



Food (Labelling of Seafood) Amendment Bill 2021

Report No. 20, 57th Parliament

State Development and Regional Industries Committee

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State Development and Regional Industries Committee

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The committee acknowledges the work of Mr Robbie Katter MP, Member for Traeger in introducing this Bill.

The committee also acknowledges the assistance of the representatives of the Queensland fishing and seafood sectors, and business community for their valuable contributions.

The committee acknowledges the briefings provided by Queensland Health and the Department of Agriculture and Fisheries, and the Northern Territory Government, Department of Industry, Tourism and Trade.

All web address references in this report are current at the time of publishing.

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Chair's foreword

This report presents a summary of the State Development and Regional Industries Committee's examination of the Food (Labelling of Seafood) Amendment Bill 2021.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

The Bill proposes to introduce mandatory country of origin labelling for seafood sold at dining outlets across Queensland. The committee has recommended that the Bill not be passed.

Queensland undoubtedly produces some of the best seafood in the world, which is a testament to the many fishers and retailers working in the industry. On the face of it, the objectives of this Bill are sound – to support industry, and increase consumer awareness about the origins of their seafood. However, questions must be asked as to whether mandating country of origin labelling for thousands of small and medium businesses is the right policy approach.

The committee heard initiatives such as **#eatqld** and **Ask for Queensland seafood** have been successful and that many businesses already choose to voluntarily identify the source of their seafood.

It was the committee's view that the lead for an initiative such as this should come from the Australian Government. It is the Australian Government that has carriage of the Country of Origin Labelling Food Standard 2016, which is established under Australian Consumer Law.

The committee also heard from Queensland Health that it is unclear whether national food regulations enable the *Food Act 2006* to be amended in this way and that the amendments may be inconsistent with Queensland's commitments under the national Food Regulation Agreement.

The Australian Government evaluated this very proposal in 2021. It found that while consumers may benefit, the costs to industry and government are likely to outweigh these benefits. We also cannot ignore the impacts of the COVID-19 pandemic on the foodservice sector and the impact that any additional regulation may have at this time.

In closing, I want to thank all those representing the commercial fishing, retail and business communities for taking the time to participate in the inquiry and their valuable contributions. I also thank my fellow committee members, and parliamentary service staff.

I commend this report to the House.



Chris Whiting MP

Chair

Recommendations

Recommendation 1

2

The committee recommends that the Food (Labelling of Seafood) Amendment Bill 2021 not be passed.

Recommendation 2

13

The committee recommends that the seafood Country of Origin Labelling initiative proposed by the Bill be sent to the Federal Government requesting they take the national lead, as the Country of Origin Food Labelling Standard 2016 is a regulation enacted under Australian Consumer Law and is enforced by the Australian Competition and Consumer Commission.

1 Introduction

1.1 Role of the committee

The State Development and Regional Industries Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility include:

- State Development, Infrastructure, Local Government and Planning
- Agricultural Industry Development, Fisheries and Rural Communities
- Regional Development, Manufacturing and Water.

The functions the committee include the examination of bills in its portfolio area, and as referred by the Legislative Assembly, to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles
- matters arising under the *Human Rights Act 2019*.²

1.2 Inquiry process

The Food (Labelling of Seafood) Amendment Bill 2021 (Bill) was introduced into the Legislative Assembly by the Member for Traeger on 17 November 2021. It was subsequently referred to the committee for examination by the Committee of the Legislative Assembly on 19 November 2021. The committee has resolved to report to the Legislative Assembly by 13 May 2022.

On 29 November 2021, the committee invited stakeholders and subscribers to make written submissions on the Bill. Nine submissions were received. See **Appendix A** for a list of submitters.

The committee received a public briefing about the Bill from Mr Robbie Katter MP, Member for Traeger on 21 February 2022. A transcript is published on the committee's web page. See **Appendix B** for a list of witnesses.

The committee held public hearings across Queensland from 28 February to 27 April 2022, hearing from industry and business representatives. Hearings were conducted in Townsville, Cairns, Karumba, Bundaberg and Brisbane. See **Appendix C** for a list of witnesses.

The committee considered written briefings from Queensland Health as the department with responsibility for the administration of the *Food Act 2006*; and the Department of Agriculture and Fisheries.

The committee also considered a written briefing from the fisheries department within the Northern Territory Government Department of Industry, Tourism and Trade.

All inquiry documents including submissions, transcripts, questions on notice, and written briefings are available on the inquiry webpage.³

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

² *Parliament of Queensland Act 2001*, section 93; and *Human Rights Act 2019*, sections 39, 40, 41 and 57.

³ See: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=172&id=4130>

1.3 Policy objectives of the Bill

The primary objective of the Bill is to:

- mandate Country of Origin Labelling (CoOL) for seafood sold in the food service sector, at dining outlets (for example at cafés, restaurants or takeaway shops) across Queensland.⁴

The purpose is:

- to increase consumer awareness around the origins of seafood being purchased and consumed
- support the Australian, and Queensland seafood industry and the thousands of jobs it supports.⁵

The Member for Traeger explained further in his introductory speech:

The first aim is to increase consumer awareness around the origins of seafood that they purchase and consume. If we want market driven results we need to properly inform customers, but at the moment we do not have those safeguards in place. At the moment there are some voluntary labels that work and are effective, but if that is not enforced, it is quite useless as people can simply choose not to use them. The second aim is to support the Australian and Queensland seafood industry, which supports thousands of local jobs now but many more could be created in the future.⁶

1.4 Consultation on the Bill by the Private Member

According to the explanatory notes, consultation was undertaken with key stakeholders including Queensland seafood producers, Queensland seafood dining outlets and Australia seafood industry representatives.⁷

Mr Katter MP briefed the committee further:

On consultation, I have personally canvassed this idea for years with different fishing groups. It was brought to us by the Barramundi Farmers' Association originally. We have talked to restaurants and hoteliers. We have had informal discussions with the peak lobby groups – for example, hotels. I have not seen any significant flares of anything negative. That is not to say that there will not be, and I welcome any negative feedback.⁸

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends that the Food (Labelling of Seafood) Amendment Bill 2021 not be passed.

⁴ Explanatory notes, p 1.

⁵ Explanatory notes, p 1.

⁶ Hansard, 27 October 2021, p 3305.

⁷ Explanatory notes, p 4.

⁸ Mr Katter MP, Public briefing transcript, 21 February 2022, p 2.

2 Examination of the Bill

2.1 What does the Bill propose and why

The Bill proposes to amend the *Food Act 2006* to make country of origin labelling (CoOL) mandatory for seafood sold in the food service sector. This includes food sold for consumption at dining outlets and takeaway venues such as restaurants, bars, cafés and clubs across Queensland.

The Bill has two purposes:

- to increase consumer awareness of the origins of the seafood they consume
- support the Australian, and Queensland, seafood industry and the jobs it supports.⁹

The explanatory notes acknowledge the strong food safety reputation and agriculture and aquaculture supply chains in Australia, and the high expectations that Australian consumers have come to expect.¹⁰

Since 2018, under the Country of Origin Food Labelling Information Standard 2016, made under Australian Consumer Law, the Australian retail sector has been required to label food with its country of origin. However businesses preparing food for immediate consumption are exempt from this requirement.¹¹ The Bill seeks to address this discrepancy.

The explanatory notes, state that ‘importantly, the Bill does not seek to vilify imported seafood or the dining outlets that sell them’. It is acknowledged that there is a place and demand for a variety of seafood at different price points. Rather, the explanatory notes suggest that imported seafood can be identified with an “i – imported” or similar statement or symbol that makes it clear the product is not Australian, just as how “gf” is used to indicate gluten-free items.¹²

The Bill proposes to introduce a new offence for non-compliance with maximum penalties of 1 penalty point for a first offence, and five for subsequent offences.¹³

2.1.1 Penalties for non-compliance

The Bill proposes to introduce a new offence for failing to comply with the requirement to display country-of-origin information. The penalties are:

- for a first offence—1 penalty unit
- for a second or subsequent offence—5 penalty units.¹⁴

As of 1 July 2021, a penalty unit is \$137.85. This would make subsequent offences punishable with fines of \$689.25.¹⁵

2.2 The Australian and Queensland seafood sectors

The Australian seafood industry can be divided into three parts:

- Seafood retailers, including specialist fish and seafood retailers but excluding mass retailers (supermarkets), with an estimated annual industry revenue of \$935.9 million.
- Fish and seafood wholesalers who purchase product from aquaculture, wild fishing and seafood processors. The largest buyers from this sector are food service establishments, such as

⁹ Explanatory notes, p 1.

¹⁰ Explanatory notes, p 1.

¹¹ Explanatory notes, p 1.

¹² Explanatory notes, p 3.

¹³ Explanatory notes, p 4.

¹⁴ Explanatory notes, p 4.

¹⁵ Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2021 section 4.

restaurants, hotels, fast-food outlets and fish and chip shops (purchasing 57 per cent). The sector has an estimated annual revenue of \$4.3 billion.

- Seafood processing, with approximately 10 per cent of production going to the food service sector and an estimated revenue of \$940.9 million.¹⁶

In addition, there are approximately 46,000 food service businesses have seafood on their menus.¹⁷

The Queensland seafood industry injects over \$200 million into the Queensland economy from primary production and directly employs over 1,500 people each year, as well as over 1,200 people in associated industries such as onshore processors.¹⁸

Australians consumed 334,615 tonnes of seafood in 2019-20, equating to an average of 12.4 kilograms per person. While nearly all domestic consumption of other major food service proteins such as beef, lamb and chicken is of Australian origin, close to between 60-70 per cent of domestic seafood consumption is imported annually.¹⁹

Of all seafood which is imported into Australia, approximately 64 per cent came from Thailand, China, Vietnam and New Zealand in 2017-18.²⁰

2.3 Existing legislative and policy frameworks

2.3.1 National framework

Country of Origin Food Labelling Standard 2016

Australia has strict regulations around labelling so that consumers may make informed choices when purchasing food. Australia's national CoOL framework is outlined in the Country of Origin Food Labelling Information Standard 2016 (Standard).

The Standard is a regulation created under the Australian Consumer Law and is enforced by the Australian Competition and Consumer Commission.²¹ It requires most foods offered or suitable for retail sale in Australia (e.g. food sold to the public in stores or markets) to carry country of origin labelling.²²

Several products are not covered by the Standard. This includes food sold by restaurants, canteens, schools, caterers, self-catering institutions, prisons, hospitals, medical institutions or at fund-raising events (e.g. a cake stall at a school fete); food made and packaged on the premises where it is sold (e.g. bread in a bakery); and food delivered, packaged and ready for consumption, as ordered by the consumer (e.g. home delivered pizza).²³

Businesses may voluntarily choose to provide country of origin information for food that is exempt from the Standard, provided it is not false or misleading. The ACCC and other ACL regulators have the power to call on businesses to substantiate the country of origin claims made on their labels.²⁴

¹⁶ Department of Industry, Science, Energy and Resources and Deloitte Access Economics, Evaluation of Country of Origin Labelling reforms, 2021, p 47.

¹⁷ Department of Industry, Science, Energy and Resources and Deloitte Access Economics, Evaluation of Country of Origin Labelling reforms, 2021, p 48.

¹⁸ Minister for Agricultural Industry Development and Fisheries, Media Statement, 28 March 2018.

¹⁹ Explanatory notes, p 1.

²⁰ Department of Industry, Science, Energy and Resources and Deloitte Access Economics, Evaluation of Country of Origin Labelling reforms, 2021, p 49.

²¹ Australian Consumer Law, section 134; Queensland Health, Correspondence, 28 April 2022, p 2.

²² Australian Competition and Consumer Commission, Food labelling FAQs

²³ Australian Competition and Consumer Commission, Food labelling FAQs

²⁴ Australian Competition and Consumer Commission, Country of origin food labelling.

Food Regulation Agreement

The Food Regulation Agreement (FRA) is an inter-governmental document signed by all Australian governments in November 2000 committing to a national system of food regulation.²⁵

The Agreement has several key objectives. These include: providing safe and consistent food controls for the purpose of protecting public health, reducing regulatory burden on the food sector, facilitating the harmonisation of Australia's domestic and export food standards with international food standards, and providing cost effective compliance and enforcement arrangements for industry, government and consumers.²⁶

2.3.2 Queensland framework

Food Act 2006

The main food safety legislation in Queensland is the *Food Act 2006* and it applies to all Queensland food businesses. The Act is administered by Queensland Health and the objectives of the Act are to ensure food for sale is safe and suitable for human consumption, and to prevent misleading conduct in relation to the sale of food.²⁷

Queensland Health advised the committee that Queensland's food safety regulatory approach is 'risk based and intelligence driven, supporting harm minimisation without placing unnecessary compliance burdens on industry or restricting flexibility within the health care workforce'.²⁸

Enforcement of the *Food Act 2006* (Food Act) is shared between State and local government,²⁹ with labelling and compositional requirements being a matter for the State and enforced by Queensland Health.³⁰

2.4 How does the Bill align with the existing legislative framework

A primary consideration of the committee was how the Bill aligns with existing legislation.

Advice from Queensland Health indicated that it is unclear whether national food regulations allow the Bill to amend the Food Act in this manner. The proposed amendments may be inconsistent with Queensland's commitments under the Food Regulation Agreement (Agreement), as such amendments are only permitted for limited purposes and as a temporary measure.³¹

Under the Agreement, States or territories that amend a nationally adopted food standard must do so only in areas relating to public health and safety, with the new requirement applying for no longer than 12 months. The state or territory must then immediately apply to Food Standards Australia New Zealand to introduce the requirement nationally. The Bill also proposes to change definitions, which may be in contravention of the Food Regulation Agreement for consistent food regulation. Queensland Health advised that legal implications of the changes proposed by the Bill should be considered by the committee.³²

²⁵ Queensland Health, Correspondence, 28 April 2022, p 1.

²⁶ Food Regulation, Key documents that underpin the joint Food Regulation System.

²⁷ Queensland Government, Food safety regulation, Food safety legislation and regulation.

²⁸ Queensland Health, Correspondence, 28 April 2022, p 3.

²⁹ *Food Act 2006*, Part 4.

³⁰ *Food Act 2006*, section 22; Queensland Health, Correspondence, 28 April 2022, p 1.

³¹ Queensland Health, Correspondence, 28 April 2022, p 1.

³² Queensland Health, Correspondence, 28 April 2022, p 2.

Queensland Health also advised that the amendments, if introduced, would require monitoring and enforcement by Queensland Health (Public Health Units in Hospital and Health Services) and that this may divert resources away from other public health and safety initiatives, such as:

- The national *Foodborne Illness Reduction Strategy 2018-2021+*
- responding to elevated notifications for *Salmonella and Campylobacter*
- responding to foodborne illness outbreaks and other incidents
- labelling compliance that has a public health and safety aspect (such as allergen labelling).³³

Queensland Health also advised that CoOL of seafood is not considered to be a public health and safety issue and is more appropriately considered a consumer values issue.³⁴

Queensland Health explained that an overarching objective of the *Food Act 2006* is to prevent misleading and deceptive conduct in relation to the broader food supply, rather than specific industry or commodity sectors.

Provisions exist in the *Food Act 2006* to prevent misleading or deceptive conduct, including the false description of food, however, these are normally only used in relation to food safety matters. It is open to a food business to voluntarily choose to promote Australian seafood on their menus or signage and consumers can ask for such information. In circumstances where a food business was alleged to have mis-labelled seafood a complaint could be made to the Queensland Office of Fair Trading for investigation.³⁵

2.5 Other reviews into country of origin labelling

There have been multiple reviews and inquiries into the CoOL in recent years which have considered the use of CoOL generally including the option of extending it to seafood sold in the service sector. Despite this, only the Northern Territory have adopted requirements to label seafood sold in dining outlets.

Key reviews are outlined below:

- In 2009, the Council of Australian Governments and the Australia and New Zealand Food Regulation Ministerial Council commissioned an independent expert panel to conduct a review of food labelling law and policy.

The 2011, *Labelling Logic: Review of Food Labelling Law and Policy* report, recommended that mandatory country-of-origin labelling requirements apply to cover all primary food products for retail sale. It is did not re

Some submissions to the review, notably from the seafood industry, recommended CoOL be extended to food sold in restaurants. In response, the report stated:

While arguments were presented in the case of seafood, this would constitute an exception to the general exemption of restaurants from mandatory labelling requirements and the Panel does not accept the argument as sufficient to justify modifying the exemption.³⁶

- In 2014, the Senate referred an inquiry into requirements for labelling of seafood and seafood products to the Rural and Regional Affairs and Transport References Committee. The committee

³³ Queensland Health, Correspondence, 28 April 2022, pp 2-3.

³⁴ Queensland Health, Correspondence, 28 April 2022, p 3.

³⁵ Queensland Health, Correspondence, 28 April 2022, p 3.

³⁶ Australia and New Zealand Food Regulation Ministerial Council, *Labelling Logic: Review of Food Labelling Law and Policy*, 2011, p 108.

recommended removing the CoOL exemption for seafood sold by food services sector.³⁷ The Government ‘noted’ the recommendation in 2020.³⁸ It committed to evaluate CoOL reforms in 2020-21 and determine if any adjustment to CoOL arrangements is necessary.³⁹

- In 2015, the *Inquiry into the Food Standards Amendment (Fish Labelling) Bill 2015* recommended that a private member’s bill that would end the CoOL exemption for seafood sold in restaurants be passed. The Bill was voted down by the Senate, who stated that food regulation was the responsibility of the states and territories.⁴⁰
- In 2016, the *Scaling up: Inquiry into Opportunities for Expanding Aquaculture in Northern Australia* report by the Australian Parliament’s Joint Select Committee on Northern Australia recommended removing the CoOL exemption for seafood sold by the food services industry.⁴¹ The Australian Government ‘noted’ the recommendation.
- In 2016, the Productivity Commission’s *Inquiry Report into Marine Fisheries and Aquaculture* explored CoOL and found existing food safety and consumer protection laws were adequate. Any CoOL scheme for seafood sold for immediate consumption should be a voluntary, industry-initiated arrangement and not government-mandated.⁴²
- In 2017, the Seafood Origin Working Group Paper *Consumer access to seafood origin in the foodservices sector* found that the Australian Consumer Law forbids businesses from making false or misleading claims about food origins. If the business does not provide the information, consumers can ask for the information, purchase other menu items or buy from other dining establishments.⁴³
- In 2017, a private member’s bill, the Food Amendment (Seafood Country of Origin Labelling) Bill 2017, was introduced in the New South Wales Parliament but was defeated on its second reading.⁴⁴
- In 2021, an *Evaluation of Country of Origin Labelling reforms*, was commissioned by the Australian Government Department of Industry, Science, Energy and Resources. The Cost Benefit Analysis prepared by Deloitte Economics expressly considered the existing exemption for foodservice businesses.

While the report identified benefits arising from increased consumer awareness, the costs expected to be incurred by government and industry outweighed the benefits. Costs were comprised of resources spent engaging with a supplier to ensure desired country of origin,

³⁷ Australian Senate Rural, Regional Affairs and Transport References Committee, Current requirements for labelling of seafood and seafood products, 2014, p ix.

³⁸ Australian Government, Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report: An inquiry into the current requirements for labelling of seafood and seafood products,

³⁹ Department of Industry, Science, Energy and Resources, Government response: Inquiry into current requirements for labelling of seafood and seafood products, 2020.

⁴⁰ Food Standards Amendment (Fish Labelling) Bill 2015; ABC Online, Restaurant seafood country of origin labelling laws ‘would not work in Australia’, Scullion says, 14 May 2015.

⁴¹ Australian Parliament, Joint Select Committee on Northern Australia, *Scaling up: Inquiry into Opportunities for Expanding Aquaculture in Northern Australia*, 2016, p xxiii.

⁴² Productivity Commission, *Inquiry Report into Marine Fisheries and Aquaculture*, 2016, pp 28, 41.

⁴³ Seafood Origin Working Group Paper, *Consumer access to seafood origin information in the foodservices sector*, 2017, p 11.

⁴⁴ See: <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3431>

auditing to ensure compliance and accuracy of displayed country of origin information and the process of altering a menu to reflect new or updated country of origin information.⁴⁵

2.6 Northern Territory framework

Stakeholders frequently referred to the scheme in the Northern Territory as one which could be adopted.⁴⁶

The Northern Territory created seafood labelling requirements for restaurants and other dining venues in November 2008. Venues that sell seafood need a licence under the Northern Territory *Fisheries Act 1988* (NT Fisheries Act), and the Director of Fisheries may create licence conditions.⁴⁷

Holders of a Fish Retailer Licence who are advertising seafood for sale for immediate consumption must state when the seafood is imported. If it is a mixed seafood product, it must include the statement that it contains imported products. Under the Licence Conditions, “advertised for sale” means, but it not limited to, the seafood being featured on a menu, display board or pamphlet.⁴⁸

The NT Police enforces compliance with fisheries legislation and regulation, with every police officer automatically appointed as a fisheries officer under the NT Fisheries Act.⁴⁹

2.7 Stakeholder views

The committee received nine submissions, and heard from various representatives from the fishing, aquaculture and seafood sectors. These organisations outlined their strong support for the Bill.

The committee received two submissions and heard from restaurant representatives and the food importing sector that did not support the Bill. In general, these stakeholders contended that mandatory labelling would not lead to increased demand for Australian seafood and would increase red tape costs for businesses.

Key issues are discussed further below.

2.7.1 Seafood sector growth and ability to meet demand

Stakeholders emphasised the potential for growth of Queensland’s seafood sector that would occur as a result of country of origin labelling. According to the explanatory notes, farmed barramundi was valued at over \$90 million in 2018-19, a doubling of production since 2014. The Australian Barramundi Farmers’ Association aim to double production again to become a \$200 million industry by 2025.⁵⁰

In their submission, the Australian Barramundi Farmers’ Association stated:

Expansion of mandatory Country of Origin Labelling of seafood to food service nationally would result in an estimated growth of the Australian farmed Barramundi sector exceeding \$100 million per annum and an additional 250 direct jobs and 1,000 indirect jobs. Queensland has the opportunity through this bill to realise an estimated 40% of these gains.⁵¹

The Australian Prawn Farmers Association expressed similar sentiments:

⁴⁵ https://www.industry.gov.au/sites/default/files/February%202022/document/cool_cost_benefit_analysis_report_0.pdf, pp 44 and 45.

⁴⁶ Eric Perez, Public hearing transcript, Brisbane, 22 March 2022, p 2.

⁴⁷ *Fisheries Act 1988* (NT) section 14.

⁴⁸ Fisheries Research and Development Corporation et al, Tracking the impacts on seafood consumption at dining venues arising from the Northern Territory’s seafood labelling laws, 2011, p 52.

⁴⁹ *Fisheries Act 1988* (NT) section 7.

⁵⁰ Explanatory notes, p 2.

⁵¹ Australian Barramundi Farmers’ Association, submission 8, p 3.

The Australian prawn farm industry is undergoing rapid and significant growth in production with the industry currently valued at over \$130 million in 2019-20 (Lobegeiger, DPI NSW, 2021). This is up from \$80 million in 2018-19.

98% of Australian prawn farms are located in Queensland.

Strong ongoing significant growth is planned in Queensland with the industry becoming an important regional economic driver including in the areas of regional investment, labour, new skills and training, increased transport investment and increased feed manufacture investment, all contributing to improved social and economic outcomes for regional communities.⁵²

Mr Tim Bade of Spring Creek Barramundi stated:

The aquaculture industry is growing quite rapidly. Several large producers are all in expansion phase at the moment to meet the demand, including us. Some of this is being spurred on by the COVID pandemic and the reduction in the amount of imported and fresh imported seafood that is coming in. Growing rapidly I guess is all I can say for barramundi and aquaculture in general. We are going to be over 10,000 tonnes of local production I think this calendar year, and that is looking to grow exponentially as we move forward.

Ms Jo-Anne Ruscoe of the Australian Barramundi Farmers Association added how mandatory labelling in the retail sector coincided with the growth of Australian barramundi:

When mandatory labelling came into the retail sector, Australian barramundi went from 150 tonnes in the retail sector to 4,000 tonnes. That was not done through altruism by the retailers and supermarkets; it was done because it was mandated.⁵³

Other stakeholders contest that the domestic sector cannot meet Australia's demand for seafood. Restaurant & Catering Australia point out that research by the Australian Bureau of Agricultural and Resources Economics reports that 65 per cent of seafood sold in Australia is imported by overseas. They add:

This is not due to a lack of awareness by consumers of the origins of the seafood they are consuming but instead a result of the fact that the Australian seafood industry cannot meet demand from venues in terms of quantity or cost effectiveness.⁵⁴

The Food and Beverage Importers Association submit:

We are yet to see a business case that links mandated CoOL to improved profitability for domestic fishers. Proponents of mandatory CoOL have simply presented a generalisation that fishers will benefit if this one aspect of transparency at the final sale end is improved, with –

- a) no evidence that it will automatically result in greater demand for Australian seafood; and without damaging demand for imported seafood – otherwise there is no net benefit to the Australian community;
- b) no evidence that the perceived increased demand can be met with Australian products that are appropriately processed, packaged and priced for foodservice – and are consistently available;
- c) no evidence that the cost of producing those products can be absorbed in the supply chain, and profit maintained...⁵⁵

⁵² Australian Prawn Farmers Association, submission 5, p 2.

⁵³ Jo-Anne Ruscoe, Public hearing transcript, Cairns, 1 March 2022, p 1.

⁵⁴ Restaurant & Catering Australia, Submission 7, p 2.

⁵⁵ Food and Beverage Importers Australia, Submission 2, p 3.

2.7.2 Consumer preferences and country of origin labels

Country of origin is a major factor for consumers when deciding to purchase seafood, and it is projected that consumers will become more conscious of where their fish and other seafood products are sourced over the next 5 years.⁵⁶

A survey indicated that 48 per cent of consumers have experienced a change in their preference for country of origin information in recent years. Of these consumers, 92 per cent want more information than they did previously.⁵⁷ The Queensland Seafood Marketers Association submitted:

Seventy-four per cent of consumers believe that being able to identify country of origin is either important or very important to them, which constitutes 2.6 million consumers of the 3.6 million eligible voters in Queensland. The removal of the exemption in the food service sector in Queensland makes the country-of-origin label mandatory. This will provide these Queenslanders with truth in labelling so as to make purchasing decisions free of confusion and in line with consumer detail preferences. This will then apply to an additional 25 per cent of seafood sold in Queensland.⁵⁸

Seafood stakeholders agree that the current framework prevents consumers from making an informed choice about the seafood they consume at dining outlets.⁵⁹ Seafood stakeholders submitted that 50 per cent of consumers assume the seafood they buy is Australian when no country-of-origin information was available.⁶⁰

The misunderstanding was very likely to occur with barramundi. Barramundi, from the Gangulu language of Central Queensland, refers to the Asian sea bass (*Lates calcarifer*). The barramundi is not uniquely Australia and is found across South East Asia.

Seafood stakeholders were of the view that the Australian public did not understand that 60 per cent of barramundi is farmed overseas. Stakeholders were also of the view that using the Aboriginal name barramundi for imported Asian sea bass led consumers to believe it was domestically sourced fish, potentially misleading consumers.⁶¹

The seafood sector also submits that consumers weren't able to get information around the source of seafood when they were actively seeking it from vendors. The Australian Council of Prawn Fisheries submits:

The consequence of that was shown in Seafood Industry Australia's survey results when they sent mystery shoppers into food services. They were able to demonstrate that about 60 per cent of those shoppers were met with a lack of information. They were unable to provide the information as to where that seafood was from.⁶²

⁵⁶ Department of Industry, Science, Energy and Resources and Deloitte Access Economics, Evaluation of Country of Origin Labelling reforms, 2021, p 45.

⁵⁷ Department of Industry, Science, Energy and Resources and Deloitte Access Economics, Evaluation of Country of Origin Labelling reforms, 2021, p 69.

⁵⁸ Marshall Betzel, Public hearing transcript, Brisbane, 22 March 2022, p 2.

⁵⁹ Australian Council of Prawn Fisheries, Submission 3, pp 7-8; Seafood Industry Australia, Submission 4, p 2; Australian Prawn Farmers Association, Submission 5, p 3; Queensland Seafood Marketers Association, Submission 9, p 4.

⁶⁰ Australian Council of Prawn Fisheries, Submission 3, p 7; Seafood Industry Australia, Submission 4, p 5; Australian Barramundi Farmers Association, Submission 8, p 1.

⁶¹ Explanatory notes, p 2; Tim Bade, Public hearing transcript, Townsville, 28 February 2022, p 1.

⁶² Rachel King, Public hearing transcript, Brisbane, 22 March 2022, p 2.

Additionally:

If you have a consumer base that is unaware of where their seafood is from, they cannot differentiate that product or know anything about the investment that has been made or the regulations that have been adhered to provide that product. Consumers are really in the dark.⁶³

Other stakeholders were doubtful about the need to regulate labelling, stating that restaurants were incentivised to obtain and promote locally-sourced seafood. Restaurant & Catering Australia submitted:

A mandatory CoOL is redundant as restaurants are already eager to advertise their locally caught seafood products to promote certain dishes and increase consumer demand. Australians generally favour local produce and businesses who advertise this fact find themselves with an advantage over those who don't.⁶⁴

The Food and Beverage Importers Association believed that mandatory labelling as suggested in the Bill would even confuse consumers:

We don't believe one or two words on a menu will provide the level of information consumers need to make a fully informed decision about most matters that concern them. For instance, we don't believe the single word Vietnam, or the word Imported (or an I) is genuinely helpful - it simply leaves consumers prone to misinformation.⁶⁵

2.7.3 Administrative costs and implementation

Questions were raised during the inquiry about the administrative and financial cost of a mandatory labelling scheme. The Department of Agriculture and Fisheries stated:

[F]ood service is a diverse and important part of the seafood supply chain. It is dominated by small businesses, many of which have been impacted by restrictions due to the Novel Coronavirus (COVID-19) pandemic. Mandating seafood origin labelling in food service will increase the regulatory burden on these entities, and compliance costs could be significant.⁶⁶

The Food and Beverage Importers Association expressed concerns about the cost of implementation for a mandatory labelling scheme and the increased liability of end users.⁶⁷ Restaurant & Catering Australia expressed concerns about the "enormous amount of red tape and the financial burden that this will force upon venue operators".⁶⁸

Stakeholders identified three types of administrative and financial cost that would occur with a mandatory labelling scheme: government enforcement costs; the expense of dining outlets reprinting menus; and the difficulty implementing the scheme for certain dishes.

Restaurant & Catering Australia said on the cost to government:

I also point to that Deloitte paper that I spoke about earlier. They put the projected costs of the mandatory labelling scheme and the compliance issues that your government will have to pay at \$13.5 million. That is the federal government. If you scale that down to Queensland, it still is in the high millions.⁶⁹

Restaurant & Catering Australia expanded on the cost of reprinting menus. They stated that larger restaurants would be hardest hit, with hundreds of menus needing reprinting if the restaurant could

⁶³ Rachel King, Public hearing transcript, Brisbane, 22 March 2022, p 3.

⁶⁴ Submission 7, p 2.

⁶⁵ Submission 2, p 2.

⁶⁶ Department of Agriculture and Fisheries, Correspondence, 26 April 2022, p 2.

⁶⁷ Submission 2, p 5.

⁶⁸ Submission 7, p 1.

⁶⁹ Hugo Robinson, Public hearing transcript, Brisbane, 22 March 2022, p 7.

not secure Australian-produced seafood for that evening.⁷⁰ When applying this requirement to mixed seafood items, the constant labelling and relabelling ‘will become a costly and draining endeavour’.⁷¹

Members of the seafood sector expressed doubts on the extent of the costs. The Queensland Seafood Marketing Association did not believe the cost of reprinting menus had substance:

Maybe 10 or 20 years ago that argument may have stood up, when the cost of printing was quite high et cetera. In this day and age, we know that restaurants produce a lot of their menus on site. They have colour printers and laminators. Predominantly, that was their highest explanation of cost. Then they talked about the potential loss of jobs through places shutting down because people would not go to their places. I think it is a convenient argument; I do not think it has substance.⁷²

The Queensland Seafood Industry Association was highly dubious of the idea that the cost of reprinting menus would cause businesses to close their doors or lay off staff. They stated that if the cost of updating a menu would put a single job at risk, then restaurateurs were ‘in the wrong game’.⁷³

Members of the seafood sector acknowledged the difficulties in applying the regulation to mixed seafood dishes. The Australian Council of Prawn Fisheries recommended the regulation be narrowed to apply to the ‘centre plate’ protein in the dish and have a ‘mixed origin’ identifier for mixed dishes.⁷⁴

2.7.4 Initiatives to promote Queensland’s seafood industry

The Department of Agriculture and Fisheries (DAF) stated they recognises the importance of supporting local seafood producers, as well as promoting and marketing locally-caught seafood in food service outlets.⁷⁵

DAF has several initiatives in place to support the seafood industry, including:

- The ‘Ask for Queensland seafood’ campaign, launched with the Queensland Seafood Industry Association, the Moreton Bay Seafood Industry Association and the Queensland Seafood Marketers Association.⁷⁶
- The #eatqld campaign, which encourages the community to eat Queensland seafood, meat, dairy and farm produce to support the State’s agricultural and fisheries sectors.⁷⁷
- ‘The Great Australian Seafood – Queensland’ campaign, funded by the Australian Government and delivered by Seafood Industry Australia.

2.8 Committee comment

Supporting Queensland seafood is a worthy endeavour, and there is not a Member on this committee who does not appreciate and support the world-class seafood that Queensland industry produces, and men and women work within it.

A central consideration of the committee, in examining this Bill, was its alignment with existing legislation. The committee received advice from Queensland Health that the Bill was potentially incompatible with the national Food Regulation Agreement – an agreement signed by all Australian governments which seeks to ensure a consistent, safe and measured approach to regulating Australia’s food industry.

⁷⁰ Hugo Robinson and Robbie Katter MP, Public hearing transcript, Brisbane, 22 March 2022, p 8.

⁷¹ Restaurant & Catering Australia, Submission 7, p 3.

⁷² Marshall Betzel, Public hearing transcript, Brisbane, 22 March 2022, p 4.

⁷³ Eric Perez, Public hearing transcript, Brisbane, 22 March 2022, p 6.

⁷⁴ Australian Council of Prawn Fisheries, Submission 3, p 9.

⁷⁵ Department of Agriculture and Fisheries, Correspondence, 26 April 2022, p 1.

⁷⁶ Queensland Government Media Statement, Ask for Queensland seafood this Easter, 28 March 2018.

⁷⁷ See: <https://www.daf.qld.gov.au/news-media/campaigns/eatqld>

The committee also noted the potential costs to dining outlets and government associated with implementation of the Bill. Costs for business include time spent engaging with suppliers, auditing to ensure compliance and accuracy, and administrative costs. Queensland Health also indicated that enforcement costs could divert resources away from other public health and safety initiatives. Recent research conducted by Deloitte Access Economics, commissioned the Australian Government, reported that such costs are likely to outweigh the benefits.

The committee questioned whether mandatory seafood labelling was the right policy mechanism to support the seafood industry and ultimately increase consumer awareness. The committee heard about various successful initiatives such as '#eatqld' and 'Ask for Queensland seafood'. The committee also noted that many businesses in the sector already choose to identify the source of their seafood. For those businesses who try to mislead the customer, a legislative framework already exists.

It is the committee's view that supporting Queensland seafood is a worthy endeavour, but the lead for such an initiative should come from the Federal Government. It is the Federal Government that has carriage of the Country of Origin Labelling Food Standard 2016, which is a regulation under Australian Consumer Law and is enforced by the Australian Competition and Consumer Commission.

It is for these reasons that the committee has recommended that the Bill not be passed.

Recommendation 2

The committee recommends that the seafood Country of Origin Labelling initiative proposed by the Bill be sent to the Federal Government requesting they take the national lead, as the Country of Origin Food Labelling Standard 2016 is a regulation enacted under Australian Consumer Law and is enforced by the Australian Competition and Consumer Commission.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (Legislative Standards Act) states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles to the Bill. The committee brings the following to the attention of the Legislative Assembly.

3.2 Rights and liberties of individuals

Section 4(2)(a) of the Legislative Standards Act requires that legislation has sufficient regard to the rights and liberties of individuals.

3.2.1 Ordinary activities should not be unduly restricted

Clause 7 inserts new section 164I in the *Food Act 2006* that would require dining outlets to identify the origin of seafood being sold. The reasonableness and fairness of treatment of individuals is relevant in deciding whether legislation has sufficient regard to the rights and liberties of individuals.⁷⁸

The concept of liberty includes that an activity (including a business activity) should be lawful unless there is a sufficient reason to declare it unlawful by an appropriate authority.⁷⁹

The requirement in proposed section 164I for dining outlets to identify the origin of seafood restricts the right of persons to conduct business in the way in which they consider appropriate.⁸⁰

3.2.1.1 *Committee comment*

The committee notes that the explanatory notes are silent on this issue of fundamental legislative principle, though it might be considered to be interwoven with the penalty for non-compliance with the requirement, as mentioned below.

3.2.2 Penalties

Section 164I provides that a dining outlet commits an offence for not displaying the prescribed country of origin information of seafood products. A penalty of 1 penalty unit (\$137.85) applies for a first offence, and a penalty of 5 penalty units (\$689.25) applies for a second or subsequent offence.

The creation of new offences and penalties affects the rights and liberties of individuals.⁸¹

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, penalties and other consequences imposed by legislation are proportionate and relevant. A penalty should be proportionate to the offence:

In the context of supporting fundamental legislative principles, the desirable attitude should be to maximise the reasonableness, appropriateness and proportionality of the legislative provisions devised to give effect to policy.

⁷⁸ *Legislative Standards Act 1992* (Legislative Standards Act) section 4(2)(a).

⁷⁹ Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: The OQPC Notebook*, p 118.

⁸⁰ SL No. 162, explanatory notes, p 5.

⁸¹ Legislative Standards Act section 4(2)(a).

... Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other.⁸²

The creation of the offence is at the heart of the policy intent of the Bill. The explanatory notes state the penalties are reasonable for this type of offence, and:

Concerns that this new offence may impact upon a person's rights or liberties are mitigated in that for the first offence, which may be committed inadvertently or accidentally, only a minimal penalty is to be applied.⁸³

Subsequent offences could be inadvertent or accidental. Regardless, the level of penalties both for first and for subsequent offences could be considered modest.

The explanatory notes also make reference to Northern Territory (NT) regulations, and state that the Bill is consistent with this legislation. The NT regulations prescribe that labelling seafood with the State, Territory or country from which the seafood originated is a condition of a licence to sell seafood.⁸⁴ Non-compliance is an offence with a maximum penalty of 20 penalty units (\$3,140.00).⁸⁵ The Bill's 'two-tiered approach to non-compliance'⁸⁶ therefore differs somewhat from the NT regulations.

3.3 Explanatory notes

Part 4 of the Legislative Standards Act requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

However, the explanatory notes arguably do not state in sufficient detail the estimated cost to the government of implementing the Bill, especially considering that the Bill contains offence provisions and allocation of resources will be required to enforce these provisions.

The explanatory notes:

- do not identify any specific clause or proposed section being discussed in the explanatory notes
- do not include 'a simple explanation of the purpose and intended operation of each clause of the Bill' (as required by section 23(1)(h) of the Legislative Standards Act).

However, it can be noted the Bill contains only 8 clauses and the operative provisions run to about 5 pages.

3.3.1.1 Committee comment

The committee notes that the explanatory notes would benefit from an analysis regulatory impact of the Bill; clarity around who would enforce the Bill and how it would be enforced; as well as outlining what resources would be needed to enforce the Bill.

⁸² OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 120.

⁸³ Explanatory notes, p 4.

⁸⁴ *Fisheries Regulations 1992* (NT) section 142.

⁸⁵ *Fisheries Regulations 1992* (NT) section 209.

⁸⁶ Explanatory notes, p 3.

4 Compliance with the *Human Rights Act 2019*

The portfolio committee responsible for examining a Bill must consider and report to the Legislative Assembly about whether the Bill is not compatible with the *Human Rights Act 2019* (Human Rights Act), and consider and report to the Legislative Assembly about the statement of compatibility tabled for the Bill.⁸⁷

A Bill is compatible with human rights if the Bill:

- (a) does not limit a human right, or
- (b) limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Human Rights Act.⁸⁸

The Human Rights Act protects fundamental human rights drawn from international human rights law.⁸⁹ Section 13 of the Human Rights Act provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

The committee has examined the Bill for human rights compatibility. The committee brings the following to the attention of the Legislative Assembly.

4.1 Human rights compatibility

The Food (Labelling of Seafood) Amendment Bill 2021 does not engage the human rights contained in the Human Rights Act. The obligations created by the amendments (proposed section 164I) would apply to business entities such as restaurants, cafes and take-away establishments (see proposed definition in section 164H).

The human rights protected in the Human Rights Act are only enjoyed by individuals (section 11) and therefore do not extend to the entities that would be subject to the labelling requirements. The obligations do not appear to impinge upon any of the rights protected in Part 2 or Divisions 2 and 3 of the Human Rights Act.

4.1.1 Right to privacy

The right to privacy (section 25) protects 'privacy, family, home or correspondence' against unlawful or arbitrary interference. The information which would be required under the amendments is of a commercial nature and does not fall within the scope of section 25.

4.1.2 Right to freedom of expression

The right to freedom of expression (section 21) does not include a negative protection against the compulsory provision of information and, in any event, the labelling requirements would appear to be reasonably proportionate to a legitimate aim and supportive of consumers' rights to access information about product origin.

4.1.3 Other human rights

There are no other rights in Part 2 likely to be limited by the proposed amendment.

⁸⁷ *Human Rights Act 2019* (Human Rights Act) section 39.

⁸⁸ Human Rights Act section 8.

⁸⁹ The human rights protected by the Human Rights Act are set out in sections 15 to 37 of the Act. A right or freedom not included in the Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included: Human Rights Act section 12.

According to the comments of the Member for Traeger when the Bill was introduced, the purpose of the amendments is to raise consumer awareness about the origins of seafood products and to stimulate the Australian and Queensland seafood industries.

It is not possible to conclude on whether the amendments will succeed in achieving the second of these objectives, but to the extent that consumers can make more informed decisions about the seafood products they purchase this is generally likely to be supportive of, rather than detrimental to, human rights.

In particular, it would facilitate the exercise of the right to freedom of thought, conscience, religion and belief (section 20) by enabling consumers to make purchasing decisions in line with their values.

In more general terms, the amendments may be a positive move for the protection of human rights worldwide. There are recognised human rights concerns associated with the seafood trade in other parts of the world. For example, Greenpeace has recently reported on forced labour and human trafficking which occurs within the tuna industry – a clear violation of international human rights standards.

Unsustainable fishing practices can impact on the human rights to food, health, culture and livelihoods of communities and individuals who rely on healthy fish stocks. Encouraging greater awareness about the origins of seafood products consumed in Australia could lead to greater concern for the environmental and labour issues associated with seafood supply chains.

With these factors in mind, it is my view that there is no human rights concern associated with the Amendment Bill. It does not represent a limitation on rights protected with the HRA and if it has any influence on the enjoyment of human rights it is more likely to be a positive one.

Committee conclusion

The committee finds the Bill is compatible with human rights in that the provisions apply to businesses, which are entities that do not exercise human rights.

4.2 Statement of compatibility

Section 38 of the Human Rights Act requires that a member who introduces a Bill in the Legislative Assembly must prepare and table a statement of the Bill's compatibility with human rights.

A statement of compatibility was tabled with the introduction of the Bill. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

Appendix A – Submitters

Sub #	Submitter
001	Janis A. Rossiter
002	Food and Beverage Importers Association
003	Australian Council of Prawn Fisheries
004	Seafood Industry Australia
005	Australian Prawn Farmers Association
006	Queensland Seafood Industry Association
007	Restaurant & Catering Australia
008	Australian Barramundi Farmers Association
009	Queensland Seafood Marketers Association

Appendix B – Witnesses at public briefing

21 February 2022 – Queensland Parliament

- Mr Robbie Katter MP, Member for Traeger
- Ms Morgan Oss, Policy Adviser to the Member for Traeger

Appendix C – Witnesses at public hearings

28 February 2022 – Townsville

Spring Creek Barramundi

- Mr Time Bade, Manager

Queensland Seafood Marketers Association

- Mr Col Lounds, member
- Mr Mark Partland, member

1 March 2022 – Cairns

Queensland Seafood Marketers Association

- Mr Shawn McAtamney, member

Australian Barramundi Farmers Association

- Ms Jo-Anne Ruscoe, Executive Officer

2 March 2022 – Karumba

A. Raptis & Sons

- Mr Craig Philip

Wren Fishing

- Mr Jason Stapley, Operations Manager

Private Capacity

- Mr Jockey Bouwens
- Mr Scott Stevens

8 March 2022 – Bundaberg

Australian Seafood

- Mr Barry Ehrke OAM, Assistant Manager

Seafood Smokery

- Mr Lincoln Kirchner, Owner

22 March 2022 – Brisbane

Queensland Seafood Industry Association

- Mr Eric Perez, CEO

Queensland Seafood Marketers Association

- Mr Marshall Betzel, President

Australian Council of Prawn Fisheries

- Ms Rachel King, Executive Officer

Restaurant & Catering Australia

- Mr Hugo Robinson, Manager for Policy and Government

Dissenting Reports

DISSENTING REPORT
FOOD (LABELLING OF SEAFOOD) AMENDMENT BILL 2021
JIM MCDONALD MP (DEPUTY CHAIR) AND MICHAEL HART MP

The Opposition welcomes the opportunity to contribute to the *Food (Labelling of Seafood) Amendment Bill 2021* and acknowledges this is a policy the LNP released and committed to prior to the 2020 state election.

From the onset, the Opposition is dissenting in the committee's decision that this bill not be passed.

Queensland's seafood is the envy of the world, given our unique offerings and the unrivalled quality and taste of our product. The Opposition wants to ensure consumers are aware of the origin of the seafood they are buying and where it was farmed.

We believe this bill, if passed, will go a long way towards ensuring a better uptake of locally farmed product as opposed to foreign offerings.

We support the Bill, and support that the Bill be passed, and subsequently, we dissent in the committee's decision.

Where is the support from the government?

The goal for this Bill is to support the Queensland fishing industry, an industry which provides some of the best seafood in the world, and an industry that is doing it tough.

We heard from numerous fishers and seafood retailers across Queensland who told us why this Bill is so important to them.

In Townsville, Mr Partland, Ingham Seafood told us:

I am very vocal about supporting the local industry, which is under huge threats from government implementing quota and that type of thing. The labelling or identification of seafood in pubs, clubs, restaurants and the like should have been done years ago when it was implemented into our retail sector. This needs to be brought into line with that so that people have a choice and people are aware of what they are buying.¹

In Cairns, Mr McAtamney, Independent Seafood Producers, told us the same:

At the end of the day, the crux of this bill is about allowing the consumer to make the choice at the dinner plate, which is no different to what they do at the retail counter. It is overdue. This bill is vital for Queensland. Obviously it has been in place in the Northern Territory for a number of years.... I think it will have far-reaching ramifications and not just in terms of consumption levels... Certainly from my perspective, we are second generation and have 40 years in the industry and this bill is vital.²

In Karumba, Mr Stapley spoke regarding the view of commercial fishers:

¹ Mark Partland, Public hearing transcript, Townsville, 28 February 2022, p 1.

² Shawn McAtamney, Public hearing transcript, Cairns, 1 March 2022, p 4.

As a commercial fishing operation, we see benefits in the labelling in that you know where it has come from, its origins, whether it is a domestic product or shipped in from overseas, and essentially what the species is as well. It is the best for consumers so that they know exactly what they are purchasing.³

Queensland Health advice on the regulatory framework

One of the key reasons identified in the Chair's report to not support the Bill was that it was inconsistent existing food regulatory framework. Advice from Queensland Health said that there is some **uncertainty** about whether national regulatory arrangements allow the amendments as provided by the Bill.⁴

Nowhere in the Queensland Health advice does it say that the Bill is **definitely** incompatible with Queensland's obligations under the Food Regulation Agreement. It says it **may be** inconsistent.

We don't deny that Queensland operates under an agreed national framework and under Australian Consumer Law, but surely solutions can be found. The Northern Territory has managed to find those solutions, why can't we?

The report is further demonstration of the Labor Party's embarrassing record when it comes to fisheries in Queensland.

Northern Territory

The Northern Territory framework is the only jurisdiction in Australia that has mandatory CoOL for food sold in the food service sector. The intent of the labelling requirements was to enable consumers to make informed choices when buying seafood.

This policy has been in place for many years and its success has been evaluated. It found that labelling requirements have not reduced the range of seafood choices or reduced seafood's prevalence as a key menu item.

It also found that consumers responded positively to labelling that gives them information about their purchases and are willing to pay a premium for local seafood.⁵

This clearly demonstrates it is possible to create a mandatory CoOL scheme while abiding by Queensland's commitments under the Food Regulation Agreement.

Administrative costs

There were arguments about the impost of the additional administrative and regulatory costs potentially imposed by the Bill, and we acknowledge those views.

Ms Ruscoe from the Australian Barramundi Farmers Association said:

On the basis of the evidence, 74 per cent of people want to support Australian product. Various recent studies have shown the rise in demand for Australian product. We do not want to make this so burdensome on the industry that it is untenable. We want it to be able to address the major concerns of the consumer and the major concerns of the industry. You can keep pushing as far as you like, but doing this will make the biggest difference with the least regulatory and financial cost to the industry.⁶

³ Jason Stapley, Public hearing transcript, Karumba, 7 March 2022, p 1.

⁴ Queensland Health, Correspondence, 28 April 2022, p 2.

⁵ Northern Territory Fisheries, Correspondence, 9 May 2022, pp 1-2.

⁶ Jo-Anne Ruscoe, Public hearing transcript, Cairns, 1 March 2022, p 8.

However, as Mr McAtamney told us:

There are a lot of proponents who will say that doing this is too costly for the food service sector. They will ask who is going to police it and so on. I have heard it for 20 years. It is nonsense and it has to stop.

We are a retailer. We comply with the Australian naming standards and have done so for years. We do not have people coming around and policing us at the counters, asking us, 'Is this from Taiwan or is it from Australia?' The point from the wild-caught sector is that it is not about shaming imported seafood, it is not about shaming the farming sector and it is not about differentiating with Australian seafood or between wild and aquaculture. It is about allowing the consumer to turn up to the dinner plate and make a decision based on what their budget is and what they ultimately want to consume.⁷

Surveys from the Northern Territory Seafood Council and the Commonwealth Fisheries and Research Development Corporation found that on average, venues spent \$630 to comply with new labelling scheme. Later surveys indicated that the cost had dropped to zero for 70 per cent of venues.⁸

This is evidence that a CoOL scheme can be implemented without undue cost to industry, or indeed any ongoing cost to the majority of industry—what's better than a cost of zero?

Imports

As the explanatory notes state, this Bill is not about vilifying imported seafood. There is a place for imported seafood and Australians will continue to enjoy imported seafood.

What we take issue with is those businesses who choose to do the wrong thing; or businesses who choose to rely on the assumption by Queenslanders that the fish they are buying is our world class, premium products.

As Mr Bade told us:

Imported barra is a lot cheaper to produce. It is not produced under the same environmental and regulatory standards that we have here in Queensland. ...

Obviously, competing with a product that can be produced for less than half of what we can produce a fish for makes it very hard. But Australians are very passionate when they have information about buying locally produced or caught product. Australians like to support local. It is just the deception that happens in the food service sector by not having that information readily available. I guess there is also a lack of understanding by the Australian public that barramundi is not only an Australian fish; the same species does occur overseas and is farmed overseas.⁹

As Mr Lounds told us:

My wholesale distribution costs for barramundi fillets is \$30 a kilo. I can buy imported fillets for \$14 or \$15 and sell them at \$18 or \$20. There are considerable savings there'.¹⁰

The committee also was told of some retailers who were selling Mekong delta catfish as Cod. Mr Kirchner told us:

At this point, it is only a small portion of the smaller, more obscure seafood markets—the fish and chip shop that also does dagwood dogs and everything else—that can pass off, for instance, Mekong delta catfish, which is marketed in Australia as basa, whack a bit of batter on that and flog it off as cod and chips. That is a European swing that has come into Australia. I think colloquially hoki is marketed as cod in Australia. It is

⁷ Shawn McAtamney, Public hearing transcript, Cairns, 1 March 2022, p 4.

⁸ Fisheries Research and Development Corporation Project No. 2009/216, June 2011, p 36.

⁹ Time Bade, Public hearing transcript, Townsville, 28 February 2022, p 2.

¹⁰ Col Lounds, Public hearing transcript, Townsville, 28 February 2022, p 2.

a Pacific fish that is caught by New Zealand or Australian fishers. You are really ripping the consumer off by having generally Northern Hemisphere fish or Asian fish sold here without any definition of where it has come from. A lot of people just do not know and they do not ask questions..¹¹

Further when customers buy Barramundi, many assume it is an Australian wild caught or farmed product, but the reality is that many farmed Barramundi come from overseas and these fillets are able to be purchased by retailers for around \$12 per kilogram as compared to \$20 and more for local farmed and wild farmed options.

There is also the issue in the quality of production of farmed fish in many other countries not having the same safety and food production standards in Queensland. Nor is there control in terms size of the fish of farmed fish and so fillets can be portion sized easily compared to the minimum legal size in Queensland.

The system is flawed if unscrupulous businesses can profit by withholding information from the consumer.

The Bill addresses this flaw and lets consumers make informed choices about their seafood.

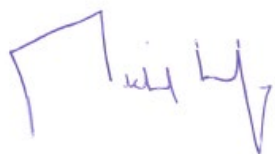
Enforcement

The report says that the regulatory framework is already in place to protect consumers against mislabelled food, whether it be innocent or deliberate.

Government should be doing more to enforce accurate labelling, using regulators like the Office of Fair Trading in the Department of Justice and Attorney-General.



Jim McDonald MP
Deputy Chair
Member for Lockyer



Michael Hart MP
Member for Burleigh

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Robbie Katter MP Member for Traeger

12 May 2022

Mr Chris Whiting MP
Chair, State Development and Regional Industries Committee
Via email: SDRIC@parliament.qld.gov.au

Dear Chair,

RE: Dissenting Report - *Food (Labelling of Seafood) Amendment Bill 2021*

I write to provide you with a Dissenting Report to the *Food (Labelling of Seafood) Amendment Bill 2021*, and indicate my disagreement with both recommendations made by the Committee that:

- **Recommendation 1** – The committee recommends that the Food (Labelling of Seafood) Amendment Bill 2021 not be passed.
- **Recommendation 2** – The committee recommends that the seafood Country of Origin Labelling initiative proposed by the Bill be sent to the Federal Government requesting they take the national lead, as the Country of Origin Food Labelling Standard 2016 is a regulation enacted under Australian Consumer Law and is enforced by the Australian Competition and Consumer Commission.

I am of the view that these recommendations do not align with a genuinely supportive approach to the “world-class seafood that Queensland industry produces, and men and women who work within it”, and instead pass up a golden opportunity to assist this sector in a very non-intrusive way.

This Bill was drafted in direct consultation with the Queensland seafood industry and, as demonstrated during the consultation process, has its universal support.

It is disappointing the Committee has been unable to support the industry on one of their key governmental requests, and has also been unable to support a measure that would directly improve and assist consumer awareness and choice when it comes to the purchasing of seafood products in the food service sector.

I acknowledge the concerns raised by Queensland Health that the Bill may be “potentially incompatible with the national Food Regulation Agreement”, however do not support any suggestion these inconsistencies could not be mitigated in the aim of supporting the growth of the local seafood sector through the introduction of mandatory Country of Origin Labelling laws, as has successfully occurred in the Northern Territory for a number of years.

I am also of the view that the purportedly detrimental, potential costs that would be passed onto dining outlets and government following implementation of the Bill have been overstated and also would have been able to be managed without little disruption and impost to the parties involved.

Overall, I believe the Committee have failed to acknowledge the overwhelming and evidence-based benefits of the Bill, which far outweigh its costs. The Queensland seafood sector, and consumers, have been let down by the Committee's refusal to support this Bill and I express my strong disappointment in their recommendations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robbie Katter', with a long horizontal line extending to the right.

Robbie Katter
Member for Traeger