Michelle Jensen
[redacted]

My name is Michelle Jensen and I represent my family, who are commercial fishers (mud crab and reef line) in Cardwell, Queensland, as well as two other commercial fishers in the Hinchinbrook region- Pauline McFaul and Mario Fazio. Pauline, Mario and myself have been working with our solicitor, [redacted] from Atherton Tableland Lawyers, on various issues surrounding the *Sustainable Fisheries Strategy*, including the *Fisheries (Sustainable Fisheries Strategy) Amendment Bill*.

I must first offer my apologies for a rushed submission; I only found out yesterday afternoon, September 25, that the *State Development, Natural Resources and Agricultural Industry Development Committee* was taking submissions on this Bill. I knew the document had been tabled in Parliament but I was checking the DAF website regularly for updates on consultations and this opportunity was not posted there. Thus, this submission is a summary of our most pertinent concerns, not an exhaustive list by any means. I may contact your Committee Secretary and look at putting together a more comprehensive submission through our Solicitor, but at this stage, I want to get our main points across before the closing date.

As a group we have several concerns about the *Fisheries (Sustainable Fisheries Strategy) Amendment Bill*. I note that, after talking with many fishermen throughout the state, many of these concerns have been raised with Fisheries managers in person, by phone, in port meetings and submissions, but, importantly, I note also that none of our concerns were appropriately addressed in the PUBLIC HEARING—INQUIRY INTO THE FISHERIES (SUSTAINABLE FISHERIES STRATEGY) AMENDMENT BILL 2018, that was transcribed on Monday, 17 September. I was extremely disappointed that neither [redacted] nor [redacted] mentioned the many issues raised by angry and distressed fishermen who feel ignored and betrayed by DAF, particularly in relation to Vessel Tracking or Urgent Declarations. I would certainly be very wary of the inclusivity of information coming from DAF during your hearings and would strongly advise the committee to do further research into fisheries issues if members are not familiar with fishery politics. I beg you to regard submissions from commercial fishers with empathy and understanding, as it will be commercial fishing families who cop the brunt of these reforms, financially and emotionally.

I have divided the concerns I would like to outline to you into the following sections:

- Vessel Tracking
- Declarations
- Harvest Strategies
- Consultation

Due to the rushed circumstances I have not necessarily listed them in priority order or in the order they are presented in the Bill. I will try to refer to the specific amendments of concern as described in the *Fisheries (Sustainable Fisheries Strategy) Amendment Bill*- eg. Clause, Section, Subsection.

Vessel Tracking (Vessel Monitoring Systems, or VMS)

Clause 51, insertion of a new Section 80- Vessel Tracking.
2a) each relevant boat used under the authority has approved vessel tracking equipment for the boat installed on it, in the way prescribed by regulation; and
(b) the approved vessel tracking equipment is working properly during the periods prescribed by regulation.
Maximum penalty—1,000 penalty units.

Clause 59 Section 118 Information Requirements, Subsection 3.

This amendment obviously relates to making it mandatory for vessel holders to have VMS (vessel tracking) on their fishing vessels, which will be at our own cost, at our own risk regarding the safety of our intellectual property, and will incur a fine of over $130,000 if we do not comply.

Our problems are:

1. **There was very little effective consultation for VMS**, a round of port meetings occurred but the commitment was already made in 2017 and nothing has changed in FQ's resolve to implement their policy despite the ongoing complaints and concerns about VMS. This legislation is being forced on us and our only hope is that your committee will put a stop to it.
2. **QF have negotiated on our behalf with certain service providers so that we must only choose their approved models, on their chosen plans, some of which are three year contracts.** We are being encouraged to take up their VMS packages- which must be taken up in the next month to get a "good deal" or you "miss out." Considering the legislation has not even passed yet, I feel that this is a disgusting cash grab from these service providers to take advantage of fishermen and lock them into contracts before the legislation has even passed- and we are being asked to trust them? Surely being forced to sign a contract – or pay a $130,000+ fine – that is not on our own terms or of our choosing is unjust, unfair, and a breach of our consumer rights.
3. **There has been nothing from FQ in their VMS Policy, VMS Guideline or in the Amendments that acknowledges that our fishing marks have financial and intrinsic value**, **nor a mention that FQ has no control over**

the information kept by the polling companies/service providers. Our Intellectual Property is inherently valuable to our businesses- even more, I believe, than the Charter operator that [redacted] mentions during the Hearing who sold his fishing marks for $60,000. Our marks are not about getting a few happy snaps of holidayers catching a big fish or two, our marks are the places that fill eskies and feed the masses. Our fishing marks, operations and behaviours are integral to our success, and they are invaluable to us, both financially and personally. [redacted] and [redacted] can make all the promises they like about confidentiality agreements with compliance partners and how our information will be safe- but don't be fooled: they can only protect data that THEY collect, and that does not even include protecting from an officer or public servant who might scribble the gps marks down of a spot during monitoring- this kind of leak would NEVER be proven but could certainly affect our catch rates on that spot. Additionally, we are asked to hand over that valuable data to be owned by the polling/service agents/companies, which is why their contracts include waivers for us to sign over our information rights to them, not FQ. FQ's policies and laws about confidentiality and information sharing have no impact on the international companies that will own our data, and FQ cannot offer us any protection from them whatsoever. Committee members may wonder why it is that prawn trawlers who are already under VMS do not have the same complaints about IP, given they have had VMS for years, but the reason for this is that prawn trawling marks are not of as great a value to recreational or charter fishers- no average person is going to go out, buy a trawler and trawl recreationally. On the other hand, in the inshore fisheries, like crab and net, and the line fisheries, our marks and other data (like *when* we go fishing, tides, moons etc) are valuable to charter and recreational fisheries. Many people would love to get fishing marks off commercial fishers, they are highly sought after, we have spent generations collecting them and guarding our best spots. If you do not believe this, ask any commercial fisher how many times he has had to pull up anchor and move because a recreational boat was following him around trying to get the mark he was on. If my line fishing marks became public knowledge through an information leak, my business would certainly suffer.

4. **No Regulatory Impact Statement has been completed for VMS**. It is my understanding that no legislation can be made without a RIS if there may be a significant impact, financial or otherwise. There are commercial fishermen screaming that the cost is too high (for our fishing business alone we may be liable for more than $5000 upfront plus $5000 per year every year for polling costs- someone is going to VERY RICH off this policy). In addition, there has been no cost-benefit analysis- how is it deemed that monitoring the entire fleet to ensure no one enters a green zone is of more benefit than, say, employing more planes and patrol officers (which creates jobs) to monitor fisheries? How much money is too much money to expect an industry to pay, when compliance data, for example the GBRMPA Annual Report, says that out of over 700 offences, only 22 were commercial fishers. Is the benefit of constantly monitoring an already-largely-compliant sector really worth it? We

would like to know how VMS will actually improve sustainability, and whether the benefits outweigh the cost to industry. Noone will know without undertaking a RIS.

5 **FQ has appeared to be misleading in its timing of the introduction of VMS, given that it starts on January 1st 2019, yet we are "assured" by FQ that the amendments will take between six and eighteen months to get through and become law**. In a letter I received from our local member, Nick Dametto, who met with [redacted] from FQ to discuss our concerns about the Amendments, [redacted] assured Mr Dametto that it would take between six and eighteen months to change the legislation, and that any notion of changes being rushed through was simply scaremongering on our part. Five weeks after receiving that letter, the Amendments were tabled. However, given the Amendments were only tabled in early September, January 1st is nowhere near six months at a minimum. Commercial fishers would like clarification as to whether the QF VMS Policy and Guidelines are only in effect once the Fisheries (Sustainable fisheries Strategy) Amendments 2018 come into place, and if the ridiculous fines (penalty units) also only come into place after the Act is amended.

6 **VMS on small vessels, especially those in remote or regional areas, is impractical and unreliable**. The failure rate of the "approved units" during trials is appalling- although we only hear about this through our network of fishers, not through FQ who are trying desperately to convince us that the units will be effective. My family alone work in crabbing, in 5 metre boats, sometimes in monsoonal rains (up to 300mm rain per day) and we are supposed to believe that these units will last. Coming from a fisher who cannot even get a $1500 GPS to last in those conditions, the committee needs to understand that the whole process is too rushed and too flawed. The fines imposed for non-compliance are frightening, but do FQ expect technicians to fly or drive in in a timely fashion?

7 **Data aggregation issues and no need to use VMS to verify logbooks**- there is no need to aggregate VMS data or publish it publicly. Given that virtually all fisheries will be going to Quota, which require a ring in, logbooks and disposal record to verify the data, FQ will not need VMS to verify our catches or the times we go out to fish. In addition, crab appears to be going to tagging, so again, another layer of compliance, VMS won't be needed to verify catch data in the crab fishery.

8 **Penalties for VMS non compliance are ridiculous- Clause 51, section 80 Vessel Tracking –** Penalty units 1000!! There would be ample situations where VMS tracking units could go offline or break down and fishers could be caught short, especially if waiting for service/parts. Fishers cannot honestly be expected to sit on their hands while their fishing season ticks away, waiting for a technician. Then, in **Clause 23 21 B** – Disclosing confidential information- 50 penalty units (aimed at FQ staff) – the non-compliance on our end is 1000 penalty units but a FQ officer who leaks our information gets 50 penalty units? Sounds like our information is so valuable that we must be scared into providing it to FQ, but the value they place on protecting it is so

little? Taking the example of the charter operator who sold his marks for $60,000, this does not provide much incentive for public servants to follow the rules.

Declarations

Subdivision 3, Section 38 Urgent Declarations.
Subdivision 1, Section 43, Compensation Section 1 b

Some fishers call urgent, or emergency, declarations, "spot closures" because they essentially have the power to close us for up to two months to protect a thing that is not a fish (eg. Dolphin, whale, dugong, turtle). The Amendment, Section 38, would see Emergency closures of up to two months replaced with an Urgent Declaration (closure) for up to three months, with no compensation. This far too long to go without compensation- could you, yourself, go three months without an income? Could you afford to keep paying overheads for a business with no income? This change could potentially ruin a small business; three months is a long time to bounce back from, especially for small family businesses.

I have started an E-petition to raise awareness and get support for commercial fishers about the changes to the Fisheries Act regarding Urgent Declarations. My petition, strangely enough, to date has 233 signatures (midnight 25 September)- exactly the same number of people who responded to the Fisheries Act Discussion Paper, including online surveys and written submissions. My concern about Urgent Declarations was raised in my submission earlier in the year, although it did not get a mention in the Consultation Results, despite my written response comprising one-seventh of the written submissions. I am concerned about the fact that FQ wants to make the Minister and Chief Executive's powers "more flexible" with regards to declarations, because there is a very strong push from the conservation sector to shut commercial fishing down and I feel that they could persuade a Minister or public servant to do so through strong campaigning.

One person who did discuss the Urgent Declarations with myself was [redacted] I contacted him by phone not long after the Discussion Paper was released to discuss my concerns about Urgent Declarations, among other issues. My question to [redacted] was, "if the chief executive or the Minister have power to make an urgent declaration more easily and with no regard for compnsation, what is to stop an urgent declaration being made if, say, a conservation group runs a heavy social media campaign to close an area because, say, a dugong might have been seen there?" And [redacted] response: "There's nothing to stop that from happening." I see he did not mention this concern during the Public Hearing.

Commercial fishers are actually strong advocates for environmental protection and protection of SOCI species, like dugongs, dolphins, turtles and whales. Ask any fisherman and he will explain how he has changed his operations to minimise impacts and interactions over the years, for example, using pingers on nets, or using

escape vents on crab pots. We care about our "office" and we want our children to work there one day, too. If there was a genuine threat to a species of conservational interest I would be happy not to work there until the threat had passed- if I had compensation. To make such a rule and deprive hard-working people of an income is unfair and should not be passed in legislation. This is a rule that needs to trigger compensation under the section 43, 1 b: the amendment as it sits now specifically excludes urgent declarations from compensation:

> *"a regulation, or a fisheries declaration or quota declaration other than an urgent declaration, is amended (the **relevant amendment**);*

This section absolutely needs to be changed to ensure that commercial operators are compensated fairly if their area is shut down or otherwise affected from an urgent declaration. For FQ to state that any losses would be offset by making an authorising declaration is unfounded- they have no idea how an urgent declaration could affect income and business, and therefore no idea how a different temporary management approach could benefit that business- again, no RIS required and therefore no acknowledgement that our businesses could be impacted through management decisions.

Harvest Strategies

Subdivision 2 Harvest Strategies

As far as harvest strategies go, I cannot impress strongly enough that harvest strategies MUST INCLUDE A RIS and that this should be included in the Fisheries Act. I also cannot impress strongly enough the importance of ensuring that biomass and stock assessments are clear and based on sound, common sense science. At present, there is NO biomass figure for several fisheries, including mud crab. At our port meeting consultation with [redacted] and [redacted] (Apologies, I cannot recall his surname), we discussed biomass for mud crab. We suggested that since it is a male-only fishery, that common sense would argue that 50% biomass is available just in females, and that as we have a 15cm size rule, another quarter of the biomass probably remains, estimating biomass at 75%. Claire and her party agreed that could potentially be correct- but no one really knows? How does FQ then justify reducing the crab fishery to help sustainability? Ideally it should be included in Subdivision 2, Section 17, or thereabouts, that RIS must be done and sound science used to determine biomass.

Consultation

Clause 8, Amendment of s 3A (How particular purposes are to be primarily achieved) Section 3A 1A

(1A) The main purpose of this Act is to be achieved, so

far as is practicable—
(a) in consultation with, and having regard to the views and interests of, all persons involved in commercial, charter, recreational or indigenous fishing and the community generally; and

I am aware that many fishers say that FQ has not offered consultation opportunities- however, I feel that FQ has offered many opportunities to consult with us in the last few years, from the MRAG, to the Green Paper, to the White Papers and Discussion Papers. I think that problem with consultation is not the lack of opportunity, it is the lack of listening and taking on board our concerns that upsets commercial fishers. While I feel that the current FQ managers seem genuine in their desire to make a difference and improve not just communication and relationships with our sector, I feel they want to make a lasting difference to fisheries in general. The problem is that no one seems to really hold commercial fishers' knowledge and understanding of our own jobs very highly. It is almost as though, despite our wealth of knowledge and the concerns shared about business management under the new reforms, that FQ knew exactly what it wanted to achieve (the targets are set out in the Sustainable Fisheries Strategy for all to see) and it does not matter what we say or do, no matter how much we jump up and down, it falls on deaf ears. The VMS for instance, a total rail-roading process, a commitment made, the paperwork sent out and despite fishers constantly raising concerns, we are now having to hire solicitors to get the message across that we do not want VMS on small vessels. We keep getting told that this is a negotiation process where everyone will have to make compromises and work together to reach outcomes, but the VMS is a perfect example of FQ completely ignoring our expertise and worth in order to achieve a pre-determined outcome. Section 3A 1A of the proposed amendments says "in consultation with, and having regard to
the views and interests of, all persons involved" which implies that to simply consult or offer consultation is not enough, FQ MUST <u>have regard</u> to the views and interests of all involved. If this is an amendment they wish to make, they need to start to understand that consultation is not just about opportunities, it's about listening and taking on board concerns and doing whatever you can to resolve those issues.

Concluding, I would just like to add that I do appreciate that FQ is trying to modernise our outdated Fisheries Act and fall in line with best practice insofar as management is concerned. However, FQ must also understand that we are already stewards for the resources and the environment we work in, and they need to listen to us if they want to continue to be able to access Queensland seafood. Many operators will not survive these reforms which highlights the importance of not just managing the environment, but also ensuring that business can survive, too and to do this, they must listen to the business operators they are affecting.

Sincerely,

Michelle Jensen