



Committee Secretary
State Development, Natural Resources and
Agricultural Industry Development Committee
Parliament House
George Street
BRISBANE QLD 4000

REF - 2018-0135

Dear Committee Secretariat

Submission - Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018

The Great Barrier Reef Marine Park Authority (the Authority) recognises that the Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018 is a pivotal step in enabling the full implementation of the Queensland Sustainable Fisheries Strategy 2017-2027 (the Strategy). The Authority strongly supports the Strategy and commends the Department of Agriculture and Fisheries for its development and the promulgation of this bill. The Authority also acknowledges the excellent progress to date, in implementing this fundamental reform process.

Strong support for the proposed fishery management reforms and Act amendments

Responsive fisheries management through the defined fishery harvest strategy approach is essential in managing for resilience. Particularly in response to accumulating environmental pressures including the direct impacts of climate change and associated coral bleaching that has occurred in recent years on the Great Barrier Reef. In light of diminishing outlook trends for the Great Barrier Reef ecosystem, there is some urgency to reaching the higher standards of fisheries management and enhanced fisheries compliance and enforcement that are to be delivered through reforms under the Strategy.

In March of this year the Authority provided a submission in response to a discussion paper outlining the proposed changes to the *Fisheries Act 1994* (**Attachment A**). Suggestions contained within this submission remain relevant today. A number are reiterated below and some additional suggestions are offered to support one of the listed purposes of the Strategy, which is to “*help protect the Great Barrier Reef by ensuring fisheries are managed in a sustainable way within the World Heritage Area*”.

Highest priority to environmental and resource sustainability

The Authority encourages the inclusion of a provision under Objectives that explicitly gives highest priority to environmental and resource sustainability. The Authority considers that South Australia's *Fisheries Management Act 2007*, particularly Section 7(2) is one of the best examples of contemporary fisheries legislation that gives highest precedence to resource sustainability. Section 7(4) (d) of this legislation also explicitly seeks to further marine parks objectives applying to fisheries that operate in marine parks (**Attachment B**). The Authority recommends a similar provision relating to marine parks be introduced into Queensland's *Fisheries Act*.

Specific comments relevant to the proposed amendments are as follows:

- **s3(2) (clause 27)**. Consideration should be given to expanding or rewording the amendment to give highest priority to environmental and resource sustainability when balancing the principals of ecologically sustainable development. The Authority notes that Guidelines for Implementing the Queensland Harvest Strategy Policy, developed under the Strategy, state “*sustainability objectives should always have priority*” when reconciling conflicting fishery objectives. Giving highest priority to environmental sustainability in the objectives the *Fisheries Act* will:
 - Strengthen consistency with the *Great Barrier Reef Marine Park Act 1975 (Marine Park Act)* which allows ecologically sustainable use (including fishing) of the Great Barrier Reef Region or its natural resources only so far as it is consistent with the main object of the *Marine Park Act* ‘to provide for the long term protection and conservation of the environment, biodiversity and heritage values of the Great Barrier Reef Region’.
 - Further support the intent of the long-standing Australian and Queensland Governments Great Barrier Reef Intergovernmental Agreement which acknowledges that “*both governments have interrelated policy, management and regulatory roles and responsibilities related to fishing and collection of fisheries resources in the Great Barrier Reef World Heritage Area. The differing roles and responsibilities are underpinned by a shared objective of long term protection and ecologically sustainable use of the biodiversity and natural resources of the Great Barrier Reef World Heritage Area*”.
- **s3A(1A)(a) (clause 28)**. We read reference in this clause to ‘*all persons*’ as including the Authority and seek your clarification that this is the case. This again would support the integrated and collaborative approach required under the Intergovernmental Agreement and its objective of “*an ongoing commitment to... address significant threats to the health and biodiversity of the Great Barrier Reef ecosystem, including...ecologically unsustainable fishing activities and other resource extraction activities*”. Given these foundations of understanding and formal agreement, the Authority would appreciate being a partner recognised in the *Fisheries Act*. Additionally the Authority appreciates every opportunity to participate in expert panels, working groups and other forms of consultation and engagement with Queensland on fishing related matters.

- **s39 (clause 33).** Consideration should be given to formalising consultative mechanisms between the Department of Agriculture and Fisheries and the Authority prior to the making of any authorising declaration that applies to activities within the Great Barrier Reef Marine Park and World Heritage Area. Consideration of Marine Park management and regulatory framework, including the *Great Barrier Reef Marine Park Zoning Plan 2003*, and any incident response frameworks that may be in place may be required when making an authorising declaration. This would further support the Intergovernmental Agreement objective of “*an integrated and collaborative approach by the Commonwealth and Queensland to the management of marine and land environments within and adjacent to the Great Barrier Reef World Heritage Area*”.
- **s118(6) protected animal (clause 59).** Consideration should be given to defining ‘protected animals’ to include all ‘protected species’ of fauna under the *Great Barrier Reef Marine Park Act 1975* and *Great Barrier Reef Marine Park Regulations 1983* so as to avoid any inconsistencies in the management of protected fauna.

Enhancements of fisheries compliance and enforcement

The Authority supports all enhancements to legislation and fisheries inspector powers that strengthen the ability to effectively and sustainably manage Queensland’s fisheries resources. Accordingly, all of the proposed amendments that relate to enhancements of fisheries compliance and enforcement are supported.

Ensuring compliance with the marine parks zoning to protect no-take areas is crucial to the health and future of the Great Barrier Reef. Vessel tracking will enable monitoring compliance with marine parks zoning in a way that has previously only been possible for the East Coast Otter Trawl Fishery and some harvest fisheries. Amendments that enable the implementation of vessel tracking for all fisheries that operate in the Marine Park and World Heritage Area are critical.

With specific reference to the suggestions regarding enforcement and compliance made in the Authority’s previous submission:

Increased penalties for failing to comply with vessel tracking requirements

- There is a provision in the Bill (clause 51) creating a new s80 to enforce the requirement to have operational vessel tracking equipment and penalise any interference with that equipment. Maximum penalties for breaches of the new s80 of the Act are 1000 penalty units (= \$133,550). This addresses the request in the Authority’s May 2018 submission on proposed amendments that intentional failure to comply with vessel tracking requirements should be considered a serious offence, and that penalties should reflect this.
- The Regulations that will detail the specific requirements and Regulation offences around the carriage of vessel tracking will be very important.
- The Authority understands that the Fisheries Regulation is to be amended in 2019 and will await an opportunity to review and comment on the specifics of vessel monitoring enforcement provisions in draft Regulation amendments.
- In our submission on the proposed amendments, we suggested that a Fisheries Infringement Notice offence might be created for less serious unintentional or technical contraventions of vessel tracking requirements. It is acknowledged that this would need to be included in Regulation amendments (and is likely planned to be),

and note that this may also require amendment to the *State Penalties Enforcement Regulation 2014*.

Information sharing between Queensland Government agencies

- There is a new provision s217A (clause 23) that will provide for information sharing arrangements between prescribed government entities.
- This meets the component of our submission which requested that such a provision enable sharing with Commonwealth entities such as the Authority as well as between Queensland agencies to occur.
- Information sharing is important not only for enforcement and compliance purposes and can responsibly extend to other purposes. For example, research and analysis that supports the main object of the *Great Barrier Reef Marine Park Act 1975*, which “is to provide for the long term protection and conservation of the environment, biodiversity and heritage values of the Great Barrier Reef Region”.

Provide Magistrates with alternatives to fines to deter repeat offenders

- The replacement of s174 (clause 20) does appear to address the Authority’s request that a court consider alternative penalties to a fine to deter repeat offenders – noting that this section only applies to serious fisheries offences and for three offences within a five year period.
- In the Authority’s experience, the issuing of fines over multiple occasions has not deterred some recidivist offenders, and it has been necessary to issue enforceable directions that prohibit recipients from fishing in the Marine Park or which impose strict conditions on their fishing activity.
- The new s174 enables this for repeat offenders, where these relate to prescribed serious fisheries offences.

Temporary Transfers of Fisheries Authorities

- Whilst it is clear that they need to be registered, it is not clear whether information on temporary transfers of fisheries authorities will be readily available and reflected in online searches (for example, FishNet) using a commercial fishing boat symbol to identify the operating fisher.
- Such online availability would enable fisheries and marine park inspectors to identify the operator of a fishing vessel when a report is received in which only a vessel registration or boat mark is provided (for example, a report from aerial surveillance or from a member of the public).
- The Authority suggests that this capability be considered during the wider fisheries legislative or procedural amendment process to support effective operational compliance management.

Marine Park offences that are ‘serious fisheries offences

- It is acknowledged that whilst it does not fall under the remit of these Act amendments, the Authority reiterates our previous request that r625 of the *Fisheries Regulation* be amended during the 2019 amendment process to include all commercial fisheries and not just reef line fishery.

Restriction or prohibition to protect a thing that is not fish

The Authority supports the powers of the Chief Executive to make fisheries declarations (new provisions of Clause 33). The ability for fisheries declarations to be “*made to protect things that are not fish*” is important for managing fisheries-related ecological sustainability risks, including incidental catch of species of conservation concern.

Incidental catch of species of conservation concern, along with illegal fishing and poaching, are identified as very high fishing related risks in the *Great Barrier Reef Outlook Report 2014*.

The ability of the Chief Executive under the new provision s38 and related sections 43 and 44 to make an urgent declaration is an important change and one the Authority supports. Further consideration to extending s43 exclusions beyond urgent declarations may strengthen the Chief Executive’s ability to deal with ecological sustainability issues including any significant threats caused by fishing to a thing that is not a fish, particularly as they relate to species of conservation concern.

Legislation to enable the Queensland Government to address the most serious issue of incidental catch of species of conservation concern is critical and will help meet the following targets of the *Reef 2050 Long-Term Sustainability Plan—July 2018*:

- BT3 Incidental catch of species of conservation concern is declining.
- BT4 Populations of Australian humpback and snubfin dolphins, dugong, and loggerhead, green, hawksbill and flatback turtles are stable or increasing at Reef-wide and regionally relevant scales.

The Authority values this opportunity to provide a submission on the Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018.

Yours sincerely



Bruce Elliot
General Manager
Reef Engagement

26 September 2018

cc: Mr Scott Spencer, Deputy Director-General, Fisheries and Forestry, Department of Agriculture and Fisheries

[Attachment A](#) - cover letter and extract from Submission to Queensland Fisheries reforms

[Attachment B](#) - extract from South Australian *Fisheries Management Act 2007*

**Attachment A – cover letter
and extract from Submission
to Queensland Fisheries
reforms**



Australian Government
Great Barrier Reef
Marine Park Authority

Mr Scott Spencer
Deputy Director-General Fisheries and Forestry
Department of Agriculture and Fisheries
GPO Box 46
BRISBANE QLD 4001

Dear Mr Spencer

Submission to the current Fisheries reforms

The Great Barrier Reef Marine Park Authority (the Authority) strongly supports the full implementation of the Queensland Sustainable Fisheries Strategy 2017-2027 (the Strategy) and acknowledges the excellent progress to date with this fundamental reform process. The Authority commends the inclusion in the Strategy of sustainable catch limits of 60 per cent unfished biomass by 2027 to build resilience. This measure, along with the full implementation of all 10 reform areas will provide for best practice fisheries management.

Recognising that the Great Barrier Reef Intergovernmental Agreement and Great Barrier Reef Marine Park legislation are critical parts of the operational and legislative contexts for Queensland's fisheries, it is paramount that our agencies collaborate to achieve consistency and complementarity between Marine Park and Fisheries legislation.

Managing for resilience is becoming the norm in the face of accumulating environmental pressures, including the direct impacts of climate change and associated coral bleaching that has occurred in recent years on the Great Barrier Reef. In light of the poor and worsening outlook for the Great Barrier Reef ecosystem there is some urgency to reaching higher standards of fisheries management. The Authority commends the Queensland Government for implementing the Strategy with the aim to rapidly achieve best practice fisheries management.

The Authority welcomes the development of harvest strategies for the trawl, east coast inshore, crab and coral reef line fisheries. We value this opportunity to provide a submission on the reforms being proposed for these fisheries and the proposed amendments to modernise the *Fisheries Act 1994*. Attached is the Authority's feedback that is aligned to the online survey questions for the discussion papers. Please contact Mr Tom Hatley, Acting Assistant Director, Sustainable Fishing and Partnerships should you wish to discuss our comments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bruce Elliot'.

Bruce Elliot
General Manager
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25 May 2018

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Great Barrier Reef Marine Park Authority response to the proposed amendments to modernise the *Fisheries Act 1994*

Update to Fisheries Act objectives

The Authority agrees that the objectives of the Fisheries Act should be updated to reflect the vision of the Sustainable Fisheries Strategy. In addition to the objectives presented, the Authority encourages inclusion of an objective that gives highest priority to environmental and resource sustainability.

The Authority considers that South Australia's *Fisheries Management Act 2007*, particularly Section 7(2) is one of the best examples of contemporary fisheries legislation that gives highest precedence to resource sustainability. Section 7(4)(d) of this legislation also explicitly seeks to further marine parks objectives applying to fisheries that operate in marine parks.

Ministerial and Chief Executive Responsibilities

The Authority agrees the Queensland Government should oversee and set frameworks / bounds of responsibilities and direction of fisheries management including endorsement of harvest strategies and pre-determined management actions. Government should not be required to approve or disallow specific and detailed technical fisheries science and management decisions. Specific fisheries management, responses, quota setting etc., should be determined by fisheries managers within pre-determined frameworks in direct consultation with fisheries stakeholders and marine park managers.

Enforcement Powers and penalties for serious fishery offences

The Authority supports all enhancements to fisheries inspector powers to strengthen the ability to effectively and sustainably manage Queensland's fisheries resources, and to effectively enforce fisheries legislation. Improved deterrence through increased penalties is also important. Accordingly, all of the proposed amendments detailed under this section of the discussion paper are supported.

The following considerations are provided in relation to specific proposed amendments:

11. Increased penalties for failing to comply with vessel tracking

- Increased penalties for failing to comply with vessel tracking requirements are critical. Long-term monitoring indicates that coral reefs in Great Barrier Reef no-take zones are more resilient to impacts, and that they recover 20 per cent faster than nearby reefs that are open to fishing. Ensuring compliance with marine parks zoning to protect these no-take areas is thus crucial to the health and future of the Great Barrier Reef - particularly considering the recent major impacts and ongoing pressures. There are also many species of conservation interest and habitats within the GBRMP and WHA that can be impacted by illegal fishing activity. Vessel tracking is a valuable tool for monitoring and ensuring compliance with marine park zoning, fisheries and other legislation designed to protect and conserve Queensland's environment and fisheries resources. Accordingly, intentional failure to comply with vessel tracking requirements should be considered a serious offence, and penalties should be increased to reflect this.

In addition, given that there are likely to be large numbers of unintentional technical / less serious failures to comply with vessel monitoring requirements following the expansion of vessel monitoring systems over the coming years, particularly in relation to small and tender fishing vessels, there may also be benefits in creating an

infringement notice offence, of appropriate deterrent amount, to address such matters as an alternative to prosecution.

13. Provide Magistrates alternatives to fines to deter repeat offenders

- Express provision for Magistrates to be able to take into account prior offences against Commonwealth and Queensland Marine Park legislation should be considered.

16. Information sharing between Queensland Government agencies

- The expansion of information sharing to include obtaining information from Commonwealth entities should be considered. The Authority in particular may hold information that will assist in assessing a person's suitability to hold an authority and to assess the risk to safety of inspectors.

Simplify Fisheries Act and remove redundant provisions

Promotion of simplicity and streamlining of regulatory and management arrangements is recognised in the Great Barrier Reef Intergovernmental Agreement, and current priorities of both governments. Accordingly, the Authority agrees with simplification and removal of redundant provisions from the *Fisheries Act 1994*.

Additional comments

In addition to those above the Authority wishes to communicate the following considerations:

Complementarity between Marine Park and Fisheries legislation

- While recognising that the Great Barrier Reef Intergovernmental Agreement and Great Barrier Reef Marine Park legislation are critical parts of the operational and legislative contexts for Queensland's fisheries, it is paramount that our agencies collaborate to achieve consistency and complementarity between Great Barrier Reef Marine Park and Queensland Fisheries legislation.

Input controls provide important fisheries resource and environmental protection and/or sustain fishery resources

- In reviewing existing regulatory and management arrangements for fishing, it is important that the management intent of existing arrangements is clearly understood. For example, some of the existing fishing efficiency constraints (such as many fishery input controls) provide important fisheries resource and environmental protection and/or sustain fishery resources (e.g. by limiting the environmental footprint or protecting juveniles). Important fishery input controls should not automatically be discarded because a fishery proceeds to an output control mechanism.

Temporary Transfers of Fisheries Authorities

- Registration of temporary transfers of fisheries authorities will enable both fisheries and marine park inspectors to identify the operator of a fishing vessel when, for example, a report is received in which only a vessel registration or boat mark is provided (e.g. a report from aerial surveillance or from a member of the public). On-line availability of this authority to transfer information (e.g. through FishNet) would also be beneficial.

Marine Parks offences that are 'serious fisheries offences'

- Under the current Queensland Fisheries Regulation 2008, at r625(4), offences against several sections of Great Barrier Reef Marine Park and Queensland Marine Parks legislation also constitute 'serious fisheries offences' under the Queensland Fisheries Act. However, these currently only apply to the commercial reef line fishery. The same provisions apply for offences by operators in the East Coast Trawl Fishery – under the Fisheries (East Coast Trawl) Management Plan 2010, which the Authority understands is to be rescinded and its provisions incorporated into the Queensland Fisheries Regulation. These provisions, in which the relevant offences against marine parks legislation also qualify as serious fisheries offences for the Fisheries Act, should apply to all commercial fisheries, not only the reef line and east coast trawl fisheries.

Part 2—Objects of Act

7—Objects of Act

- (1) An object of this Act is to protect, manage, use and develop the aquatic resources of the State in a manner that is consistent with ecologically sustainable development and, to that end, the following principles apply:
 - (a) proper conservation and management measures are to be implemented to protect the aquatic resources of the State from over-exploitation and ensure that those resources are not endangered;
 - (b) access to the aquatic resources of the State is to be allocated between users of the resources in a manner that achieves optimum utilisation and equitable distribution of those resources to the benefit of the community;
 - (c) aquatic habitats are to be protected and conserved, and aquatic ecosystems and genetic diversity are to be maintained and enhanced;
 - (d) recreational fishing and commercial fishing activities are to be fostered for the benefit of the whole community;
 - (e) the participation of users of the aquatic resources of the State, and of the community more generally, in the management of fisheries is to be encouraged.
- (2) The principle set out in subsection (1)(a) has priority over the other principles.
- (3) A further object of this Act is that the aquatic resources of the State are to be managed in an efficient and cost effective manner and targets set for the recovery of management costs.
- (4) The Minister, the Director, the ERD Court and other persons or bodies involved in the administration of this Act, and any other person or body required to consider the operation or application of this Act (whether acting under this Act or another Act), must—
 - (a) act consistently with, and seek to further the objects of, this Act; and
 - (b) insofar as this Act applies to the Adelaide Dolphin Sanctuary, seek to further the objects and objectives of the *Adelaide Dolphin Sanctuary Act 2005*; and
 - (c) insofar as this Act applies to the River Murray, seek to further the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act; and
 - (d) insofar as this Act applies to areas within a marine park, seek to further the objects of the *Marine Parks Act 2007*.
- (5) For the purposes of subsection (1), ***ecologically sustainable development*** comprises the use, conservation, development and enhancement of the aquatic resources of the State in a way, and at a rate, that will enable people and communities to provide for their economic, social and physical well-being while—
 - (a) sustaining the potential of aquatic resources of the State to meet the reasonably foreseeable needs of future generations; and
 - (b) safeguarding the life-supporting capacity of the aquatic resources of the State; and
 - (c) avoiding, remedying or mitigating adverse effects of activities on the aquatic resources of the State,

(taking into account the principle that if there are threats of serious or irreversible damage to the aquatic resources of the State, lack of full scientific certainty should not be used as a reason for postponing measures to prevent such damage).