

State Development, Natural Resources and Agricultural Industry Development Committee

Subordinate legislation No. 179: Fisheries (Vessel Tracking) Amendment Regulation 2018 Report No. 22, 56th Parliament

Aim of this report

This report summarises the committee’s findings following its examination of the subordinate legislation No. 179: Fisheries (Vessel Tracking) Amendment Regulation 2018 within its portfolio areas and tabled on 13 November 2018. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992*.

Subordinate legislation examined:

SL No	Subordinate Legislation	Tabled Date	Disallowance Date
179	Fisheries (Vessel Tracking) Amendment Regulation 2018	13 November 2018	4 April 2019

Committee consideration of the subordinate legislation

Fisheries (Vessel Tracking) Amendment Regulation 2018 (SL No. 179)

The objective of the Fisheries (Vessel Tracking) Amendment Regulation 2018 is to implement action 9.6 of the *Sustainable Fisheries Strategy 2017-2027* (the Strategy) relating to the employment of vessel monitoring systems (VMS) across the commercial fishing fleet.

Action 9.6 of the Strategy requires installation of VMS on all commercial boats by 2020, with a priority to install VMS on net, line and crab boats by 2018.

This regulation imposes an obligation on licence holders and/or commercial fishers using commercial fishing boats in the commercial net, line and crab fisheries to install and maintain VMS equipment.

The explanatory notes state:

*The most important benefit of vessel tracking technology is that it enables real time monitoring of commercial fishing fleets and facilitates more responsive and evidence-based decision making. Vessel tracking is used to monitor fishing quotas and compliance with seasonal and spatial closures particularly in and around areas which may be sensitive to fishing pressures.*¹

¹ Explanatory notes, for SL 2018 No. 179, p 2.

Committee comment

The Fisheries (Vessel Tracking) Amendment Regulation 2018 does not raise any significant issues relating to policy, fundamental legislative principles or lawfulness.

The explanatory notes generally comply with part 4 of the *Legislative Standards Act 1992* however are deficient in two respects.

Firstly, under the heading *Consistency with fundamental legislative principles* this statement appears:

The regulation has been drafted with regard to the fundamental legislative principles as defined in section 4 of the Legislative Standards Act 1992.²

This does not comply with the requirements in section 24(1)(i) of the *Legislative Standards Act 1992* which require explanatory notes for subordinate legislation to include:

[A] brief assessment of the consistency of the legislation with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.

Secondly, section 24(2) of the *Legislative Standards Act 1992* requires that explanatory notes must also include, if consultation took place about the subordinate legislation:

- (i) a brief statement of the way the consultation was carried out, and*
- (ii) an outline of the results of the consultation.*

The explanatory notes do include details of consultation undertaken. However, the results of the consultation are not outlined in the explanatory notes. The notes state:

DAF also engaged affected stakeholders in the development of the “Vessel Tracking Policy” and “Vessel Tracking Guidelines” in early 2018. Officers met with more than 280 people at 143 meetings across 22 locations in Queensland to gather an understanding of fishing operations and to determine if the draft vessel tracking policy and guidelines accommodated all fisheries operations. A total of 128 responses were received in reply to an online survey, including by letter, telephone and email.

The Vessel Tracking Consultation Report is available on DAF’s website.

This statement does not comply with the requirement in the *Legislative Standards Act 1992* that the results of consultation be outlined in the explanatory notes.

The consultation report referred to in the explanatory notes provides a useful 14 page overview of consultation on the draft vessel tracking policy and guidelines and of the feedback received from industry.³ It also contains a one page summary of its contents. Compliance with the requirements in the *Legislative Standards Act 1992* and the usefulness of the explanatory notes would both have been aided by the inclusion in those notes of at least a summary of the report’s contents.

During its inquiry into the Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018 the committee considered in detail the new requirement for commercial fishing boats in the commercial net, line and crab fisheries to install and maintain VMS. The committee found that there was some industry opposition to this requirement. The committee notes the regulation came into effect on 1 January 2019.

² Explanatory notes, for SL 2018 No. 179, p 3.

³ Department of Agriculture and Fisheries. *Vessel Tracking Consultation Report: Feedback on draft policy and guidelines* June 2018, accessed at <https://publications.qld.gov.au/dataset/vessel-tracking/resource/a7aadf39-a3e2-47f7-80fe-33e470911376>

Recommendation

The committee notes that the explanatory notes for Subordinate Legislation No.179 - Fisheries (Vessel Tracking) Amendment Regulation 2018 do not comply with the *Legislative Standards Act 1992*. The committee draws this to the attention of the Legislatively Assembly.

The committee recommends that the Legislatively Assembly notes this report.



Chris Whiting MP

Chair

February 2019

State Development, Natural Resources and Agricultural Industry Development Committee

Chair	Mr Chris Whiting MP, Member for Bancroft
Deputy Chair	Mr Pat Weir MP, Member for Condamine
Members	Mr David Batt MP, Member for Bundaberg Mr Brent Mickelberg MP, Member for Buderim Ms Jess Pugh MP, Member for Mount Ommaney Mr Jim Madden MP, Member for Ipswich West



Fisheries (Vessel Tracking) Amendment Regulation 2018 Dissenting Report

The non-government members of the State Development, Natural Resources and Agricultural Industry Development Committee submit this Dissenting Report to express our disappointment at the manner which this government has introduced the Fisheries (Vessel Tracking) Amendment Regulation 2018.

This amendment was tabled in parliament on the 13th of November 2018 which required all crab, line, net fishers and commercial fishing boats to have vessel tracking technology installed and operational from 1st of January 2019.

The introduction of VMS has been the subject of a great deal of concern and distrust across the commercial fishing industry since it was proposed by the government as part of the Sustainable Fishing Strategy policy formation.

During the committee hearings the committee members heard numerous times of the very real concerns held by the industry and felt that their concerns were not addressed during the consultation process.

These concerns revolved around reliability of the monitoring systems in the harsh conditions that they would need to endure, especially on small open cabin crabbing boats and the penalties that would be imposed if the system failed.

Data security was also one of the concerns as the data that would be collected by the system would show the locations that were used by the fisher and could do huge damage to the commercial fisherman if this data fell into the wrong hands.

If ever there was an occasion for the Minister to take a step back and have some meaningful engagement and address some of the very genuine concerns that the industry have around the introduction of this legislation then this was that occasion. The non-government members are very disappointed with the manner that this amendment has been introduced.

There were a number of complaints from the commercial sector that the consultation process was more about informing the industry of the proposed changes than any meaningful engagement to address their concerns.

As stated in the committee report the explanatory notes did not comply with requirements of the Legislative Standards Act 1992 as stated below. This does not comply with the requirements in section 24(1)(i) of the *Legislative Standards Act 1992* which require explanatory notes for subordinate legislation to include:

[A] brief assessment of the consistency of the legislation with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.

Secondly, section 24(2) of the Legislative Standards Act 1992 requires that explanatory notes must also include, if consultation took place about the subordinate legislation:

- (i) a brief statement of the way the consultation was carried out, and*
- (ii) an outline of the results of the consultation.*

The explanatory notes do include details of consultation undertaken. However, the results of the consultation are not outlined in the explanatory notes. The notes state: *DAF also engaged affected stakeholders in the development of the "Vessel Tracking Policy" and "Vessel Tracking Guidelines" in early 2018. Officers met with more than 280 people at 143 meetings across 22 locations in Queensland to gather an understanding of fishing operations and to determine if the draft vessel tracking policy and guidelines accommodated all fisheries operations. A total of 128 responses were received in reply to an online survey, including by letter, telephone and email. The Vessel Tracking Consultation Report is available on DAF's website.*

This statement does not comply with the requirement in the *Legislative Standards Act 1992* that the results of consultation be outlined in the explanatory notes.

There was no Regulatory Impact Statement undertaken before the implementation of this amendment.

For the reasons listed above the non-government members of the committee submit this statement of dissent.

Pat Weir Member for Condamine



Deputy Chair of the State Development, Natural Resources and Agricultural Industry
Development Committee

February 14, 2019