



26 September 2018

Dear State Development Natural Resources and Agricultural Industry Development Committee members

WWF-Australia the Australian Marine Conservation Society (AMCS) and Humane Society International (HSI) appreciate the opportunity to provide comments on the *Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018* (henceforth referred to as the Act).

We congratulate Fisheries Queensland on the progress made to-date to implement the *Sustainable Fisheries Strategy 2017-2027* (the Strategy) and note that the reforms set out in the proposed Act are essential steps to position Queensland as a world-leader in sustainable fisheries and seafood.

We are pleased the Bill incorporates harvest strategies (HS) a commitment to more accurate and comprehensive data collection through vessel monitoring and reforms to fisheries enforcement. However there are areas where we believe the Bill should be strengthened as outlined below. Further comments on the General Enforcement and Miscellaneous provisions are provided in Appendix 1.

### The Act's objectives

Ecological objectives must be explicitly acknowledged in the Act as having primacy over economic social and cultural objectives. While we commend the implementation of HS the Act as currently written would imply that ecological objectives are at best balanced and at worst down-played relative to other objectives. The capacity of any renewable natural resource to deliver long-term positive economic and social outcomes depends first and foremost on its ecological integrity. While it may be politically or financially expedient to compromise ecological integrity for the sake of economic and social gains in the short term such benefits will not be sustainable over the longer term. To protect marine resources and the communities that depend on them the primacy of ecological objectives should be a cornerstone of all fisheries legislation. In short we believe that the objectives of the reformed Act must acknowledge up front that maintaining and improving ecological integrity is the starting point for any regulatory process aimed at improving the sustainable use and productivity of marine resources. This should be ensured by elevating the ecological goal above all others.

In addition the ecological objective is notably omitted in *Clause 27 Section 3(2)* which states that resources can be allocated to *...maximise the potential economic, social and cultural benefits to the community*. It is essential that the Act prioritises ecological objectives to ensure that Queensland can benefit from its aquatic resources on a truly sustainable basis.

The proposed Act fails to explicitly recognise the objectives of the Marine Parks Acts which form an underlying mosaic of legislative protection for Queensland's unique aquatic environments as well as the associated industry restructure payments that have been secured for their implementation. The Act must recognise the objectives of the Marine Park Acts reflecting the fact that 99% of the east coast is covered in marine parks while the ecosystem services these parks provide generate significant wealth from non-extractive uses and the non-extractive industries they support notably tourism. Prioritising ecological objectives will ensure that benefits continue to flow to multiple sectors of the economy and society and place the Act in line with best practice as exemplified by South Australia's *Fisheries Management Act 2007*.

### Objective Harvest Strategy Approach

We are pleased that the Act reflects a modern approach aiming to reduce subjectivity and ensure that objective evidence-based decisions are made in the interests of sustainability. Specifically this includes HS responding with predetermined management actions. This includes proportional changes to commercial and recreational catch to achieve the 2020 and 2027 targets of maximum sustainable yield and maximum economic yield.

### Clarifying Ministerial and Chief Executive roles – decision-making powers

We support in principle the power of a Minister to override the Chief Executive provided that any override is accompanied by a public statement of reasons to ensure transparency. However this process needs further refinement to ensure that any Ministerial override is consistent with and does not undermine the ecological sustainability of all habitats and species not limited to target species. The recent decision to re-open the Queensland scallop fishery in November 2018 against the considered advice of the Trawl Working Group and the Expert Advisory Panel is an example of what can go wrong. A specific provision of the Act should require that any Ministerial override must pass an objective test to ensure that ecological sustainability objectives are not compromised.

In relation to reallocation exercises the Minister's proposed capacity to reallocate resources must consider ecological or sustainability concerns and not only "...[maximising] the potential economic, social and cultural benefits to the community."

### Industry Compensation

We understand the practicality of urgent declarations made by the Chief Executive and support the ability of the Executive to make such declarations in favour of protecting non-fish species (e.g. turtle dugongs) noting that this proposal comes from members of the commercial fishing industry. However we firmly dispute the proposed provisions to compensate fishers for such urgent measures. Compensation to protect NCA listed species or species *other than a fish* appears counter-intuitive particularly if the protection required is a result of fishing impacts and should therefore be removed from the Act.

### Powers to open closed/restricted areas

We do not support the opening of closed/restricted areas at the Minister's initiative or via a Chief Executive's urgent declaration in the case of an adverse event unless accompanied by a public statement that is credibly supported by peer reviewed evidence demonstrating that this

opening will not affect any threatened endangered or protected species or habitats or any other species or habitats that may have been negatively affected by the adverse event. These closed areas harbour resources that will help to re-populate areas impacted by adverse events hence any increased fishing access is likely to prolong and compound the impacts of the adverse event.

### Vessel monitoring & enforcement

We strongly support the compulsory installation and use of electronic vessel monitoring equipment on each and every individual fishing vessel. This is needed to ensure fisher compliance with regulations but also to ensure more accurate and comprehensive data collection. It is imperative that all vessels are equipped with approved monitoring equipment no later than 1st January 2019 in order to generate sufficient data to track progress towards the 2027 objectives set out in the Strategy.

### Observer programs

The Act must make provision for sufficient powers to mandate the collection of independently recorded observer information in high risk fisheries such as gill net fisheries and trawl fisheries to ensure robust data is available to inform HS implementation.

In particular we stress the necessity of 100 percent observer coverage in high risk fisheries (and also recommend that the latter term should be clearly defined in the Act) to support vessel monitoring and to ensure that robust data is available to inform HS. This will also help ensure that fishers records are independently validated. Current arrangements result in systematic underreporting of *Species of Conservation Interest* (SOCI) in Queensland fisheries with discrepancies in some instances between 30-40 fold<sup>1</sup>. Without 100 percent observer coverage the fishery will struggle to maintain a social license for net operations within marine parks.

Cost-effective technology now exists for this coverage to be achieved electronically and we are aware that the Queensland Government is developing Artificial Intelligence (AI) technology to automate the observer program. However we believe that human coverage can and should be implemented immediately until there is full confidence in the new technology. Human coverage is needed both to validate the AI system and to begin collecting data as a contingency in the event of delays or teething issues associated with implementing AI across the fisheries. The 2020 Vision Policy (see attached) signed by representatives from conservation recreational and commercial fishing and educational organisations also supports improved observer coverage.

### Shark control program

We are firmly opposed to the 20m exclusion zones around shark-control equipment. These measures will inhibit independent assessment of the shark control program by restricting the

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<http://www.frdc.com.au/Arch ved Reports/FRDC%20Pro ects/2005 053 DLD.pdf>

capacity to obtain footage of what is actually being caught. If the Queensland Government is determined to reduce the ability of the community to directly witness the catch of target and non-target sharks and other animals in the Shark Control Program we suggest that:

- the use of drones is removed from the exclusion provisions (i.e. drones should be permitted in all areas); and
- all shark-control contractors must as part of the terms of their contract deliver 100 percent video observation of the equipment sufficient to measure interactions with other wildlife including protected species.

We also question the practicality of policing the restriction zones. It would be resource intensive and at a minimum would rely on shark contractors reporting offenders which may introduce significant bias. Although the Act states that approval can be sought from the Chief Executive to access the exclusion zone this potentially politicises any independent monitoring of the program.

### Definition of 'fish'

We remain concerned that the proposals have not addressed the inconsistency between how species are defined in the Act and in the NCA. The Act states that anything listed in the NCA is no longer a fish which presents complications when addressing shark and ray species that will likely be listed in the NCA in future. Queensland is also moving towards the adoption of the conservation categories of the national *Environment Protection and Biodiversity Act 1999 (EPBC Act)* including the Conservation Dependent category in which scalloped hammerhead sharks are listed.

These anomalies mean that in the event of spatial closures being implemented to protect listed shark and ray species compensation would be required by affected commercial fishers. As noted above if protection is required primarily as a result of fishing impacts taxpayer money should not be used to then compensate those responsible for the status of the species in question.

WWF AMCS and HSI seek an early opportunity to discuss our comments in more detail and look forward to helping Queensland become a global leader in the management of tropical fisheries resources.

Sincerely



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## Appendix 1. Detailed commentary on General Enforcement and Miscellaneous

### General enforcement

- **Create an indictable offence for 'trafficking' in 'priority fisheries resources'**  
We support the proposal.
- **Provide the ability to charge for general deficiencies in information requirements provided to the chief executive**  
We support the proposal. However in order to provide the Chief Executive with evidence to prosecute deficiencies requires an independent observer program.
- **Provide Magistrates alternatives to fines to deter repeat offenders**  
We support the proposal.
- **Providing inspectors additional powers of entry to places and vehicles**  
We support the proposal.
- **Provide for extra-territorial jurisdiction to allow inspectors to investigate fisheries offences in other states (subject to agreement with that state).**  
We note there no explicit reference in the Act to allow inspectors to investigate offences in other jurisdictions. However information sharing may make this redundant.
- **Information sharing between Queensland Government agencies**  
We support the proposal.
- **Allow an inspector to require a person to recover or bring onto a boat or land, fishing apparatus in the course of an investigation.**  
We support the proposal.
- **Amend the Fisheries Act to give fisheries inspectors powers under the Biosecurity Act 2014.**  
We support the proposal.
- **Allow inspectors to perform certain duties without having to overtly identify themselves as an inspector and provide an appropriate level of protection from criminal liability**  
We support the proposal.
- **Amend the Fisheries Act to clarify that the authority which allows for the holder to do a prescribed act must not be a suspended authority.**  
We support the proposal.

### Miscellaneous

- **Modernise compliance processes outlined in the Fisheries Act.**  
We support the proposal.
- **Remove provisions about powers and functions which are redundant or confusing**  
We support the proposal.
- **Restructure the Fisheries Act to remove references to fisheries management plans**  
We support the proposal.
- **Clarify terminology, like quota, within the legislation to better align with the new management approaches**  
We support the proposal
- **Remove redundant sections pertaining to the 'Fisheries Research Fund' from the Fisheries Act**  
We support the proposal.
- **Sections pertaining to the 'codes of practice' from the Fisheries Act.**

We support the proposal.

- **Make provisions relating to internal review and Queensland Civil and Administrative Tribunal appeals consistent with other Queensland legislation**

We support the proposal.

- **Amend the definition of 'waterway' in the Fisheries Act**

We support the proposal.

- **Update provisions to align with current practices for handling confidential information.**

We support the proposal.

- **Amend the non-indigenous fish provisions to reflect current policy and better align with the Biosecurity Act.**

We support the proposal.

- **Registration of temporary transfers of authorities.**

We support the proposal.