and benefits to fishers

The most significant benefit to fishers from the retention of current provisions is ensuring that their fishing rights continue to provide access to a well-managed and sustainable resource, a prerequisite for the long-term viability of their businesses. A related benefit is their continued ability to export fisheries products through compliance with the Australian Government legislation *Environment Protection and Biodiversity Conservation Act 1999*.

Although the retention of the current management restrictions will continue to impose some costs on fishers, the rapid depletion of resources that would be likely to occur should those restrictions be removed would result in even greater costs and ultimately the collapse of both the fisheries and the businesses that depend on them. Retention of these restrictions will provide an environment conducive to further development and investment and will ensure continuing employment opportunities in the industry.

It is considered that the net benefit to fishers of retaining the current provisions will be positive.

Costs and benefits to the wider community

The costs to the wider community comprise the costs of running DPI&F Fisheries. Those costs will be unchanged as a result of the retention of the current provisions. The benefits to the wider community are that DPI&F is able to manage Queensland's fisheries resources in a way that ensures continued employment and seafood production.

The net benefits to the community are positive.

Assessment

The restrictions imposed by the retained provisions are the minimum necessary to ensure continued sustainable fisheries resources and a viable commercial industry. The costs associated with them are considerably outweighed by the benefits they provide. They are considered to provide significant net benefits.

Impact on competition

There is no impact on competition from these proposals.

Modernising spatial information

Costs and benefits to government

The costs to government of this proposal relate directly to the implementation of the new methods of providing spatial information. These include the costs of consulting with user groups and carrying out field inspections to more clearly define some points and boundaries, a temporary increase in demands on the existing computerised mapping system while the new arrangements are implemented, and the cost of preparing and publishing the new maps. It is expected that these costs would be minor and that they would be provided from within existing departmental resources.

Government would derive significant benefits, particularly in compliance and enforcement activities, from having a clearer and more easily used system of area descriptions.

Costs and benefits to fishers

The use of the GDA 94 datum as proposed will ensure that the new maps are compatible with the coordinates produced by the GPS navigation systems used by industry, without any need for equipment upgrades. Therefore there would be no costs to fishers, but significant benefits to them in terms of their enhanced ability to identify boundaries and comply with fisheries management arrangements.

Costs and benefits to the wider community

There would be no costs to the wider community, but benefits in ensuring better management of fisheries resources and compliance with the law.

Assessment

There are no viable options other than to retain the cumbersome area descriptions or to update to a simple, clear and widely acceptable map-based, GPS-compatible method.

The proposed changes will involve minimal additional costs to government during a short introductory phase, with ongoing benefits to both government and industry once the new system is established. Recreational fishers will also benefit from the greater clarity and simplicity it will provide. The proposal will provide significant net benefits.

Impact on competition

There is no impact on competition from these proposals.

Modern presentation

Costs and benefits to government

The proposed changes will impose no greater costs upon government in drafting the new Regulation, given that it has to be completely remade regardless of what presentation is used, but there will be ongoing benefits in terms of greater clarity, simplicity and ease of use.

Costs and benefits to fishers

There will be no cost to fishers, but they will benefit from an enhanced ability to identify, understand and comply with fisheries management arrangements.

Costs and benefits to the wider community

There will be no costs to the wider community, but benefits in having simpler, easier to understand and more logically structured legislation.

Assessment

The only two options are to either retain the unsatisfactory, out-dated and complex structure of the Regulation or update it to current best practice.

The proposed changes will impose no greater implementation costs, but there will be ongoing benefits to government, fishers and the community through increased clarity and simplicity. The net benefits of the proposed changes will be significant.

Impact on competition

There is no impact on competition from these proposals.

Standard use of fish names

Costs and benefits to government

The proposed use of the Australian Fish Names Standard will impose no greater costs upon government in drafting the new Regulation, but there will be ongoing benefits in terms of greater clarity and ease of use.

Costs and benefits to fishers

There will be no cost to fishers, but they will benefit from an enhanced ability to identify fish and the restrictions that apply to each species. Current uncertainties arising from the use of different names for the same fish, and same names for different fish, will be removed. This will enhance the ability of fishers to comply with management arrangements.

Costs and benefits to the wider community

There will be no costs to the wider community, but benefits in having a simpler and more readily understood system of referring to fish names in legislation.

Assessment

The proposed changes will impose no greater costs, but there will be ongoing benefits to government, fishers and the community through increased clarity and ease of understanding. The net benefits of the proposed changes will be significant.

Impact on competition

There is no impact on competition from these proposals.

Key fisheries management provisions and associated offence provisions

Costs and benefits to government

The relevant amendments regarding management tools and offence provisions have already been made to the primary legislation through the *Fisheries Amendment Act 2006*. Necessary consequential changes in the subordinate legislation will impose no greater costs upon government in drafting or operating under the new Regulation, but there will be ongoing benefits in terms of greater clarity, and consistency in the application of management tools and associated offence provisions.

Costs and benefits to fishers

The proposed changes will impose no greater costs upon fishers, but there will be benefits in terms of operating within a simpler and clearer legislative environment and in greater consistency in its application.

Costs and benefits to the wider community

There will be no increased costs to the community, but there will be benefits from having simpler and clearer legislation and consistent use of management tools and offence provisions.

Assessment

The proposed changes will impose no greater costs, but there will be significant ongoing benefits to government, fishers and the community through improved clarity, and consistency in charge selection.

Impact on competition

There is no impact on competition from these proposals.

Remove duplication and inconsistencies across the Regulation and fishery management plans

Costs and benefits to government

The proposed changes will impose no greater costs upon government in drafting the new Regulation, but there will be ongoing benefits in terms of greater clarity, simplicity of legislation and ease of use.

Costs and benefits to fishers

There will be no greater costs to fishers, but ongoing benefits in terms of greater clarity, simplicity of legislation and ease of use.

Costs and benefits to the wider community

There will be no greater costs to the community, but ongoing benefits through having simpler and more easily administered legislation.

Assessment

The proposed changes will impose no greater costs but will result in significant net benefits.

Impact on competition

There is no impact on competition from these proposals.

Consolidate regulated fish provisions in the Regulation

Costs and benefits to government

The proposed changes will impose no greater costs upon government in drafting the new Regulation, but there will be ongoing benefits in terms of greater clarity, simplicity of legislation and ease of use.

Costs and benefits to fishers

There will be no greater costs to fishers, but ongoing benefits in terms of greater clarity, simplicity of legislation and ease of use.

Costs and benefits to the wider community

There will be no greater costs to the community, but ongoing benefits in terms of clearer and more easily administered legislation.

Assessment

The proposed changes will impose no greater costs but will result in significant net benefits.

Impact on competition

There is no impact on competition from these proposals.

Fisheries closures fully provided for under other legislation

Costs and benefits to government

The proposed changes will impose no greater costs upon government in drafting the revised Regulation or operating under the new arrangements, except that a watching brief will have to be maintained to ensure that if the other closures being relied upon are removed or varied, a suitable fisheries response can be made. There will be considerable ongoing benefits in terms of removal of duplication and providing simpler legislation.

Costs and benefits to fishers

The proposed changes will impose no greater costs upon fishers, but there will be ongoing benefits in terms of greater clarity through the removal of closures in fisheries legislation that are already covered elsewhere.

Costs and benefits to the wider community

There will be no greater costs to the community, but benefits from having simpler and clearer legislation.

Assessment

The proposed changes will impose no greater costs, but there will be significant ongoing benefits to government, fishers and the community through simpler legislation and greater clarity. The proposals will result in net benefits to all parties.

Impact on competition

There is no impact on competition from these proposals.

Minimal impact activities in Fish Habitat Areas

Costs and benefits to government

The proposed changes will impose no greater costs upon government in drafting the new Regulation, but there will be ongoing benefits in terms of reduction in red tape and administrative costs.

Costs and benefits to fishers and others

Those undertaking minimal impact educational, monitoring and research activities in declared Fish Habitat Areas will face lower costs as a result of no longer requiring a Resource Allocation Authority.

Costs and benefits to the wider community

The proposed changes will impose no greater costs upon the community and there will be ongoing benefits in terms of simpler administration.

Assessment

Covering these activities by a self-assessable code will reduce unnecessary red tape while having minimal impact on the environment. The proposals will result in net benefits to all parties.

Impact on competition

There is no impact on competition from these proposals.

Matters proposed for removal from legislation

Costs and benefits to government

The proposed changes will impose no greater costs upon government in drafting the new Regulation, but there will be ongoing benefits in terms of greater clarity and ease of use.

Costs and benefits to fishers

The proposed changes will impose no greater costs upon fishers, but there will be ongoing benefits in terms of simpler legislation and greater clarity.

Costs and benefits to the wider community

The proposed changes will impose no greater costs upon the community, but there will be ongoing benefits in terms of simpler legislation and greater clarity.

Assessment

The proposed changes will impose no greater costs, but there will be significant ongoing benefits to government, fishers and the community through simpler legislation and greater clarity. The proposals will result in net benefits to all parties.

Impact on competition

There is no impact on competition from these proposals.

Table 1 Summary of impact on competition

Proposal	Reason for proposal	Impact on competition
Modernising the Regulation		
<p>Modernising spatial information</p> <ul style="list-style-type: none"> • Geodatum • Use of registered maps • Use of coordinates to define fishing boundaries • Clarity and consistency with other legislation 	<p>Modernising spatial information</p> <p><i>Geodatum:</i> Proposal to standardise all longitudes and latitudes to GDA94 will provide consistency with government policy, with contemporary systems used in other state and federal legislation and with GPS coordinates.</p> <p><i>Use of registered maps:</i> to replace lists of coordinates will provide major and immediate improvements in the clarity of the new Regulation and significantly streamline the bulk of the Regulation.</p> <p><i>Use of coordinates:</i> Proposal to progressively replace unsatisfactory verbal descriptions and FB Boards with geographic coordinates will likewise improve clarity for stakeholders and enhance compliance and enforceability.</p> <p><i>Clarity and consistency with other legislation:</i> Proposal to use terminology that is consistent with other legislation will enhance clarity.</p>	There is no impact on competition by the introduction of these proposals.
<p>Modern presentation</p>	<p>Modern presentation</p> <p>The use of modern presentation and contemporary drafting styles will help to make the Regulation more readable and user-friendly.</p>	
Standard use of fish names	The use of one unambiguous name per species will help to reduce confusion for stakeholders about fish names, and enhance compliance with fisheries management provisions.	There is no impact on competition by the introduction of these proposals.
Key fisheries management provisions and associated offence provisions	Given that the <i>Fisheries Act 1994</i> has already been amended, this proposal is essential to ensure the consistent use of the key fisheries management tools and associated offences provided in the Act.	There is no impact on competition by the introduction of these proposals.
Duplication, inconsistencies, ambiguities and redundancies across the Fisheries legislation	To promote greater clarity in the legislation, help to avoid stakeholder confusion, and enhance compliance and enforcement of management arrangements.	There is no impact on competition by the introduction of these proposals.
Consolidate regulated fish provisions in the Regulation	To resolve the concerns raised that the current legislation is fragmented and not user-friendly.	There is no impact on competition by the introduction of these proposals.
Fisheries closures fully provided for under other legislation	To remove duplicated and redundant provisions from the Regulation and therefore streamline and simplify the Regulation.	There is no impact on competition by the introduction of these proposals.
Minimal impact activities in Fish Habitat Areas	To allow low impact activities to be covered by broadening the scope of the existing self-assessable code. This proposal will reduce red tape and unnecessary regulation.	There is no impact on competition by the introduction of these proposals.
Matters proposed to be removed from the legislation	To remove out of date and unnecessary provisions.	There is no impact on competition by the introduction of these proposals.

Fundamental legislative principles

The proposed legislation does not raise any fundamental legislative principle issues. The proposed amendments do not extinguish the right for Aboriginal and Torres Strait Islanders to take, use or keep fisheries resources in accordance with Aboriginal tradition or under Torres Strait Islander custom.

Appendix 1

Regulation Review — Terms of Reference

- To review the objects, purpose, relevance and content of the *Fisheries Regulation 1995* (the Regulation) both as a whole and in respect of the individual Parts and Schedules within it;
- To identify any areas of duplication and/or deficiency in the Regulation, and to identify provisions that have expired or are no longer relevant or appropriate;
- To review the enforcement provisions in the Regulation to provide for greater flexibility in enforcement and discretion in applying Fisheries Infringement Notices; the range of offences for which Fisheries Infringement Notices can be issued; and the level and scope of enforcement options for serious fisheries offences.
- To examine the Regulation for compliance with the requirements of the Department's endorsed Regulatory and Prosecution Policies, National Competition Policy, the Queensland Government's Fundamental Legislative Principles and any other relevant Government policy;
- To take into account work already done or in progress in respect of a comprehensive review of the licensing provisions and the fee structure in the Regulation, including options for a revised licensing and fee structure;
- To take into account any relevant findings and recommendations from the review of the *Fisheries Act 1994* carried out in 2001, including any recommendations not yet implemented;
- To identify any areas where regulatory provisions may be either simplified or replaced by less proscriptive measures;
- To take account of recent changes and developments of relevance in respect of Fisheries legislation in other States and any other relevant jurisdiction;
- To consult with the Fishing Industry Development Council and/or with relevant stakeholder bodies and Government agencies (including, where appropriate, Commonwealth agencies involved with fisheries management).

Appendix 2

List of draft registered maps — Closed waters

Draft registered maps can be viewed at offices of the Queensland Boating and Fisheries Patrol, regional offices of the Department of Primary Industries and Fisheries in Townsville, Rockhampton, Longreach, Nambour, Toowoomba, the Northern Fisheries Centre in Cairns, the Southern Fisheries Centre at Deception Bay, and the Primary Industries Building, 80 Ann Street, Brisbane. Alternatively, the maps can be downloaded from the department's website www.dpi.qld.gov.au/fishweb

Section	Section Title	Plan Number	Suggested Changes
Schedule 2, Part 1, Division 1	Closed waters – Commercial Fishing Taking or possessing any fish – Fish taken under any fishery symbol		
Section 16	Swan Bay, North Stradbroke Island	FCW-027	
Section 19	Mary River	FCW-308	
Section 20	Tinana Creek	FCW-309	
Section 21	Fraser Island between Indian Head and Waddy Point	FCW-061	
Section 22	Burnett River	FCW-310	
Section 23	Kolan River	FCW-311	
Section 24	Fitzroy River	FCW-312	
Section 30	Keppel Bay near Middle Island Observatory	FCW-087	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 88
Section 33	Hook Island	FCW-116	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 117
Section 33A	Yanks Jetty at Orpheus Island	FCW-127	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 128
Section 35	Centenary Lakes, Cairns	FCW-137	
Section 37	Mission Bay	FCW-139	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 140
Section 38	Bizant River, Princess Charlotte Bay	FCW-152	
Section 40	Torres Strait near Hammond Island	FCW-160	
Schedule 2, Part 1, Division 2, Subdivision 1	Fish taken under fishery symbol Ca, L1, L6, L7, N1, N2, N6, N7, N8, SM or T4		
Section 40B	Flat Rock grey nurse shark protection area Flat Rock grey nurse shark protection area	FCW-302	
Schedule 2, Part 1, Division 2, Subdivision 2	Other grey nurse shark protection areas		
Section 40D	Henderson Rock grey nurse shark protection area	FCW-303	

Section	Section Title	Plan Number	Suggested Changes
Section 40E	Cherub's Cave grey nurse shark protection area	FCW-304	
Section 40F	Wolf Rock grey nurse shark protection area	FCW-305	
Schedule 2, Part 2	Taking or possessing certain fish		
Section 42	Platypus Bay	FCW-161	
Section 43	Eurimbula Creek (north of Round Hill Creek)	FCW-162	
Section 44	South of latitude 20 degrees south (near Bowen) or west of longitude 143 degrees	FCW-163	
Section 45	Fitzroy Island and High Island (near Cairns)	FCW-135	Closure description has been changed to reflect the Fisheries (East Coast Trawl) Management Plan 1999, Schedule 3, part 3, Section 136
Section 46A	Waters adjacent to north Cape York	FCW-223	Geographic coordinates described for this closure have been converted to the Geocentric Datum of Australia 1994 projection
Section 46B	Particular foreshores of Wynnum	FCW-224	
Schedule 2, Part 3, Division 1	Taking or possessing some fish and using or possessing some apparatus		
Section 48	Fish other than fin fish		
	Michaelmas Cay	FCW-165	
Section 49	Upolu Cay	FCW-166	
Schedule 2, Part 3, Division 2	Narrow-barred mackerel		
Section 51	Waters east of longitude 142 degrees 9 minutes east	FCW-167	
Schedule 2, Part 3, Division 4	Tailor		
Section 51D	Fraser Island	FCW-306	
Schedule 2, Part 4, Division 1	Taking or possessing any fish and using or possessing certain fishing apparatus		
	Fishing with commercial fishing nets		
Section 53	Lakes and lagoons south of Endeavour River and east of longitude 142 degrees 31 minutes 49 seconds east (Longitude 142 degrees 31.888 minutes east)	FCW-044	Closure description has been changed to reflect the Fisheries (East Coast Trawl) Management Plan 1999, Schedule 3, part 3, Section 17
Section 54	Currumbin Beach	FCW-016	Closure description has been changed to reflect the Fisheries (East Coast Trawl) Management Plan 1999, Schedule 3, part 3, Section 19

Section	Section Title	Plan Number	Suggested Changes
Section 55	Currambin Creek	FCW-017	
Section 56	Tallebudgera Creek	FCW-018	
Section 64	Dunwich	FCW-030	
Section 65	Mainly Boat Harbour	FCW-033	
Section 67	Brisbane River	FCW-168	
Section 68	Brisbane Airport floodway channel to the Pine River	FCW-037	
Section 69	Sandgate Pier	FCW-038	
Section 70	South Pine River and North Pine River	FCW-039	
Section 71	Moreton Bay (including The Broadwater)	FCW-029	
Section 71A	North Stradbroke Island – northern beaches	FCW-284	
Section 72	Bribie Island's eastern shore and the sand spit at Kings Beach	FCW-042	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 45
Section 74	Currimundi Lake and Currimundi Creek near Caloundra	FCW-045	
Section 75	Mooloolah River	FCW-047	
Section 76	South Maroochy River and the North Maroochy River	FCW-048	
Section 85	Fraser Island – Hook Point to northern tip	FCW-062	
Section 85A	Fraser Island – Tooloora Creek to Ngkala Rocks	FCW-282	
Section 88	Hervey Bay	FCW-069	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 71. Part b of this description – Foreshore waters, has not been mapped.
Section 91	Burnett River	FCW-074	
Section 92	Round Hill Creek	FCW-077	
Section 94	Rodds Harbour	FCW-079	
Section 95	Wild Cattle Creek	FCW-080	

Section	Section Title	Plan Number	Suggested Changes
Section 96	Boyne River and part of South Trees Inlet	FCW-081	
Section 98	Calliope River	FCW-083	
Section 99	The Narrows near Curtis Island	FCW-084	
Section 100	Fitzroy River and waters near its mouth	FCW-085	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 86
Section 103	Causeway Lake, Shoal Bay	FCW-091	
Section 104	Water Park Creek	FCW-092	
Section 105	St. Lawrence Creek to Endeavour River	FCW-095	
Section 106	Rocky Dam Creek	FCW-097	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 98
Section 111	Seaforth Creek	FCW-106	
Section 112	Victor Creek	FCW-108	
Section 114	Pioneer Bay	FCW-111	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 112
Section 124	Herbert River	FCW-126	
Section 125	Hinchinbrook Channel	FCW-128	Closure description has been changed to reflect the <i>Fisheries (East Coast Trawl) Management Plan 1999</i> , Schedule 3, part 3, Section 129
Section 127	Murray River	FCW-130	
Section 128	Johnstone River	FCW-133	
Section 129	Russell River, Mulgrave River and Mutchero Inlet	FCW-134	
Section 130	Trinity Inlet	FCW-131	
Schedule 2, Part 4, Division 2 Fishing with certain commercial fishing nets			
Section 180	Rivers and creeks east of longitude 142 degrees 9 minutes east	FCW-173	
Section 181	Rivers and creeks south of Burnett River	FCW-174	

Section	Section Title	Plan Number	Suggested Changes
Section 182	Rivers and creeks south of Baffle Creek	FCW-175	
Section 183	South of North Stradbroke Island	FCW-176	
Section 184	Moreton Bay	FCW-177	
Section 193A	Hervey Bay scallop ranching areas	FCW-276	
Section 194	Hervey Bay	FCW-181	
Section 200	Rivers and creeks north of Burnett River	FCW-183	
Section 202	Rivers and creeks north of Baffle Creek	FCW-185	
Section 204	Keppel Bay	FCW-186	
Section 205	Shoalwater Bay	FCW-187	
Section 211	Queens Bay	FCW-188	
Section 213	Hinchinbrook Channel	FCW-189	
Schedule 2, Part 4, Division 3	Foreshore set mesh nets		
Section 221	Mackay region	FCW-192	
Section 222	Burdekin, Townsville and Ingham regions	FCW-193	
Section 223	Innisfail region	FCW-194	
Section 224	Cairns and Port Douglas regions	FCW-195	
Section 229	Cattle Point to Cardigan Point	FCW-200	
Section 231	Island Bluff to Charon Point	FCW-202	
Section 234	Nobbies Inlet	FCW-205	
Section 235	Burdekin River Anabranch area	FCW-206	
Section 236	Sheep Station Creek to Barratta Creek	FCW-207	
Section 237	Victoria Creek	FCW-208	
Section 238	Gentle Annie Creek	FCW-209	
Section 239	Hinchinbrook Channel	FCW-210	

Section	Section Title	Plan Number	Suggested Changes
Section 240	Macushia Point to Forkey's Creek on Hinchinbrook Island	FCW-211	Geographic coordinates described for this closure have been converted to the Geocentric Datum of Australia 1994 projection
Section 241	Thompson Point to Flying Fish Point	FCW-212	
Section 243	Barron River area	FCW-213	
Section 244	Port Douglas	FCW-214	
Section 245	Mossman River area	FCW-215	
Schedule 2, Part 4, Division 4	Shell dredges		
Section 249	Moreton Bay	FCW-218	
Section 251	Hinchinbrook Channel	FCW-220	
Schedule 3, Part 1	Closed waters — Recreational Fishing Taking or possessing any fish <i>(Due to a large amount of Recreational Closures overlapping with Commercial Closures, Registered Plans are drafted to apply to both commercial and recreational fishing activities where appropriate)</i>		
Section 16	Swan Bay, North Stradbroke Island	FCW-027	
Section 19	Mary River	FCW-308	
Section 20	Tinana Creek	FCW-309	
Section 21	Burnett River	FCW-310	
Section 22	Kolan River	FCW-311	
Section 23	Fitzroy River	FCW-312	
Section 29	Keppel Bay near Middle Island Observatory	FCW-087	
Section 32	Hook Island	FCW-116	
Section 33A	Yanks Jetty at Orpheus Island	FCW-127	
Section 34	Centenary Lakes, Cairns	FCW-137	
Section 36	Mission Bay	FCW-139	
Section 37	Bizant River, Princess Charlotte Bay	FCW-152	

Section	Section Title	Plan Number	Suggested Changes
Section 39	Torres Strait near Hammond Island	FCW-160	
Schedule 3, Part 2	Taking or possessing certain fish		
Section 40A	Particular foreshores of Wynnum	FCW-224	
Section 40B	Flat Rock grey nurse shark protection area	FCW-302	
Section 40C	Henderson Rock grey nurse shark protection area	FCW-303	
Section 40D	Cherub's Cave grey nurse shark protection area	FCW-304	
Section 40E	Wolf Rock grey nurse shark protection area	FCW-305	
Section 40F	Fraser Island between Indian Head and Waddy Point	FCW-061	
Section 41	Platypus Bay	FCW-161	
Section 42	Eurimbula Creek (north of Round Hill Creek)	FCW-162	
Section 43	South of latitude 20 degrees south (near Bowen) or west of longitude 143 degrees east.	FCW-163	
Section 44	Fitzroy Island and High Island (near Cairns)	FCW-135	
Section 44A	Waters adjacent to north Cape York	FCW-223	
Schedule 3, Part 3	Waters where nets can not be used		
Section 47	Burnett River	FCW-074	
Section 48	Hervey Bay	FCW-069	
Section 50	Water Park Creek	FCW-092	
Section 51	Michaelmas Cay	FCW-165	
Section 52	Upolu Cay	FCW-166	
Schedule 3, Part 6	Waters where shell dredges can not be used		
Section 84	Moreton Bay	FCW-218	
Section 86	Hinchinbrook Channel	FCW-220	

ENDNOTES

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

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