

15 February 2024

Our ref: [KS/KB:PDTIP]

Committee Secretary
Housing, Big Build and Manufacturing Committee
Parliament House
George Street
Brisbane QLD 4000

By email: HBBMC@parliament.qld.gov.au

Dear Committee Secretary

Agriculture and Fisheries and Other Legislation Amendment Bill 2023 – Supplementary Submission

Thank you for the opportunity to provide feedback on the Agriculture and Fisheries and Other Legislation Amendment Bill 2023.

Further to our submission of 15 December 2023, we provide a supplementary response compiled with assistance from the QLS Privacy, Data, Technology and Intellectual Property Law Committee, whose members have substantial expertise in this area.

QLS takes this opportunity to provide further comments on the proposed amendments to the *Fisheries Act 1994* (Qld) (**Fisheries Act**) which would require an authority holder to install approved camera monitoring equipment on their boat to record and monitor commercial fishing activities. We understand the footage will then be supplied to the Department of Agriculture and Fisheries (**Department**) to be used in independently validating data.

Processes to be prescribed by regulation

Proposed section 76ZD provides that the nature of the video monitoring equipment and its position on the boats is to be prescribed by regulation. QLS recommends this process should be set out in the Fisheries Act, rather than a regulation, to ensure sufficient stakeholder consultation and oversight, particularly in circumstances where penalties may be imposed with respect to installation and use of video monitoring equipment.

Similarly, under proposed section 76ZF, where video monitoring equipment malfunctions, the authority holder must also comply with the procedures prescribed by regulation. QLS supports this process being in the Act to ensure it is clear, given the potential penalty for failing to comply with the procedures.

Ensuring these details are set out in the primary legislation would ensure consistency with fundamental legislative principles as set out in the *Legislative Standards Act 1992* (Qld). If these details are to be left to the regulation despite our recommendation, then we submit a draft regulation should be released for stakeholder consultation.

In addition, the Explanatory Notes indicate that the Department is engaging in ongoing consultation with fisheries stakeholders, including through a voluntary trial to determine how e-monitoring (cameras) and independent observers can be accommodated with the least possible impact.

A trial process will highlight any operational issues or barriers to following any proposed procedure. Therefore, we suggest that the trial should precede the commencement of the relevant offence provisions.

Confidentiality and privacy of information

In relation to privacy considerations, QLS urges the Committee to consider whether the confidentiality protections in the Fisheries Act are sufficient to ensure receipt and appropriate storage of video recording data by the Chief Executive and/or any third party oversight entity.

QLS recommends the Committee consider the following measures to ensure the privacy of on board commercial fishing vessels is safeguarded:

- The cameras should be limited to video surveillance only and should not include audio-visual surveillance.
- The legislation should limit the permitted use of video footage to Departmental personnel validation of data and associated prosecutions under the Fisheries Act. The video footage should not be accessible for other purposes such as for use in personal injuries claims.
- The legislation should only mandate such vessel location, and times for operation, as is reasonably necessary to enable landing, sorting and discarding of catches as part of the vessel's commercial fishing activities to be independently validated.
- The footage may be commercially valuable to operators of competitor vessels. Therefore, access to video footage should be outside the 'right to information' and 'freedom of information' sphere.
- Vessel owners and operators should have an 'as of right' ability to access a copy of the footage taken from surveillance devices on their vessels.
- There should be a mandate to deliver up or destroy footage after a reasonable period of time has elapsed for the approved purpose of use.
- The legislation should mandate that the management of personal information collected, held, used and disclosed by the Department via this surveillance initiative must be in accordance with a published Privacy Plan.¹

As noted above, QLS supports the proposed voluntary trial process after which potential issues may be identified and appropriately managed and regulated.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [REDACTED] or by phone on [REDACTED].

Yours faithfully

[REDACTED]

President

¹ See example produced by the Residential Tenancies Authority <https://www.rta.qld.gov.au/about-us/corporate-information/privacy-plan>.