

Fisheries Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 74

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries Amendment Regulation (No. 1) 2016

Authorising law

Sections 21, 49 and 223 of the Fisheries Act 1994 (the Act)

Policy objectives and the reasons for them

Freshwater systems generally have less capacity to sustain fishing pressure than saltwater systems resulting in a more precautionary management in order to maintain sustainability. Queensland currently achieves this through the regulation of freshwater recreational and commercial fishing and fish stocking.

Most, but not all, of the freshwater recreational fishing activity occurs in impoundments where fish are stocked by voluntary community stocking groups. In freshwater, stocking is a proven method of maintaining a sustainable fish stock for fishing, especially in waterways that have dams or weirs preventing natural water flow, fish movement and fish reproduction.

The Stocked Impoundment Permit Scheme (SIPS) was introduced in 2000 and has been a successful program that has been highly valued by the communities where it operates. At least 75 per cent of the money raised by the SIPS is returned to stocking groups in the form of grants with the remaining funds used on administration of the scheme by the Department of Agriculture and Fisheries (DAF). There are currently 32 impoundments in the SIPS. In recent years, the SIPS has raised approximately \$1 million per annum.

In 2014, Fisheries Queensland released a Regulatory Impact Statement (RIS) for consultation on a number of issues related to SIPS and the potential expansion of commercial fishing in freshwater.

As part of the RIS, public opinion was sought on whether consideration should be given to expanding commercial fishing opportunities in freshwater areas. DAF has had requests to allow

commercial fishing in freshwater impoundments for certain species of fish, however, these have been declined. This has been primarily due to a lack of public support for the activity, however, there have been other concerns associated with stock sustainability for species which do not reproduce in impoundments, bycatch of other commercial and recreational species and the interaction with other resource users. The results from the RIS indicated a strong opposition towards expanding commercial fishing for freshwater fish.

Following an audit report conducted in April 2014, a number of key issues were identified regarding the operation and management of SIPS agents. The proposal to expand the SIPS to extra impoundments meant that the increased number of permits likely to be sold could not be adequately managed through the existing paper based system within DAF. The audit report recommended that DAF investigate alternative ways to manage SIPS in order to improve the efficiency of systems and processes for the administration of permit sales by agents, particularly in view of a sustainable growth of the scheme in the near future. Australia Post held an existing service contract with the Queensland Government and they have undertaken to provide the administrative processes surrounding the issuing of permits under SIPS.

The Brisbane Airport Corporation has raised concerns about potential bird strike incidents to aircraft arriving or departing the airport. Juno Point and the northern bank of Serpentine fishery area extends towards the end of the Brisbane Airport. The permitted ways of taking fish involve the use of tunnel net fishing apparatus. This type of apparatus has a tendency to attract seabirds which are consequently creating a significant safety risk for aircraft in the airport.

The subordinate legislation amends the *Fisheries Regulation 2008* to achieve the following policy objectives:

- expand the SIPS to improve fish stocking;
- restrict the expansion of commercial fishing of freshwater fish to accommodate feedback on the RIS;
- streamline the administrative process of issuing Stocked Impoundment Permits by having Australia Post as a prescribed entity;
- reduce the risks of potential bird strike incidents on aircraft in Brisbane Airport; and
- make a number of minor amendments identified by the Office of the Queensland Parliamentary Counsel.

Achievement of policy objectives

The subordinate legislation introduces an additional 31 new impoundments under SIPS. These new impoundments have been assessed against specific eligibility criteria and consequently, deemed suitable for inclusion into the SIPS scheme.

Currently commercial activities for freshwater fish are limited to Commercial Eel and Juvenile Eel fisheries and broodstock collection for aquaculture through different permits issued by the chief executive. The proposed amendments will not impact on these existing arrangements but will remove the chief executive's capacity to issue new permits for the commercial fishing of freshwater fish to the exclusion of broodstock collection for aquaculture. Aquaculture breeders need access to broodstock from the wild for aquaculture hatcheries. Aquaculture hatcheries are facilities which supply seed stock to commercial aquaculture grow-out farms, the aquarium trade and fish stocking programs. The permits allowing for the Commercial Eel and Juvenile

Eel fisheries are limited entry meaning they cannot be sold by the existing holder or transferred onto a new licence.

The subordinate legislation will also remove the existing prescribed entities for issuing permits and introduce Australia Post as a prescribed entity for issuing permits. A number of the existing entities will continue to issue permits under agreements developed separately with Australia Post. This is aimed at streamlining the process for permit transactions and administrative arrangements.

The amendments will mitigate the risk of bird strike incidents by shifting the current fishery area away from the Brisbane Airport runway.

Lastly, the Office of the Queensland Parliamentary Counsel has identified the need for a minor correction to the Regulation. The correction will add the words 'the area of' where references to foreshore waters and tidal waters are made throughout the Regulation. This amendment does not make any changes to the substance of the affected provisions.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main purpose of the Act which is to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Given the common property nature of the resource and the operational characteristics of the freshwater fishery, the options to achieve the objectives considered under the Consultation RIS were relatively narrow. In all considerations, the option to remain with the status quo was given.

Two options were considered for expanding the number of impoundments under SIPS. These were the option to allow all impoundments, including weirs, to be assessed under relevant criteria for inclusion under SIPS and the option to allow all impoundments and the freshwater rivers east of the Great Dividing Range to be assessed for inclusion in SIPS.

Benefits and costs of implementation

A benefit of expanding the number of impoundments under SIPS is providing support and additional funding for the purchase of fingerlings by local community groups in the new impoundments. This will in turn help to ensure that fish stocks in those impoundments are adequately replenished. Including impoundments in the SIPS may also generate additional opportunities for local businesses as more fishers may visit the impoundment if it is stocked under the SIPS. Fish fingerling businesses will also benefit as there will be increased demand for native fish fingerlings. The potential additional regional benefits from expanding the SIPS are expected to equate to an additional \$122,000 in the first year and \$1.22 million over the first decade.

The inclusion of an impoundment in the SIPS will trigger the permit requirement. This means some fishers may need to pay to fish in impoundments that they currently fish for free. It is estimated that an additional 30,560 anglers will need permits over the first 10 years at a cost of \$734,000. The expansion of the SIPS will also generate additional administrative costs for government. The State Government will incur additional costs in administering the SIPS although these will be partially offset by its share of the additional permit revenue. It is estimated that under the current revenue sharing arrangements for the SIPS, the State Government will receive an additional \$18,000 in permit revenue in the first year and up to \$183,000 over 10 years to administer the scheme. There will also be additional costs for local authorities as they will need to ensure the car parks, boat ramps and other amenities around the fishing areas are properly maintained. Additional costs for fishing facilities are expected to amount to \$100,000 over 10 years.

The increase in fish stocking may also increase the risk of negative impacts on biodiversity and fish stocks. In particular, there is an increased risk of the loss of genetic diversity and adverse downstream impacts from fish escaping impoundments during overtopping events. These risks are limited, however, due to the controlled nature of the fish stocking under this option.

Restricting commercial fishing of freshwater fish will not have any negative impacts on current permit holders allowed to commercially fish freshwater fish. The restriction will ensure freshwater fish stock sustainability and commercial viability in an environment where highly variable water flows from one season to another and one year to another have a significant impact.

The benefits of having Australia Post issuing permits are various. Australia Post will bring its automated systems making the process more efficient and simplified. Australia Post also has an extensive network of outlets and agents. The proposed amendments will remove all other existing entities which are not government; however, some of those entities have made separate agreements with Australia Post to continue to issue the permits as Australia Post agents.

Regarding the new description for Juno Point and Serpentine Creek, the discussions held with the affected stakeholders determined that the proposed extension would have minimal impact upon recreational fishers. There will be some loss of opportunity to commercial fishing businesses because the proposal will result in tunnel net fishers operating in Moreton Bay losing access to a small area. However, industry representatives have indicated that the area historically has not been of significance to the industry. Also, the overall benefit to the community through mitigating the risk of a bird strike incident outweighs the small loss resulting from the amendment.

Consistency with fundamental legislative principles

The subordinate legislation does not raise any issues regarding fundamental legislative principles.

Consultation

The proposal for these amendments originated from a review of freshwater fisheries management arrangements in Queensland which commenced in 2011. At that time, a stakeholder-based working group was established and identified a range of issues. While some

of those issues have already been addressed by separate amendments to the Regulation in November 2014, other issues were deemed to be more complex and significant with the Office of Best Practice Regulation (OBPR) advising that they required a RIS. These issues are addressed in these amendments.

The Consultation RIS was open for public consultation between 18 December 2014 and 27 January 2015. The document was made available online at:

- www.daf.qld.gov.au
- www.getinvolved.qld.gov.au
- www.qca.org.au.

Key stakeholder groups were advised when the Consultation RIS was due for release. Media statements and Facebook posts were used to inform the general community that the RIS was available for comment. During the consultation period, Fisheries Queensland released four Facebook posts, four Twitter feeds, and two LinkedIn posts encouraging members of the public to provide comment on the Consultation RIS.

There were a total of 331 attempted responses to the Consultation RIS using the online survey tool. A number of responses were largely incomplete (contained only personal details) and others were duplicated. A total of 294 responses were suitable for subsequent analysis. Respondents were supportive of expanding the SIPS to include more water bodies and requiring all adults over 18 years of age to hold their own permit while 85 per cent of respondents opposed further expansion of freshwater commercial fishing.

In regard to the new description for Juno Point and Serpentine Creek, discussions were held with the Moreton Bay Seafood Industry Association representing tunnel net fishers in Moreton Bay and Sunfish Queensland representing recreational fishers.

The OBPR was consulted on all the proposed amendments. OBPR advised that the proposed amendments were considered to have been developed in accordance with regulatory best practice principles under the Treasurer's RIS system guidelines.