Queensland

Fisheries Legislation Amendment Regulation (No. 1) 2008

Regulatory Impact Statement for SL 2008 No. 431

made under the

Fisheries Act 1994

Combined Fisheries Management Regulatory Impact Statement and draft Public Benefit Test

Proposed amendments to:

Fisheries (East Coast Trawl) Management Plan 1999

Fisheries (Freshwater) Management Plan 1999

Fisheries Regulation 2008

July 2008

Have your say

You are invited to comment on the information presented in this Regulatory Impact Statement (RIS) and draft Public Benefit Test (PBT) on the combined fisheries management arrangements 2008.

A response form is available to provide comments. For a copy, visit the Department of Primary Industries and Fisheries (DPI&F) website at www.dpi.qld.gov.au/fishweb or call the DPI&F Business Information Centre on 13 25 23.

The closing date for comments is Wednesday 27 August, 2008

Send your response to:

Mail: Combined Fisheries Management Arrangements 2008 RIS Response

Department of Primary Industries and Fisheries
GPO Box 46
Brisbane Qld 4001

Fax: 07 3229 8146

Online: To submit your response online go to the DPI&F website at www.dpi.qld.gov.au/fishweb

Following the closing date, the state government will consider the issues raised and may consult further before developing a final position. A summary of the submissions received will be available on the DPI&F website.

For more information on the combined fisheries management arrangements visit www.dpi.qld.gov.au/fishweb or contact the DPI&F Business Information Centre on 13 25 23.

Contents

Acronyms

AIVR	Automated Interactive Voice Response System
CDR	Catch Disposal Record
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DPI&F	Department of Primary Industries and Fisheries
ECOTF	East Coast Otter Trawl Fishery
ECTF	East Coast Trawl Fishery
ECTRLF	East Coast Tropical Rock Lobster Fishery
ECTRLWG	East Coast Tropical Rock Lobster Working Group
EKP	Eastern king prawn
EPBC Act	*Environment Protection and Biodiversity Conservation Act 1999*
ESD	Ecologically sustainable development
FRDC	Fisheries Research Development Corporation
IFP	Indigenous Fishing Permit
ITQ	Individual transfer quota
MAC	Management Advisory Committee
MSY	Maximum sustainable yield
NCP	National Competition Policy
PBT	Public Benefit Test
PZJA	Protected Zone Joint Authority
QBFP	Queensland Boating and Fisheries Patrol
QSIA	Queensland Seafood Industry Association
QSMA	Queensland Seafood Marketers Association
RIS	Regulatory Impact Statement
SIP	Stocked Impoundment Permit
SMC	Square mesh codend
SRA	Scallop Replenishment Area
TAC	Total allowable catch
TED	Turtle exclusion device
The Act	*Fisheries Act 1994*
The Plan	*Fisheries (East Coast Trawl) Management Plan 1999*
TL	Total length
TRL	Tropical rock lobster
VMS	Vessel monitoring system
WTO	Wildlife trade operation

1 Introduction

This document represents a Regulatory Impact Statement (RIS) as well as a draft Public Benefit Test (PBT). Comments will be taken into account when finalising the PBT review report for the Minister for Primary Industries and Fisheries.

This section outlines the purpose and requirements for the Queensland Government in developing a RIS and PBT.

1.1 Purpose of this Regulatory Impact Statement

Under the *Statutory Instruments Act 1992*, if a proposed regulation is likely to impose appreciable costs on the community or part of the community, a RIS must be prepared before the regulation is made.

Costs are defined under the *Statutory Instruments Act 1992* as including:

- burdens and disadvantages
- direct and indirect economic, environmental and social costs.

A RIS is designed to determine whether or not a proposed regulation is the most efficient and effective way of achieving the desired policy objectives. It does this by providing a mechanism by which the government's policy deliberations are clearly documented and subject to public scrutiny.

This RIS explains the need for the proposed subordinate regulation and presents the likely benefits and costs.

Submissions are invited from the community, stakeholders and other interested parties on the proposals contained in this RIS. Guidelines on how to comment are available in the 'Have your say' section at the start of this document.

1.2 Purpose of the draft Public Benefit Test

The Queensland Government is a signatory to the Competition Principles Agreement which requires a Public Benefit Test for proposed new legislation or amendments to existing legislation that could restrict competition. The agreement's guiding principle is that legislation should not restrict competition unless it demonstrates that:

- the benefits of the restriction to the community as a whole outweigh the costs
- the objectives of the legislation can only be achieved by restricting competition.

Both criteria must be satisfied, and it must also be demonstrated that there are no less restrictive ways to obtain the desired outcomes.

In line with Queensland's commitment to the National Competition Policy (NCP), the information in this document forms the basis of a draft PBT. The information provided with each proposal outlined below will assist readers to assess the perceived benefits and costs of each proposed legislative amendment. Additional information is detailed in Attachment 1. The information below, supplemented with the results of stakeholder feedback, will be used to develop final management arrangements.

2 Overview

2.1 Developing fisheries laws

2.1.1 Authorising law

The proposed legislation will be made under the provisions of the *Fisheries Act 1994* (the Act). Sections 32 to 42 give the power to develop a management plan or regulation and prescribe what they can deal with.

2.1.2 Main purpose of the Act

The Act's main purpose is to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to:

a) apply and balance the principles of ecologically sustainable development
b) promote ecologically sustainable development.

The principles of ecologically sustainable development (ESD) referred to above include issues such as intergenerational equity, the precautionary principle, protection of biodiversity and the enhancement of social and community wellbeing. The Act also gives the Department of Primary Industries and Fisheries (DPI&F) Chief Executive a range of powers to manage Queensland's fish stocks. Under the Act, subordinate legislation in the form of management plans and regulations have been implemented to ensure these objectives are achieved.

Through monitoring, research and consulting with a wide range of stakeholders, subordinate legislation is periodically amended to continue to meet the Act's objectives and to effectively administer the legislation.

2.1.3 Policy objectives

The proposals contained in this document cover a range of issues in a number of Queensland fisheries. Each proposal has a different policy objective depending on the fishery and the issue. While the specific policy objectives for each proposal are detailed below, they must also be consistent with the Act's objectives.

2.2 Consistency with legislative requirements

2.2.1 Legislative intent

The proposed legislative changes and new management arrangements detailed in this RIS and draft PBT are consistent with the Act's objectives.

2.2.2 Consistency with authorising law

Implementing the proposed amendments will also achieve the Act's objectives.

2.2.3 Consistency with other legislation

The proposed legislation is consistent with the policy objectives of other legislation. Many of the proposals included in this RIS and draft PBT are direct recommendations associated with export approvals granted under the *Environment Protection and Biodiversity and Conservation Act 1999* (EPBC Act).

2.2.4 Consistency with fundamental legislative principles

The regulatory amendments proposed in this document have sufficient regard to the rights and liberties of individuals and the institution of Parliament and are consistent with the fundamental legislative principles outlined in the *Legislative Standards Act 1992*.

The proposed regulatory amendments do not extinguish native title rights for traditional owners under the *Native Title Act 1993* to take, use or keep fisheries resources in accordance with Aboriginal tradition or under Torres Strait Islander custom.

2.3 Other considerations

Where possible, the Queensland Government is moving towards a less regulatory environment. In looking at options and alternatives for the issues raised in this process, a number of alternatives to legislation are available including:

- voluntary codes of practice
- compulsory codes of practice
- environmental management systems
- licence conditions
- permits.

A number of these alternatives were considered when developing this RIS. Further consideration will be needed for:

- their practicality and or enforceability
- whether any of these options, if implemented, would sufficiently meet the objectives of the Act
- whether they will effectively meet the policy objectives.

Any other alternatives proposed in the RIS process will be considered according to the criteria above. For some proposals it is likely the only alternatives will be through legislative amendments to ensure the fishery's continued sustainability. Not doing this is likely to place these fisheries in a high risk category.

2.4 Developing proposals

The following proposals in the RIS and draft PBT have been suggested as amendments to subordinate legislation under the Act. Some of the amendments are minor while others are more comprehensive.

2.4.1 Stakeholder involvement

The proposals have been developed following the traditional consultation process for fisheries management in Queensland (refer to Figure 1) and are the result of stakeholder and/or fisheries Management Advisory Committee (MAC) meetings.

MAC membership includes an independent chairperson, DPI&F fishery managers and representatives from the commercial and recreational fishing sectors, seafood marketers, conservation groups, scientists, enforcement officers and other agencies interested in fisheries issues. If there are no Indigenous stakeholders on a MAC, their input will be sought through other consultation mechanisms.

The following organisations were also consulted in developing the RIS and draft PBT proposals:

- the Queensland Seafood Industry Association (QSIA), the industry's peak representative body
- Sunfish Queensland, the State's peak recreational fishing body
- Queensland Seafood Marketers Association (QSMA) which consists of 45 of the State's larger seafood processing and marketing companies.

As the proposals in this RIS and draft PBT relate to several different fisheries, the consultation level varies with each proposal. More details are provided throughout the document.

2.5 Timing of implementation

The proposals in this RIS and draft PBT have been developed with specific timeframes associated with their implementation. In some cases this includes a defined phase-in period to minimise the impact on stakeholders. The proposal to extend the Scallop Replenishment Area dates (Proposal 1) is a high priority issue for DPI&F as the existing legislation expires in September 2008. As such the legislation needs to be remade by 1 November 2008 to ensure sustainability of the saucer scallop stocks and this may be progressed ahead of other proposals.

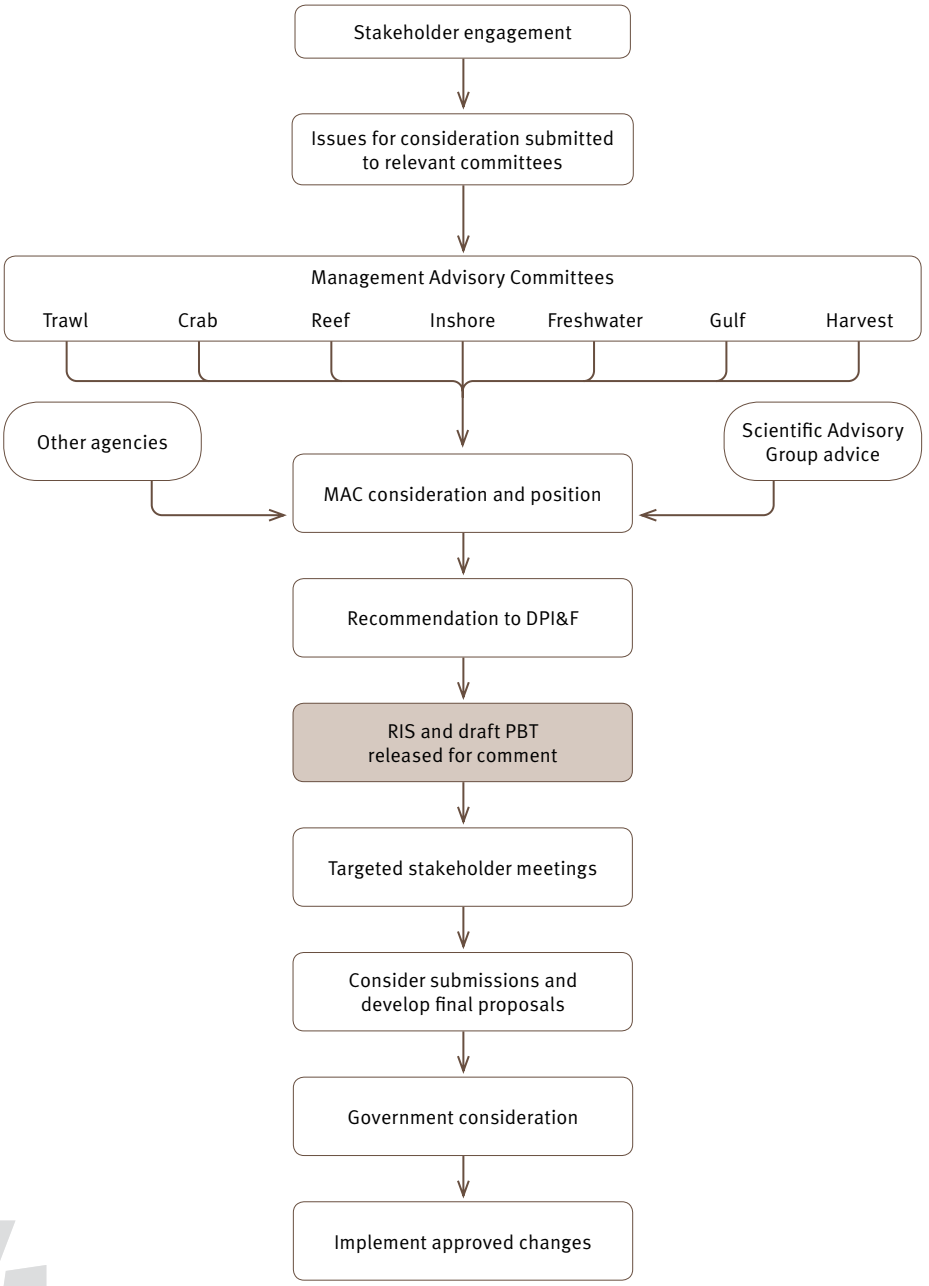

Figure 1: Consultation process for developing new law. Note the highlighted step illustrates the current stage of the process.

2.6 Summary of proposed changes

East Coast Otter Trawl Fishery (ECOTF)

1. Extend the expiry date of the Scallop Replenishment Areas (SRAs) by a further four years, shortening the time the areas are open from 2009 and opening the areas at midday 3 January each year (Proposal 1).
2. Phase-in 45 mm mesh nets (Proposal 2).
3. Phase-in a new turtle exclusion device (TED) definition (Proposal 3).
4. Phase-in square mesh codends (SMC) in the Saucer Scallop Fishery (Proposal 4).
5. Restrict the length of nets that can be used in three bays near Cairns and Innisfail (Proposal 5).
6. Close the Eastern King Prawn (EKP) Fishery for one week in May, June and July (Proposal 6).
7. Introduce a new closure for North Reef (Proposal 7).
8. Amend the northern closure to include the Swain Reefs and Hydrographers Passage and allow scallop nets to be used in the area from 15 January to 21 February each year (Proposal 8).

Finfish (Stout Whiting) Trawl Fishery (FTF)

9. Close the FTF from midday 20 September to midday 1 November each year (Proposal 9).

East Coast Tropical Rock Lobster Fishery (ECTRLF)

10. Set a commercial total allowable catch (TAC) for the ECTRLF at 181 tonnes and set aside an additional five tonnes of tropical rock lobster (TRL) for Indigenous communities to take commercially under an Indigenous Fishing Permit (IFP) (Proposal 10).
11. Allocate individual transferable quota (ITQ) for the ECTRLF (Proposal 11).
12. Allow transhipment of TRL taken under the same quota holding (Proposal 12).
13. Introduce licence fees for quota units and remove licence fees for the ECTRLF symbol (Proposal 13).
14. Introduce prior, transhipment and unload notices to monitor commercial ITQs (Proposal 14).
15. Introduce documentation requirements to track whole-of-distribution chain of commercially caught TRL (Proposal 15).

Crab fisheries

16. Phase-out inverted dillies in crab fisheries (Proposal 16).
17. Extend the closed season for spanner crabs to 3 January each year (Proposal 17).

Freshwater fisheries

18. New impoundments added to the list of dams on the Stocked Impoundment Permit Scheme (Proposal 18).

Note: This document provides specific details for each nominated proposal including any alternatives that were considered and the impacts of these proposals.

3 Trawl fisheries

3.1 East Coast Otter Trawl Fishery

Proposal 1

Extend the SRA expiry dates by a further four years from 2008 to 2011. It is also proposed to shorten the time that SRAs are open from 2009 and to open the areas at midday 3 January each year.

Table 1: Proposed SRA opening and closing dates

SRA	Open	Closed
Yeppoon A	3 Jan 2009	3 April 2009
	3 Jan 2011	3 April 2011
Yeppoon B	3 Jan 2008	20 Sept 2008
	3 Jan 2010	3 April 2010
Bustard Head A	3 Jan 2009	3 April 2009
	3 Jan 2011	3 April 2011
Bustard Head B	3 Jan 2008	20 Sept 2008
	3 Jan 2010	3 April 2010
Hervey Bay A	3 Jan 2009	3 April 2009
	3 Jan 2011	3 April 2011
Hervey Bay B	3 Jan 2008	20 Sept 2008
	3 Jan 2010	3 April 2010

Background/rationale

SRAs are large rotational closures introduced as a precautionary management tool to protect a proportion of the saucer scallop stock from fishing. Alternative harvest strategies for saucer scallop are currently being researched and assessed through a Fisheries Research Development Corporation (FRDC) project. Extending the expiry date of the SRAs will allow the research to be completed and the project's final report to be fully assessed.

The second half of the proposal to shorten the SRA opening times from 2009 onwards is in response to an industry request and will provide additional protection to spat (juvenile scallops) and undersize scallop.

Options and alternatives considered

a) **To remove the SRAs immediately**
This proposal was not supported as SRAs provide some protection for saucer scallop stock and ensure the resource is efficiently harvested.
The Queensland Seafood Marketers Association supported removing all SRAs to ensure a continued market supply and reduce the pulse fishing that occurs when the areas open.

b) **To replace the existing SRAs with a rotational harvest of multiple closure areas that open at regular but offset periods across regions**
Information is not currently available to allow the scheme to be implemented. However, the current FRDC project is investigating this type of management approach.

c) **Not to shorten the time SRAs are open from nine months to three**
This proposal does not protect spat and undersize scallop.

Benefits and costs

Industry

Operators understand the existing system which allows the resource to be efficiently harvested. Fishers who have previously fished the whole nine-month opening will not be able to source product from the areas and may need to adjust their fishing accordingly. However, the majority of saucer scallop is typically harvested from the SRA in the first two to four weeks of opening.

It is expected the SRA openings will provide additional protection to spat and undersize scallop and benefit scallop productivity.

Sustainability/environment

The resource will continue to benefit from the SRAs. Shortening the time the SRAs are open will provide additional protection to spat and undersize scallop.

DPI&F

No additional ongoing costs are anticipated for DPI&F.

Proposal 2

Amend the current minimum mesh size of 38 mm to 45 mm for nets used under T1, T2, M1 and M2 fishery symbols with a two year phase-in period.

Background/rationale

The current minimum mesh size is 38 mm in the southern part of the ECOTF and 45 mm in the north. This proposal will standardise mesh size throughout the fishery and reduce fishing pressure on juvenile EKP in line with scientific recommendations. The proposal will also provide greater protection to non-target species.

Options and alternatives considered

a) **To retain the minimum 38 mm mesh size for otter trawlers in the southern area of the fishery**
This proposal does not provide a measured response to the need to reduce fishing pressure on juvenile EKP and maintaining two mesh size restrictions along the east coast is considered too complex.

b) **A longer phase-in of the regulations**
Feedback from industry representatives indicates a phase-in period over two years would be adequate.

Benefits and costs

Industry

There may be short-term costs to industry as operators are required to replace their nets. The cost of a standard net[1] can range between $1000 and $4000, depending on the net type and supplier. Nets typically last between 12 months and two years. However, the phase-in period will reduce the short-term industry impacts.

Operators who target smaller prawns for the bait market may experience reduced catch rates but this proposal is designed to protect prawns in this size range.

Manufacturers

Anecdotal evidence indicates that a large proportion of commercial otter trawl operators are currently using nets with a mesh size of 45 mm or larger. Under this proposal, river and inshore beam trawl operators will still be permitted to use 38 mm mesh nets. Combined with the two year phase-in period, this should minimise any costs to manufacturers who import and supply nets to the trawl industry as they will be able to adjust their business operations to match demand.

Sustainability/environment

The larger mesh size will exclude a greater proportion of juvenile EKP which will benefit the stock.

DPI&F

No additional ongoing costs are anticipated for DPI&F.

1 This is based on a 7 fathom net with 2 inch mesh and 24 ply with no codend or TED.

Proposal 3

Provide a more detailed TED definition which is to be phased in over a 12-month period.

The definition would include the following:

- TEDs are to have a minimum grid size of 80 cm by 80 cm in the horizontal axis and vertical axis.
- TEDs are to be rigidly constructed with a maximum 12 cm bar spacing. No hinges will be allowed in the TED and it must be sewn into the net. No quick release ties will be permitted.
- The TED installation is to be at a 30 to 55 degree angle.
- If using a bottom opening TED, two floats of at least 100 mm diameter must be used.
- The minimum size of the escape hole is to be 80 cm across the TED and then extending forward 100 cm from the central point of the TED or extending 50 cm from both edges of the TED.
- For the flap design covering hole, one of the following configurations must be used:
  - a single flap which may overlap the side of the exit hole, cut by a maximum of 12 cm on either side of the grid. It must measure at least 100 cm in horizontal taut length along the top of the grid and have a perpendicular measure of at least 40 cm in vertical taut height from the mid-point of the grid's width. It may extend a maximum of 61 cm past the posterior edge of the grid and the side of the flap may be sewn down a maximum of 15 cm past the posterior edge.
  - a double flap with flap sections not overlapping by more than 38 cm. Sections may overlap the escape hole cut by a maximum of 12 cm on each side of the grid and may extend a maximum of 61 cm past the posterior edge of the grid. Each side of the flap may be sewn down a maximum of 15 cm past the posterior edge.

Background/rationale

Changing the TED definition will standardise the design, increase the effectiveness of releasing marine turtles and other large animals occasionally caught in trawl nets and help the fishery gain access to United States' export markets.

Options and alternatives considered

a) Not to change the TED definition
This proposal was not supported as the existing TED definition is considered inadequate for providing maximum protection for turtles and other large animals. It would not achieve the standard required for export accreditation to United States' markets.

b) Not to introduce a specified grid angle for TEDs
This proposal was not supported as steeper grid angles are not considered appropriate. Recent testing has shown that TEDs at steeper angles do not effectively exclude turtles from nets.

Benefits and costs

Industry

The start date for the proposed TED amendments will be 12 months after this RIS is released. DPI&F has actively encouraged operators to adopt the proposed TED design since 2004.

It is anticipated that to retrofit a TED the costs could be as low as $40 for each net. Some fishers may have eight to ten nets per licence. Where a new TED needs to be installed and/or modified to conform to the new requirements, the costs could be increased to $400. However, the phase-in period will minimise any associated financial impacts on industry while still increasing the protection for turtles and other large animals.

There should be financial benefits for industry once the regulations are in place as operators will be able to export to the United States.

Sustainability/environment

Rigorous testing in the United States demonstrates that the proposed TEDs are the most efficient at excluding turtles and other large animals unharmed from trawl nets.

DPI&F

No additional ongoing costs are anticipated for DPI&F.

Proposal 4

Phase-in over two years a requirement to use square mesh codends (SMC) in the Saucer Scallop Fishery.

The SMCs will be subject to the following specifications:

- a minimum mesh size of 90 mm (inside knot to inside knot) set so the mesh is held open (square) when in use
- a minimum length of 40 meshes excluding the additional meshes for the drawstring attachment section
- a minimum circumference of 50 meshes round
- The SMC must have an additional drawstring section attached behind the square mesh. The mesh used in the drawstring section can be attached as diamond mesh or as square mesh but cannot exceed 12 meshes in length. The mesh size used in the drawstring section should not exceed 90 mm inside knot to inside knot.

Background/rationale

A recent study has found that a trawl net using a SMC and TED effectively reduce bycatch rates by up to 77 per cent and the catch of undersized scallops by 63 per cent with minimal loss of marketable scallop catch. The benefits for the saucer scallop stock and the reduced impact on non-target species cannot be ignored.

Options and alternatives considered

To continue with the current arrangement

This proposal did not provide any clear benefits to saucer scallop stock and non-target species.

Benefits and costs

Industry

It is anticipated the proposal would have an impact on some operators who will need to replace or amend existing equipment. A SMC can cost up to two times that of a standard codend which is typically around $200. However, the phase-in will ease the financial burden on industry.

It is also anticipated there will be some additional costs from using the SMC such as a decline in the catch of bugs which some operators also legally target and sell whilst fishing on scallop grounds.

It is expected the SMC will benefit productivity, which will benefit operators in following years.

Sustainability/environment

A SMC is proven to be the most effective bycatch reduction device for the Saucer Scallop Fishery. As a result, this proposal will benefit the general ecosystem and reduce the overall impact of the fishery on non-target species while also reducing the fishing mortality on undersized saucer scallops.

DPI&F

No additional ongoing costs are anticipated for DPI&F.

Proposal 5

Restrict the length of nets that can be used in three bays near Cairns and Innisfail (Figure 2).

In the Gordonvale and Bramston Beach areas the following restrictions would apply:

- nets no longer than 19.5 m from midday 1 July to midday 1 March
- nets no longer than 39 m in length for the remainder of the year.

In the Etty Bay area, nets no longer than 19.5 m would be used all year round.

Boats holding an order for broodstock from a registered aquaculture hatchery would have different net restrictions. They would be allowed to use nets up to 88 m in the areas until the order was filled.

Background/rationale

Black tiger prawns (*Penaeus monodon*) are the main aquaculture species in Australia. They are mainly caught as bycatch in the trawl fishery while targeting other prawn species. Logistical obstacles and restrictions on transporting live animals across some state borders have resulted in the aquaculture sectors' broodstock needs mostly being met by a few specialist trawlers operating in north Queensland.

Bays near Cairns and Innisfail are important to the aquaculture industry. They are some of the only inshore areas in Queensland that have a reliable broodstock supply and remain open to trawlers using 88 m of net. The broodstock in those areas are vulnerable to fishing pressure. Advice from the aquaculture industry has identified Etty Bay as the most important of the three bays for broodstock collection.

Black tiger prawn broodstock are naturally low in spring and summer when the aquaculture industry needs them most. Trawlers targeting other species in these areas during autumn and winter inevitably catch the broodstock as bycatch, reducing the potential for their capture later in the year.

The proposals were negotiated at a meeting between representatives from the commercial, broodstock collection and aquaculture industries in 2006.

Options and alternatives considered

a) To introduce the same arrangements (no longer than 19.5 m from 1 July to 1 March and no longer than 39 m for the remainder of the year) in all three areas with access also provided to boats using nets up to 88 m long if they have an order from an aquaculture hatchery
This alternative does not provide the level of protection to black tiger prawns that the preferred proposal achieves.

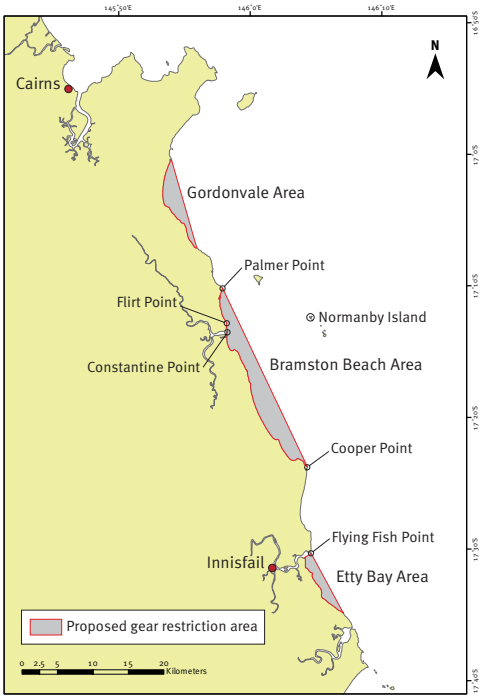

Figure 2: Proposed gear restriction areas

b) Not to introduce gear restrictions in the identified areas
This proposal provides no protection for black tiger prawns and the aquaculture industry.

c) Non-legislative arrangement
Previous attempts to implement a code-of-practice have been unsuccessful. The bays are known to be productive banana prawn grounds and because of this, boats from outside the agreement travel to fish in those waters.

Benefits and costs

Industry

Unfortunately the available data is limited so an assessment could only be made of the wider inshore regions between Cairns and Innisfail that include the three bays in question.

The analysis showed the proposal will potentially affect a small number of licence holders. Boats that access the inshore region between Innisfail and Cairns tend to stay there for a relatively short time with catches varying depending on seasonal rainfall.

Between 2004 and 2006 about 20 to 30 boats fished in the inshore areas for more than 21 days. However, some of these boats may have never fished in the bays and will not be affected.

The inefficiency of small nets may affect operators who have previously fished in the three bays. Larger boats are also more likely to be affected.

These impacts will be reduced by allowing boats to use up to 39 m of net during March, April, May and June when prawn catches are at their highest.

The impacts will be further offset by allowing up to 88 m of net to be used if an operator has an order from an aquaculture hatchery. Operators would need to apply for a permit from DPI&F that would attract the $250 general fisheries permit fee. Any target and permitted species caught incidentally under the permit while collecting broodstock will be able to be retained.

Aquaculture/broodstock collection industries

The proposal is expected to benefit both the aquaculture and broodstock collection industries. Reduced incidental fishing mortality on black tiger prawn broodstock should result in a higher proportion of black tiger prawns being available for broodstock.

DPI&F

No additional ongoing costs are anticipated for DPI&F.

Proposal 6

Introduce three, one-week trawl closures in the deepwater net area and three, one-week trawl closures in the shallow water south of Sandy Cape in May, June and July.

Closures in the shallow and deepwater areas will be set at different times of the moon phase so the fishery can be accessed throughout the period. This is illustrated in Table 2 below.

Table 2: Proposed shallow and deepwater closures

Shallow water closures
Midday 6 May to midday 12 May 2009
Midday 5 June to midday 11 June 2009
Midday 4 July to midday 10 July 2009
Midday 24 May to midday 30 May 2010
Midday 23 June to midday 29 June 2010
Midday 23 July to midday 29 July 2010
Midday 14 May to midday 20 May 2011
Midday 13 June to midday 19 June 2011
Midday 12 July to midday 18 July 2011
Deepwater closures
Midday 12 May to midday 19 May 2009
Midday 11 June to midday 18 June 2009
Midday 10 July to midday 17 July 2009
Midday 1 May to midday 8 May 2010
Midday 30 May to midday 7 June 2010
Midday 29 June to midday 6 July 2010
Midday 20 April to midday 27 May 2011
Midday 19 May to midday 26 June 2011
Midday 18 June to midday 25 July 2011

Background/rationale

Current scientific advice indicates that fishing pressure on EKP stocks needs to be reduced. Trawling in the deepwater net area where the majority of spawning occurs, is not currently subject to any closure periods. Trawl operators are able to use up to 184 m of net and operate 24 hours a day year-round, subject to holding adequate quota. The shallow water fishery is currently subject to the southern closure between 20 September and 1 November. There are also a number of permanent inshore closures that protect juvenile EKP.

The proposed closure periods will protect spawning EKP and should increase stocks. They are also likely to reduce total effort in the fishery.

The proposed measures are seen as a balanced and reasonable way of addressing the concerns about excess fishing effort while allowing the resource to still be accessed.

Options and alternatives considered

a) To retain the existing arrangements
Retaining the existing arrangements does not address concerns about the level of fishing effort in this sector of the trawl fishery.

b) Implement a reduced number of days per calendar month per boat limit in the deepwater net area and shallow water area south of Sandy Cape
This option was not supported as:
- It is significantly more complicated than the preferred proposal and would require increased costs to ensure it operated effectively.
- Trawlers would be limited to a specified number of days each month in the area, significantly reducing each operator's choice.
- It is likely that fishers who normally operate in the deepwater net area would transfer their effort to the shallow water.

c) To introduce the proposed closures but restrict operators to working in either the shallow water area or deepwater net area only during May, June and July
This option was not supported as:
- It is significantly more complicated than the preferred proposal and would require increased costs to operate effectively.
- Trawlers would be limited to a specified number of days each month significantly reducing their flexibility.

d) To introduce a closure to the deepwater net area at a different time of year
Options considered included closing the deepwater area from 20 September to 1 November and a closure in early January. However, this would not sufficiently protect EKP as spawning stock in deepwater during these times is limited and effort is already low.

e) To reduce the length of net that can be used in the deepwater net area
This option significantly reduces fishing efficiency at a time when operators are trying to maintain profitability.

Benefits and costs

Industry

The proposed closures from May to July total 42 days. There are currently 145 fishers targeting EKP. It is expected that they will be affected by closing the areas they normally work. While the proposal has been designed to allow boats to work the whole month if they choose, this may not occur given the practical restrictions of moving between shallow water areas and the deepwater net area.

It is anticipated that fishers who predominantly fish the deepwater areas will be most affected as smaller nets must be used in the shallow water and catches in the shallow water area are generally lower than in the deepwater area between May and July. Any movement from the shallow water to deepwater area will be restricted by boat size and weather.

The long-term benefits from these arrangements will mean greater sustainability for EKP stocks and should result in greater catch rates.

Sustainability/environment

The proposal will reduce fishing pressure on EKP stocks and this enhanced protection should ensure sustainability of the fishery.

DPI&F

There may be additional enforcement costs associated with the proposed one-week closures depending on the compliance level, which will be monitored primarily via VMS.

Proposal 7

Introduce a new seasonal closure in the North Reef area from midday 1 October to midday 1 March each year.

The new closure area will include waters within the following boundary (Figure 3):

- from latitude 22˚34.38' south, longitude 151˚56.04' east

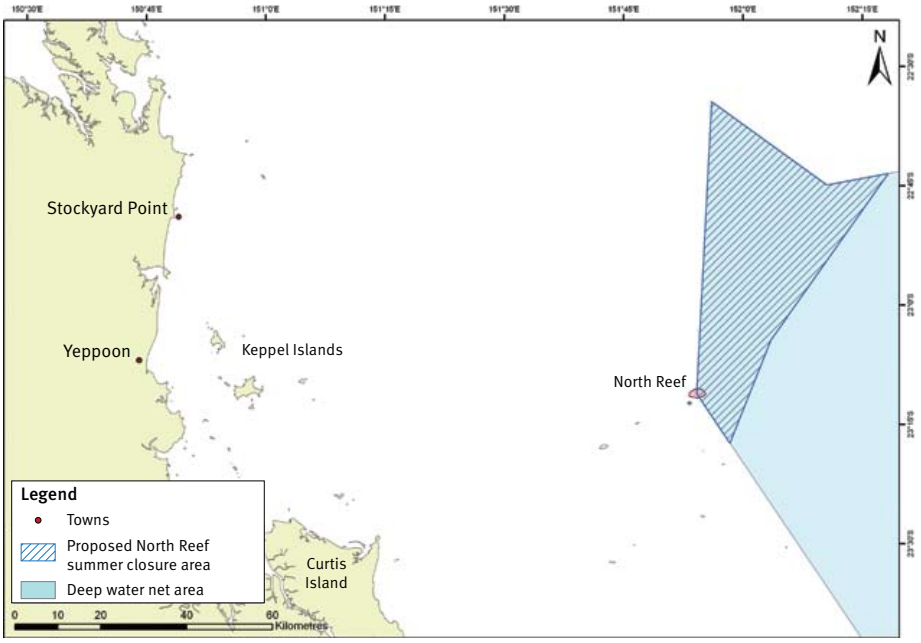

Figure 3: Proposed North Reef seasonal closure area

- to latitude 22˚44.88' south, longitude 152˚10.56' east
- to latitude 22˚43.44' south, longitude 152˚18.24' east
- to latitude 23˚04.38' south, longitude 152˚03.48' east
- to latitude 23˚17.34' south, longitude 151˚58.38' east
- to latitude 23˚11.10' south, longitude 151˚54.18' east
- to latitude 22˚34.38' south, longitude 151˚56.04' east.

Background/rationale

The EKP Fishery is currently subject to a variety of closures in shallow waters including a closure from 20 September to 1 November and a range of smaller localised seasonal and permanent closures.

The deepwater net area to the north of Sandy Cape is valuable to industry with significant catches of large EKP taken each year. The proposed closure has been identified as a region in the deepwater net area where smaller adult EKP are found during summer months.

This closure aims to improve the fishery's value by allowing the prawns in the area to grow to a larger size before capture. The proposed closure should also improve the fishery's sustainability by protecting young adult prawns leading up to peak spawning periods.

Options and alternatives considered

Not to introduce a new summer closure area at North Reef

Industry advice is that the closure will increase the catch value and protect young adult prawns.

Benefits and costs

Industry

The proposed closure is designed to prevent prawns being captured until they can return a higher value to fishers. Some trawl operators have historically taken significant quantities of EKP from the area during the proposed closure period. The closure will only affect those operators fishing in the closure area. All other parts of the deepwater net area will remain open.

Industry is expected to benefit through an increased value in the prawn catch due to the higher value of larger prawns, which will be caught once the area opens.

The closure is not expected to bring any supply concerns as all other parts of the deepwater net area will remain open.

Sustainability/environment

The proposed closure will protect young adult stocks in the lead up to peak spawning periods and improve the fishery's sustainability.

DPI&F

There may be additional enforcement costs associated with the proposed closure depending on the compliance level which will be monitored primarily via VMS.

Proposal 8

Amend the northern closure to include the Swain Reefs and Hydrographers Passage and allow scallop nets to be used in the area from 15 January to 21 February each year.

Operators who are not sitting out the northern closure from midday 15 December to midday 1 March will be exempt from the proposed closure which runs from midday 15 January and midday 21 February. It allows the use of up to 109 m of trawl net with a mesh size of at least 75 mm and a SMC that has:

- a minimum mesh size of 90 mm (inside knot to inside knot)
- a minimum length of 40 meshes, excluding the additional meshes for the drawstring attachment section
- a minimum circumference of 50 meshes round

The SMC must have an additional drawstring section attached behind the square mesh. The mesh used in the drawstring section can be attached as diamond mesh or as square mesh but cannot exceed 12 meshes in length. The mesh size used in the drawstring section should not exceed 90 mm inside knot to inside knot.

Background/rationale

Different product is caught at different times of the year from the Swain Reefs and Hydrographers Passage area. Saucer scallops can be harvested during the summer months and red spot king prawns during autumn and winter. Currently, it is closed to all trawling for 11 weeks each year from midday 15 December to midday 1 March with no preferred access period.

The current closure results in a significant economic loss of saucer scallop harvest from the area with poor quality scallops typically found in the area before midday 15 December and after midday 1 March. Allowing harvest from midday 15 January to midday 21 February will maximise the saucer scallop value in the area and provide a benefit to those operators sitting out the northern closure who will have preferred access to the northern closure area from midday 1 March. This will allow exclusive access to the red spot king prawns in the area. It will also prevent any boats that had worked to the south of the northern closure, or boats that had accessed the Swain Reefs and Hydrographers Passage area between midday 15 January and midday 21 February, from entering the area until midday 14 May.

The proposal allows both prawn and scallop operators access to the Swain Reefs and Hydrographers Passage area during the periods that will deliver maximum economic benefit without impacting on the other operators.

Options and alternatives considered

a) To retain the existing arrangements
This proposal would not address the significant loss of saucer scallop value.

b) To adopt the proposal but start the Swain Reefs and Hydrographers Passage closure on midday 1 November rather than midday 15 December

This would prevent low value scallop from being harvested before the start of the closure but further debate on the merits of this proposal is required.

c) **To adopt the proposal but allow fishers sitting out the northern closure to fish in the Swain Reefs and Hydrographers Passage area only without losing the right to access the preferred access period**
This proposal is not equitable for trawl operators and would be administratively complex to run and enforce.

Benefits and costs

Industry

The proposal is a balanced outcome between trawlers based in the north and the south. More secure access will be provided to northern prawn fishers while southern operators will gain access to saucer scallops when the resource should be harvested for maximum economic return.

Southern operators who previously targeted scallops and red spot king prawn when the Swain Reefs and Hydrographers Passage closure ended at midday 1 March will be impacted. However, these operators can choose to target scallop during the exemption period from midday 15 January to midday 21 February and continue to fish in the south until they can enter the northern area from midday 14 May.

DPI&F

No additional ongoing costs are anticipated for DPI&F.

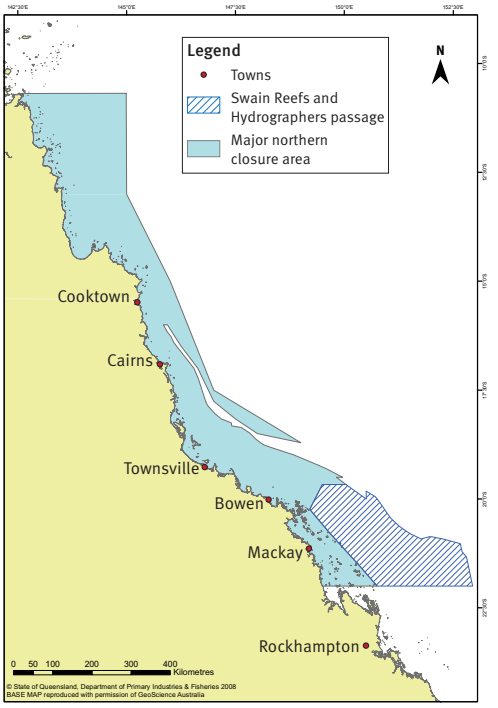

Figure 4: Proposed Swain Reefs and Hydrographers Passage area

3.2 Finfish (Stout Whiting) Trawl Fishery

Proposal 9

Close the FTF from midday 20 September to midday 1 November each year.

Background/rationale

The FTF currently operates under a co-management model. The small number of licences (five) and the restricted area they work has meant that fishery managers and scientists have been able to work closely with the licence holders to develop a number of voluntary arrangements in addition to the core management arrangements that are found in the regulation. The core management arrangements include the:

- fishery area
- apparatus that can be used
- species that can be caught
- fishing season, designed to protect spawning fish.

Recent scientific advice is that the stout whiting spawning period runs from September to December with a peak for both sexes in October[2]. However, the current legislated fishing season means the fishery is only closed from 1 January to 31 March which does not protect spawning fish.

Coincidentally, operators in the FTF have voluntarily agreed not to fish from 20 September to 1 November each year to reduce conflict with the ECOTF. The FTF area exists wholly within the southern area[3] of the ECOTF which is closed from midday 20 September to midday 1 November each year. However, a voluntary agreement is no longer the preferred management approach, given the risks to:

- sustainability of the stout whiting stock if fishing did occur from 20 September to 1 November; and
- the threat to the relationship between the FTF, the ECOTF and other resource users if fishing did occur.

The proposal will gain the required certainty to ensure the spawning stock is protected, one of the core management arrangements and allow a review of the existing FTF fishing season and the current closure under the co-management model.

Under the three-year Wildlife Trade Operation (WTO) export approval granted to the FTF under the EPBC Act on 21 November 2008, the Queensland Government has committed to review the current closures to ensure stout whiting is protected during the peak spawning period. This proposal will address that recommendation.

Options and alternatives considered

Continue to use a voluntary agreement to close the fishery

Continuing the voluntary agreement is not the preferred option. Given the recent scientific advice indicating that the peak spawning period for both sexes is October, the voluntary nature of this alternative does not guarantee that all operators will stop fishing, which would pose a high risk to fish stocks. Apart from an emergency fishery declaration, there is no legal recourse should an operator decide to fish at this time.

Given the benefits of the proposed closure to stout whiting stock and to the fishery's interactions with the ECOTF, regulating the closure and subsequently reviewing the existing fishing season and closure was considered a more appropriate approach.

Benefits and costs

Industry

No significant impacts are expected for industry as the current fishery practice, to date, has been to voluntarily stop operating during the proposed closure period. There may be a minor impact on new operators who would be unable to fish during the closure. However, the FTF is a limited entry fishery and any new entrant would be buying out an existing licence holder.

General public

Given operators currently stop operating voluntarily during the proposed closure period, there will be no flow-on costs to the consumer.

Sustainability/environment

Legislating the proposed closure will guarantee stock protection during the peak spawning period.

DPI&F

No additional costs are expected for DPI&F.

2 O'Sullivan, S., Jebreen, E., Leigh, G. and O'Neill, M. (2005). *Fisheries Long Term Monitoring Program—Stout Whiting Report: 1991–2004*. Department of Primary Industries and Fisheries, Brisbane, Australia.

3 Closed waters are defined in schedule 3, section 1 of the Fisheries (East Coast Trawl) Management Plan 1999.

4 East Coast Tropical Rock Lobster Fishery

Fishery description

ECTRLF area

The commercial fishery area comprises the following tidal waters:

- waters east of longitude 142°31'49" East (Cape York), south of latitude 10°41' south (Cape York) and north of latitude 14° South (approximately Cape Melville)
- waters of the Gulf of Carpentaria and adjoining waterways between the 25 nm line and the shore, south of latitude 10°48' South (approximately Possession Island).

Commercial catches in the fishery's Gulf of Carpentaria section are considered negligible compared with recorded catches from the east coast.

Target species

The tropical rock lobster (*Panulirus ornatus*) is the ECTRLF major target species and is distributed throughout most of Queensland, the Torres Strait and Papua New Guinea (PNG). Six other tropical rock lobster (TRL) species are found in Queensland waters. However, they are far less abundant and contribute only marginally to the total commercial catch.

North-east Queensland, PNG and the Torres Straits share a single TRL stock. Oceanographic modelling undertaken as part of a FRDC project[4] indicates these are all likely to be source areas for rock lobster larvae.

Fishing method

Unlike southern rock lobster, TRL cannot be caught using a pot. TRL are commercially collected by divers using hand spears, spear guns and hand-held, non-mechanical implements such as noose rods or with gloved hands. Divers fish from tenders up to 7 m long that operate from mother ships up to 20 m long. Most fishing is conducted in reef-top waters in depths greater than 5 m. Divers are also more commonly using surface-supplied air from hookah equipment.

Resource concerns

There is potential for significant expansion of commercial fishing effort on the east coast which may be exacerbated by a buyout of Torres Strait TRL licences in late 2007. A recent stock assessment indicates that increases in catch and effort on the east coast may not be sustainable and are unlikely to provide maximum economic benefit to the commercial fishing sector.

An investment and effort increase warning (investment warning) was released for the fishery on 31 May 2001 in response to early concerns about increasing annual catch and effort. Since then, the total fishery catch and effort have continued to expand.

Historically, the majority of east coast licences have also been endorsed to fish in the Torres Strait TRL Fishery. The Torres Strait TRL Fishery is more productive than the ECTRLF. Total annual catches from the Torres Strait exceeded 890 tonnes in 2005 compared with the maximum ECTRLF catch of approximately 230 tonnes in 2007. The large number of dual endorsements has meant the fleet is highly mobile, moving in response to differences in catch rates in the two fisheries.

In late 2007, the Protected Zone Joint Authority (PZJA), which manages the Torres Strait TRL Fishery, purchased the Torres Strait licence for 10 dual-licensed vessels. The PZJA is also intending to implement a quota management system in 2009. These Torres Strait management arrangements could see effort transferred to the ECTRLF if there are no complementary arrangements in place. Effort could be transferred by previously dual-licensed vessels continuing to hold ECTRLF entitlements and the remaining dual-licensed vessels operating under Torres Strait quota, transferring effort to the east coast if their Torres Strait quota allocations are below their operating potential.

An equilibrium model stock assessment including commercial catch and effort data up to and including 2007 has been conducted which estimates the maximum sustainable yield (MSY) at approximately 241 tonnes.

4 Pitcher, C. R., Turnbull, C., Atfield, J., Griffin, D., Dennis, D. M., Skewes, T. D. (2005). Biology, larval transport modeling and commercial logbook data analysis to support management of the NE Queensland rock lobster *Panulirus ornatus* fishery. Final Report to FRDC Number 2002-008, 144 pp. ISBN 1 876 996 93 5.

The TRL recreational harvest in north Queensland during the 2000–01 financial year was approximately 20 000 lobsters. The north Queensland Indigenous TRL harvest for traditional purposes during the 2000–01 financial year was approximately 13 000 lobsters.

DPI&F's Indigenous Fishing Permit (IFP) allows Indigenous communities to commercially fish for a certain period of time. The IFP scheme can benefit Indigenous communities through:

- helping them establish a viable commercial fishing operation
- providing a level of economic activity that will encourage further enterprises
- providing significant employment in an Indigenous community where there are currently few job opportunities.

Total catch for IFPs in 2007 was less than one tonne. One community currently fishes commercially for TRL under an IFP and a second project in the northern Cape York area is being considered.

Proposal 10

Setting a commercial total allowable catch (TAC) for the ECTRLF of 181 tonnes.

Setting aside an additional five tonnes of TRL for Indigenous communities to take commercially under IFPs.

Background/rationale

DPI&F proposes to introduce a quota management system based on a commercial TAC calculated by a recent stock assessment for the fishery.

An equilibrium model stock assessment including catch and effort data up to and including 2007 was conducted which estimates the MSY at approximately 241 tonnes. It is intended that stock assessments will be conducted about every three years to review the commercial TAC and measure fishery performance.

In fisheries that use MSY-based management methods, standard best practice is not to use the actual MSY but adopt a lower value based on acceptable risk. This takes into account the uncertainties in calculating MSY and maximises the economic returns from the fishery. The equilibrium model used for the stock assessment tends to produce optimistic MSY estimates. Therefore, the Queensland Government considers it appropriate that a commercial TAC at 75 per cent of the MSY (181 tonnes) be available on a conservative and precautionary basis.

Coincidentally, the proposed commercial TAC equates to the annual commercial four-year catch average. Figure 5 shows the proposed commercial TAC in relation to past commercial catches.

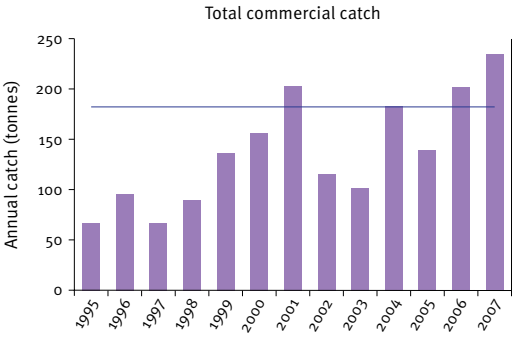

Figure 5: Total commercial catch in the ECTRLF and proposed commercial TAC (blue line) (Source: DPI&F CFISH database, 2008)

It is proposed the commercial TAC will be divided between 'R' fishery symbol holders based on their fishing history (see Proposal 11).

Cape York Indigenous communities have plans to fish commercially for TRL. The proposal is to set aside five tonnes of TRL annually for Indigenous communities which will be above the TAC available to the commercial sector. This also aligns with government policy to provide economic development and self-determination opportunities.

The amount proposed to be set aside exceeds the current take under IFPs by more then 500% and allows for future expansion. The amount is large enough to be divided between several IFPs issued to different communities. The catch will only be available through IFPs. Those communities who wish to fully commercialise their operation will need to acquire quota from the existing pool issued to the ECTRLF.

DPI&F does not believe the proposal to set aside five tonnes of TRL for IFPs poses a threat to the sustainability of the resource. The proposed commercial TAC is conservative and the take under an IFP is a small additional component to the catch even if the total IFP five tonne allocation was caught.

Options and alternatives considered

a) **Using other mechanisms to manage the fishery**
The stock assessment for the fishery estimates MSY at 241 tonnes and it is proposed the commercial catch be capped at 181 tonnes. In recent years the commercial catch has exceeded the proposed commercial TAC. The effect of higher catch levels on the ECTRLF stock is unknown. For this reason, not introducing a commercial TAC is considered inappropriate.

b) **Using voluntary or co-management mechanisms**
With its single target species and small number of commercial licences, the ECTRLF presents an opportunity for a voluntary co-management based approach. However, given the recent developments with a buyback of dual-endorsed licences from the Torres Strait and a large latent effort component, it is not currently appropriate. As operators are already taking catches exceeding the proposed commercial TAC, voluntary arrangements alone are unlikely to successfully cap the catch at sustainable levels in the short to medium term. However, DPI&F is working towards developing management arrangements that are more industry inclusive.

c) **Removing latent licences**
DPI&F has removed latent licences from other fisheries in the past to reduce the potential for increases in catch and effort. The ECTRLF has a reasonable amount of latent effort due to inactive licences and those not using their full tender entitlements. Removing latent licences would unlikely cap total catch from the ECTRLF as catching efficiency is variable. In addition, recent commercial catches have been the same as or higher than the proposed commercial TAC, indicating that catch and effort need to be reduced rather than limited to current levels.

d) **Reducing tender numbers**
Effort in the Torres Strait TRL Fishery has been limited in the past through an annual reduction in the number of tenders that may be used under each licence. This mechanism is not effective as it assumes licences are using full tender entitlements, which is rarely the case.

Benefits and costs

Industry

The proposal may affect several operators in the commercial sector. However, the proposed commercial TAC approximates the average annual commercial catch over the past four years. The proposed commercial TAC is higher than the longer-term annual commercial catch.

Sustainability/environment

A commercial TAC will cap the catch in the ECTRLF commercial fishery and ensure its sustainability.

DPI&F

DPI&F will incur additional costs through monitoring the commercial TAC. These costs are outlined in Proposal 14.

Indigenous

The proposals outlined above do not diminish the rights of Indigenous people to take TRL for traditional or customary purposes.

Proposal 11

Allocate ITQs for the ECTRLF.

Background/rationale

It is proposed to allocate quota units to licences holding an endorsement to operate in the ECTRLF (licences endorsed with an 'R' fishery symbol, eligible licences) based on recorded catches both before and after the investment warning. Generally, an allocation would be based only on catches before an investment warning. However, a number of years have passed since one was issued and changes have occurred in the fishery during that period.

Allocating quota units provides both a rights-based system for commercial operators and the flexibility to adjust the value of quota units in response to changes in the fishery.

The East Coast Tropical Rock Lobster Working Group (ECTRLWG) is an advisory group reporting to the Harvest Fishery Management Advisory Committee (Harvest MAC) which makes recommendations to DPI&F on behalf of fishery stakeholders. At its meeting in February 2007, the ECTRLWG considered the guiding principles to be used in allocating quota units in the ECTRLF. The working group recommended the following:

- Only current holders of an 'R' fishery symbol will be eligible for quota allocation.
- Quota allocation will be based solely on catch history.
- Selected years before and after the investment warning (2001) will be considered in the quota allocation model not only to recognise the intent of the investment warning but also to better reflect current trends in the fishery.
- No preference will be given to the scale of operations.
- No base allocation will be distributed between all fishers.
- Catch landing data from sources other than logbook returns will not be considered.
- Whether or not an operator holds a Torres Strait TRL endorsement or any other endorsement will not have any effect on quota allocations for the ECTRLF.
- Operators participating in the fishery on a part-time or full-time basis will be considered equally for quota allocation.

It is proposed quota units be allocated to each eligible licence based on the average of the:

- three years of highest catch before the investment warning (1995–2001)
- year of highest catch after the investment warning (2002–2005)
- next highest catch during the 1995–2005 period.

This model gives more weight to catches taken before the investment warning but also takes account of recent changes in the fishery by recognising catches after the investment warning.

Quota allocations will be calculated for individual licences. However, quota unit certificates will be issued to licence holders and will combine quota for all licences held in any individual or company name.

181 000 quota units will be allocated. The initial value of each quota unit will be one kilogram of whole weight TRL. Following the initial allocation, licence holders will be able to request the allocation be reconsidered on the basis of incorrect logbook information or special circumstances. All DPI&F decisions will be able to be appealed to the Fisheries Tribunal.

DPI&F will assess special circumstances based on a policy framework. Consideration may be given to new fishery operators or to those who have not had an opportunity to fish to their full capacity due to illness, injury or the loss of the primary boat identified on the licence because of an unforeseeable circumstance. Responses to this RIS will also be taken into account in forming the special circumstances policy.

Once all ECTRL quota applications and appeals have been decided, and any Fisheries Tribunal directions complied with, DPI&F will adjust the quota unit value so the commercial TAC does not exceed 181 000 kilograms. A formal stock assessment will be conducted every three years and the value of a quota unit may also be adjusted at that time to reflect the resource status. Rules will be developed to guide the decision to adjust the value of quota units.

The formula proposed to calculate the initial quota allocation for each eligible licence is as follows. (IW followed by a numeral refers to the year either before or after the investment warning.)

$$\text{TRL units} = \frac{\text{average catch}}{175\ 171.88} \times 180\ 986.5$$

This will be applied where the:

- average catch (pre-IW1 + pre-IW2 + pre-IW3 + post-IW1 + catch5)/5
- pre-IW1 is the highest annual recorded catch amount for the period 1995–2001
- pre-IW2 is the second highest annual recorded catch amount for the period 1995–2001
- pre-IW3 is the third highest annual recorded catch amount for the period 1995–2001
- post-IW1 is the highest annual recorded catch amount for the period 2002–2005

- catch5 is the fifth highest annual recorded catch amount for the period 1995–2005
- 180 986.5 is the allocation factor (allowing for rounding up of the initial allocation)
- 175 171.88 is the sum of the average catch for all eligible licences.

It is proposed that only relevant logbook information held by DPI&F will be used to calculate the recorded catch amount for each eligible licence.

Relevant logbook information for a relevant year means logbook information received by the Chief Executive or a former Authority no later than the following day:

- for a relevant year ending not later than 31 December 2000–31 May 2001
- for a relevant year ending not later than 31 December 2005–30 June 2006.

Licence holders were sent copies of recorded TRL catches for their licences in June 2007. DPI&F also provided licence holders with an opportunity to submit further information if recorded catches did not match the licence holder's personal records.

It is proposed that only those records relating to TRL catches within the commercial fishery area will be used to calculate the recorded catch history for each licence. Where relevant logbook information records live product catches, the whole TRL weight will be taken as the weight recorded in the logbook. Where relevant logbook information records 'tails' as the catch of processed product, the weight recorded in the logbook will be converted to a whole weight by multiplying the processed weight by a conversion factor.

Licence holders will be sent a preliminary notice detailing the recorded catch amounts for the licence and an indicative allocation based on the formula above. Unless a request for reconsideration is submitted to DPI&F within 30 days of the preliminary notice, the indicative allocation will become the TRL unit allocation.

Licence holders who want the indicative allocation for a licence reviewed must submit a request for reconsideration to DPI&F stating the review reason as well as any other relevant information that may assist with the review. DPI&F will review the indicative allocation and notify the licence holder of the outcome by a decision notice.

Licence holders will receive a quota unit certificate before the start of the first quota year. The quota year is proposed to run from 1 February to 30 September (inclusive) each year. The first quota year will begin on 1 February 2009.

Options and alternatives considered

a) Competitive quota
Introducing competitive quota would involve DPI&F setting a commercial TAC for the fishery and allowing all licences with an 'R' fishery symbol to access the fishery until the commercial TAC was reached. It is widely acknowledged that competitive quotas can promote a 'race to fish', potentially leading to unsustainable concentrations of effort and variable product supply. Both biologically and economically this is not considered an optimal alternative.

b) Equal allocation
Recently, a number of Queensland fisheries have undergone allocation processes based on past fishery participation. Licence values generally reflect the licence's catch history. Equally allocating quota units to all eligible licences goes against this model and disproportionately disadvantages those operators with a higher catch history. This type of allocation changes the relative economic position of operators and there would be high costs to industry associated with restructuring quota holdings.

Benefits and costs

Industry

Allocating quota units will affect commercial fishing operators as in the past there has been no cap on either individual or total fishery catches. In all cases, the licence allocation is higher than the average five-year catch proposed in the allocation formula. Allocating quota units based on catch history also maintains the relative economic position of licences in the fishery. New entrants or current operators who want to increase their fishing operations will need to purchase quota from existing holders.

DPI&F

DPI&F will incur the administrative costs of the decision-making and appeals processes. However, the sustainability benefits to ECTRL stocks and economic benefits to commercial licence holders outweigh the short-term costs associated with the proposal.

Proposal 12

Allow transhipment of TRL taken under the same quota holding.

Background/rationale

This proposal allows live and dead TRL to be transported between commercial fishing boats operating under the same quota holding (transhipment). No carrier boat licence will be required.

The Fisheries Regulation 2008 allows commercial fishing boats to carry product taken under another commercial licence if the boat holds a carrier boat licence. However, it prohibits live fish from being carried in Queensland via this method. The ECTRLF operates in remote locations and the ability to tranship product taken under the same quota holding may assist in increasing profitability. DPI&F believes this proposal does not pose any significant risk to the quota system's integrity.

Options and alternatives considered

One alternative is to maintain the current situation preventing product being transhipped between commercial fishing licences unless a carrier boat licence is held. This situation is restrictive. The new proposal will give fishery operators more flexibility and assist to increase profitability while posing no threats to the fishery's sustainability.

Benefits and costs

Industry

The proposal will result in reduced transport costs for operators. The proposal is not expected to affect current carrier boat operations as they are not permitted to carry live lobsters which are the fishery's main catch component. However, there may be reduced demand to transport lobsters by air as fishers may opt to transport their own product to port.

DPI&F

DPI&F may incur additional enforcement costs. However, the proposed notification system means product transhipped between commercial fishing boats will be easily identified.

Proposal 13

Introduce licence fees for quota units and remove licence fees for the ECTRLF symbol.

Background/rationale

It is proposed that licence holders pay a fee for each TRL quota unit held, representing a resource rent to the fisher for access to the lobster resource. The fee proposed will be phased in over three years at 20 cents per unit in the 2008–09 financial year, 25 cents per unit in the 2009–10 financial year and 30 cents per unit in subsequent years. Initially one unit would be set at one kilogram of whole product. The fee structure is consistent with other high value quota species in Queensland and recognises the high production costs of operating in remote areas and collecting by hand.

In 2006, the Fisheries Regulation 1995 was amended to introduce a new fisheries licensing and fees system. This system recognised that fishery access fees provide a right to fish in a fishery. In quota-managed fisheries, the rights of individual fishers vary according to the size of their quota holdings. The total fee they pay will be directly proportional to their share of total access rights for that fishery. As operators in the quota-managed fisheries pay a fee proportional to their quota holding, no additional fee is payable for holding a fishery symbol.

Options and alternatives considered

One alternative is that no fee is paid for quota holdings. However, this would give operators the right to fish without paying a fee and was not considered appropriate.

Another alternative involves setting the fee at higher or lower levels. DPI&F considers the access right granted by each TRL quota unit to be of high value and that the fee should be consistent with other high value quota species such as coral trout.

Benefits and costs

Industry

Currently 28 ECTRLF licence holders pay $180 per annum to have access to the fishery. This would increase to a maximum of $290 per annum from 2010–2011. Under the proposal, those licence holders with higher quota allocations will have to pay higher fishery access fees. However, they will also have relatively higher access rights. At 30 cents per quota unit and with the value of TRL between $40 and $50 per kilo, fishers will be paying at most, 0.75% of the gross value of the TRL product as a quota fee. On average, operators will pay about $800 a year more in the first year under the new system.

DPI&F

The proposed fishery access fees will not recover the full cost of managing the ECTRLF. However, DPI&F will gain some additional revenue through the increased fee structure.

Proposal 14

Introduce prior, transhipment and unload notices to monitor the use of commercial ITQs.

Background/rationale

With the intended introduction of a quota management system for the ECTRLF, a quota reporting system is necessary. There are concerns such high value fish will result in black market activities and compromise the management regime. Auditing catch reports will help to deter the practice of avoiding quota management requirements.

An Automated Interactive Voice Response (AIVR) System, similar to that used in the Coral Reef Fin Fish Fishery, is proposed for quota monitoring and reporting in the ECTRLF. It provides an opportunity for DPI&F to provide a secure, accurate and instantaneous method for commercial fishers in the ECTRLF to report their catches and determine their unused entitlement balance.

The quota reporting system has been developed in consultation with the ECTRLWG and ECTRLF licence holders and takes into account potential synergies with the existing quota reporting systems already in place. These proposals are intended to create a more effectively monitored system while minimising the cost to industry resulting from telephone calls fishers must make to the quota reporter.

The quota reporting system will consist of:

- a prior notice where the fisher notifies their intent to unload product at a specified time and place
- a transhipment notice if unloading product to another vessel (boat or plane)
- an unload notice given at the point of unloading, declaring the amount of product taken which is subsequently deducted from the quota.

This proposal considers issues associated with the remoteness of some of the possible landing places and the distance from enforcement officers.

When giving a prior notice, fishers will be asked if they intend to unload once they reach their landing location. This allows a vessel to enter the prior notice area to refuel or drop off a sick crew member and not unload their catch. This part of the notice cannot be amended. If fishers change their intention to unload they will have to give a new prior notice. They must then wait the required time before unloading any catch—six hours south of latitude 10˚41'S (Cape York) and three hours if the landing place is equal to or north of latitude 10˚41'S (Cape York). This will give the inspectors time to reach the location.

Unreported or incorrectly reported prior notices will constitute a breach. Therefore, fishers should be allowed to submit an amendment prior notice. Although making a late amendment is seen as a possible way of impeding enforcement processes, the proposals specify that an amendment can be made only up to specified cut-off times. After that time a boat will be required to return to the notified landing place and be available for inspection if required.

A conversion factor from TRL tails to whole weight will be applied for quota deduction based on the weight of TRL tails reported in the unload notice.

Prior and amendment prior notices

It is proposed that prior notices be submitted to the Chief Executive using the AIVR System and that these prior reporting requirements relate to landing rather than unloading TRL. Fishers will also be able to submit an amendment prior notice in certain circumstances.

The details to be given in a Prior Notice are:

- the commercial fishing boat licence number
- the 'fisher personal identification number' (shortened to 'fisher PIN')
- the place by reference to a numerical code referencing a location, or by reference to the latitude and longitude, of the place at which the authorised boat will land (the 'landing place')
- whether it is intended to unload any TRL from an authorised boat when the authorised boat will be at the landing place
- the estimated time, in hours, at which the authorised boat will reach the notified landing place ('landing time')
- the number of whole TRL on board each authorised boat at the time the prior notice is given
- if TRL are being possessed in tail form on any or all authorised boats, the number of containers containing TRL tails.

It is proposed that a prior notice would generally be given or amended before an authorised boat enters within half a nautical mile of the landing place. This area is known as the prior notice limits. The prior notice must be given immediately before the boat moves into or from within prior notice limits toward its landing place. It must be no later than:

- three hours before the vessel will reach its nominated landing place if this is equal to or north of latitude 10˚41'S (Cape York)
- six hours before the vessel will reach its nominated landing place if this is south of latitude 10˚41'S.

A prior notice is not needed if a boat enters prior notice limits to unload product for transport by air as long as a transhipment notice (see below) is given.

The requirement to give a notice applies irrespective of whether unloading is intended or not when landing. However, prior notice does not have to be given if the boat will not be landing at any time that it is within the prior notice limits such as when a boat is simply steaming through a prior notice area in the course of fishing.

However, if a prior notice has previously been given indicating the boat will be landing at a certain place but not unloading, a further prior notice may be given to advise that unloading will occur provided the notice is given:

- three hours before the boat will unload at the landing place if this is north of latitude 10˚41'S
- six hours before the boat will unload at the landing place if this is south of latitude 10˚41'S.

The landing time and/or landing place given in a prior notice may only be amended if:

- prior notice gave the landing place as north of latitude 10˚41'S one hour or more before the estimated time of landing given in the original notice
- prior notice gave the landing place as south of latitude 10˚41'S three hours or more before the estimated time of landing given in the original notice.

The TRL numbers given in a prior notice may only be amended one hour or more before the estimated landing time given in the original notice, regardless of the landing place given in the original notice. The TRL number on board when a boat reaches the landing place must correlate with the prior notice(s).

There is provision for another person to give the notice on behalf of the licence holder.

Transhipment notice

In the ECTRLF, lobsters are transported by aeroplane and boat. It is proposed to allow live and dead TRL to be moved between commercial fishing boats operating under the same quota holding. This will not require a carrier boat licence (see Proposal 12). While transport vessels are commonly used in other fisheries, aeroplanes are unique to the ECTRLF where TRL are offloaded from fishing vessels for transport to Cairns. Generally, live product is shipped by aeroplane and containers of tails by transport vessels.

It is proposed that a transhipment notice must be given as soon as possible after the TRL is transferred to another commercial fishing boat or a transport vessel. If the product is to be transported by air a transhipment notice must be given before the aeroplane departs from the place where the product was transferred. The transhipment notice must contain the following information:

- the commercial fishing boat licence number
- the fisher PIN
- if product is to be transported to another commercial fishing boat, the commercial fishing boat licence number
- if product is to be transported by a transport vessel, the transport vessel identity which is referenced by a numerical code and registered under the *Transport Operations (Marine Safety) Act 1994*
- if product is to be transported by aeroplane, the identity of the transport company using a numerical code that references the company name
- the landing place referenced by a numerical code or by its latitude and longitude
- the date the vessel or plane will land
- the TRL number in whole form that were transferred to the transport vessel
- if tailed product is to be transported, the number of containers transferred to the transport vessel.

The following additional requirements are also proposed specific to the mode of transport:

- If transported by aeroplane, the product from each quota account must be identified by the boat mark.
- If transported by another transport vessel, the vessel must hold a carrier boat licence if TRL from different quota accounts is being transported. Tailed product may only be offloaded to motherships if each container is identified with the boat mark and the number of tails packed inside.

Unload notice

It is proposed an unload notice be given each time TRL is unloaded that is the subject of prior or transhipment notices. When a prior notice has been given stating an intention to unload, all TRL must be unloaded before the vessel can resume fishing in the fishery. However, if a transhipment notice has been given a vessel can start fishing immediately.

The TRL must be weighed on a certified or verified scale and an unload notice must be given as soon as practicable after the lobsters have been unloaded from the vessel, transport vessel or aeroplane. A separate notice must be given each time the lobsters are unloaded which is usually for each buyer or before they are put into storage.

It is proposed that a fisher can arrive one hour either side of the landing time. If the vessel arrives early the vessel must remain at the landing place until the landing time nominated in the prior notice has passed before any product is unloaded. This allows a fisheries inspector to inspect the catch. Consequently, lobsters can only be unloaded and weighed at places where a fisheries officer can inspect proceedings. It is also proposed that, once the landing time has passed, fishers do not have to unload at the landing place nominated in the prior notice. However, they must still unload within the same defined port area. If the landing place is not in a defined port area, then within 0.5 nm of the landing place. This allows an inspector to easily find the vessel should it move from the original landing place for any reason.

The following details should be provided in an unload notice:

- the commercial fishing boat licence number
- the fisher PIN
- if asked, the prior notice or transhipment notice receipt number for the fish unloaded
- the exact weight of TRL in whole form and the exact weight of TRL in tail form. In the case of tails, a conversion factor will apply to convert the weight to a whole weight for quota deduction.

Unnotifiable landing notice

Sometimes it may not be possible to give a prior notice. In these cases an unnotifiable landing notice is proposed. These situations may include extreme weather conditions, a medical emergency, fire, or when all the relevant equipment on board the authorised boats has been destroyed or is unusable and cannot be replaced or fixed during the notifying period.

Options and alternatives considered

For the proposed quota management system to be effective, a robust quota reporting system is needed. The tabled proposals would be used to provide checks and balances for the operational phases of the reporting process.

An alternative could be to monitor the quota use through the current logbook system. However, without a real time quota reporting system to account for actual catches against allocated quota, there are likely to be significant compliance risks such as quota breaches and black market activities. This would reduce any benefits likely to be derived from a quota management system.

Amending the current input controls such as increasing size limits or reducing season length and/or tender numbers is another alternative to the reporting system. However, this method is considered economically inefficient as it decreases efficiency and reduces catches and profitability. Relying completely on input controls has proved unsuccessful in containing fishing effort in the adjacent Torres Strait TRL Fishery with operators effectively adjusting their operations to suit the amended controls.

Benefits and costs

Industry

These proposals will mainly affect those commercial fishers who hold a licence(s) for this fishery. The proposals are regarded as a more effective option for commercial fishers whose representatives helped to develop the proposed reporting process. The principal cost to those in the fishery is telephone calls but the duration of each call will be minimised using the AIVR technology. As the system has been operating in other fisheries for some time, DPI&F has ensured that other costs such as the time needed for the additional reporting requirements are minimised.

DPI&F

DPI&F will incur costs for modifying the current AIVR System and the associated administrative processes. DPI&F estimates the cost of amending the current system and monitoring the fishery is $30 000. The cost of monitoring the ECTRLF when the quota system is established is expected to be $15 000 a year which includes the licensing, AIVR and whole-of-chain documentation for the new system.

There will be additional compliance costs for implementing the ECTRLF quota management system. The funding required will be determined through a compliance risk assessment which DPI&F will carry out when the system is implemented. It is anticipated that compliance resources will be absorbed into the additional resources DPI&F already provides for the complementary system being developed in the Torres Strait TRL Fishery.

Proposal 15

Introduce documentation requirements to allow whole-of-distribution chain tracking of commercially caught TRL.

Background/rationale

The proposals will require buyers and other people commercially involved in the fishery to keep a documentation chain enabling quota lobster to be tracked as they move through the commercial sector to the end consumer. This scheme would apply whenever the lobsters were in Queensland's jurisdiction regardless of whether or not they originated in this fishery.

This whole-of-distribution chain documentation system addresses the concerns about black market activities emerging from such high value fish in the marketplace. This system offers an effective regime capable of being audited over extended periods and is less costly than other approaches such as tagging.

This system's operational aspects are similar to those adopted nationally to manage abalone. Documentation always accompanies the product and can be inspected. This system has already been implemented in other Queensland fisheries such as the Coral Reef Fin Fish Fishery and Spanish Mackerel Fishery.

It is proposed that certain records be required for commercial TRL trade in Queensland. Those records are essentially the consignment notes, tax invoices and delivery dockets or similar documentation widely in use in legitimate commercial fisheries transactions at this time.

Formally incorporating requirements to keep these documents in the regulation enables them to be used in enforcing and auditing the quota system for these fish species. These requirements include:

- A licensed fisher must complete a separate catch disposal record (CDR) for each consignment of lobsters sold to a buyer or put into storage. The CDR forms a written record of the information given in notices and can be cross-checked against information in the prior or transhipment and unloaded notices. Licensed buyers must sign the CDR if the TRL are taken in the ECTRLF.
- Those who buy and sell TRL in Queensland (other than for sale to an end user) including restaurants, hotels and fish shops, will be required to keep a fish transfer record for five years. The record will include details such as the origin, name and authority number or address, transaction date, TRL quantities and their processed form.
- It is proposed that a fish import record be required for TRL brought into Queensland or Queensland waters from other sources or landed in Queensland from fisheries in other jurisdictions such as Torres Strait.
- Where TRL are being transported in Queensland, they must be accompanied by a fish carriage record that includes the identity of the TRL owner and source and destination of the lobsters.
- People storing TRL must keep a record of the person's name for whom the lobsters are being stored. A monthly stocktake must also be made documenting the name of the person to whom the lobsters belong, their authority number, the time and date, and weight of the lobsters by product form.

Options and alternatives considered

One alternative to this proposal is to use a stand alone tagging system for quota lobster. This would require non-reusable tags to be attached to the lobsters or container in which they are held when brought ashore. The tag must remain when the TRL passes into the ownership of a licensed buyer.

High-quality tagging can provide sufficient compliance outcomes for quota monitoring of whole TRL from the point of capture to first buyer. However, tagging continues to have limitations with live specimens and once the product goes beyond the first buyer level in the distribution chain. An adequate tagging scheme incurs additional purchasing and labour costs for applying and recording the tags. Domestic retail outlets that sell coral reef fin fish have raised food safety concerns about consumers finding tags in fresh fish.

The proposed approach uses existing industry documentation and will not be a new obligation for people operating through legitimate channels.

The option to do nothing and maintain the status quo is not preferred as it is likely to maximise compliance risks and diminish any benefits likely to result from a quota management system.

Benefits and costs

Industry/businesses

No costs are expected for industry, buyers and other people commercially involved in TRL. The documentation is basically the same records that businesses are required to keep for tax purposes.

Community

No community costs can be identified from the proposal. The community will have greater confidence in the sustainability of TRL resources through an effective monitoring system aimed at reducing the risk of fishers operating outside the quota system.

5 Crab fisheries

Proposal 16

Phase-out inverted dillies in crab fisheries.

Background/rationale

It is proposed to phase-out inverted dillies in crab fisheries over 12 months to give fishers time to change to alternative apparatus. An inverted dilly or witch's hat consists of a frame and a net with a float attached so the net is above the frame's horizontal plane. They are particularly prone to ghost fishing if lost. The monofilament net may take many years to break down meaning that lost dillies can continue to entangle crabs and other marine life for an extended period.

The apparatus also catch various undersize and female fish and crab species and pose a threat to marine turtles and other non-target species which can easily become entangled in the mesh. It is often difficult to release them from the mesh unharmed.

Commercial fishers seldom use the inverted dilly as it is not robust enough. Anecdotal evidence suggests a small percentage of recreational fishers use this type of crab apparatus but the majority prefer to use either collapsible or rigid pots or standard dilly apparatus. These more widely used apparatus are considered sufficient for harvesting crab species and allow unwanted catch to be easily returned to the water.

Options and alternatives considered

a) **To continue to allow commercial and recreational fishers to use the inverted dilly**
   This option would continue to put at risk numerous regulated fish and crabs species and protected species such as turtles and birds.
b) **Immediately remove the inverted dilly or witch's hat**
   Immediately removing these apparatus is too restrictive for those who own and use the apparatus as part of their fishing practices or sell the apparatus or its components. As such, a phase-out period is considered most appropriate.

Benefits and costs

Industry

Impacts to the commercial fishing industry will be negligible given relatively few fishers use this type of apparatus.

Manufacturers and retailers

There is potential for manufactures and retailers who may stock inverted dillies to be affected. Given the relatively low cost and very short lifespan of apparatus components, it is anticipated the 12-month phase-out period will allow an opportunity for a proportion of the current stocks to be cleared.

Recreational

There will be a direct impact on the recreational crab fishers who currently use inverted dillies. However, there is a relatively small percentage of recreational fishers who use this type of apparatus and the phase-out period is also expected to reduce any potential impacts.

Sustainability/environment

The inverted dillies are known to have a high impact on non-target species. This proposal would benefit non-target species particularly marine turtles.

DPI&F

The impact to DPI&F is considered to be negligible.

Proposal 17

Extend the closed season for spanner crabs to 3 January each year.

Background/rationale

Researchers and commercial fishers have advised that berried (egg bearing) female crabs are still present after the existing closure finishes on 20 December each year. Even though berried female crabs are protected, they are still caught and can be damaged when being released if insufficient care is taken. It is important that every effort is made to protect berried female crabs to assist in the fishery's sustainability.

Options and alternatives considered

Maintain the current closed season

Maintaining the current closed season from midnight 20 November to midnight 20 December is not considered to be in the best interest of the fishery or the fishers as berried female crabs are still present.

Benefits and costs

Industry

A 14-day extension to the current closure would have a minor industry impact as many fishers choose not to work at this time for economic and social reasons. Of the fishers who have fished during this time, the total catch on average equals one per cent of the total harvest for the year. It is anticipated the shortfall in catch as a result of the extended closure would be recouped through the year.

There are also economic benefits from extending the closure over the Christmas–New Year period as crabs are usually a low quality. They are often soft (not full) and fishers do not receive maximum economic return for crabs in this condition. This is reflected in the catch data which indicates that on average less than one per cent of the total annual catch is taken during this period. Spanner crabs caught after the new closure date will be a higher quality and could be expected to return a better price than the soft product caught between 20 December and 3 January.

Sustainability/environment

It is expected the proposed extension to the current closure will provide long-term sustainability in the fishery.

Recreational fishers

Given the proposal is to only extend the closure for a short time, any impacts would be minor and only affect the very small percentage of recreational fishers that target spanner crabs.

DPI&F

A small cost will be incurred through publicising and educating fishers about the new regulation. However, the overall cost and resource impact to DPI&F is not considered to be significant. Compliance will occur as part of routine QBFP field inspections and is unlikely to impose any significant additional costs.

6 Freshwater fisheries

Proposal 18

To add Fairburn Dam (near Emerald), Theresa Creek Dam (near Clermont) and North Pine Dam (near Petrie) to the Stocked Impoundment Permit Scheme.

Background/rationale

The Stocked Impoundment Permit (SIP) Scheme has resulted in 30 successful stocked recreational fishing impoundments throughout Queensland. The main aim of the SIP Scheme is to raise funds to stock native fish fingerlings in the dams involved in the scheme and for other activities that enhance these impoundment fisheries. Recreational fishers purchase a permit to fish with a line in the dams which contribute to the cost of restocking them. Typically, impoundments are put, grow and take fisheries where most stocked species will not reproduce and as a result are dependent on regular stocking to maintain numbers.

Permit fees are $35 for a year or $31.50 for some entitlement card holders. Weekly permits cost $7. This covers an individual or couple to fish in all the dams on the scheme. A SIP is currently required to fish at the following 30 impoundments:

- Bill Gunn Dam (Lake Dyer)
- Bjelke Petersen Dam
- Boondooma Dam
- Borumba Dam
- Burdekin Falls Dam
- Callide Dam
- Cania Dam
- Connolly Dam
- Cooby Dam
- Coolmunda Dam
- Cressbrook Dam
- Eungella Dam
- Glenlyon Dam
- Gordonbrook Dam
- Isis Balancing Storage (Lake Gregory)
- Kinchant Dam
- Lake Clarendon
- Lake Macdonald
- Lake Monduran (Fred Haigh Dam)
- Lenthalls Dam
- Leslie Dam
- Maroon Dam
- Moogerah Dam
- Peter Faust Dam
- Somerset Dam
- Storm King Dam
- Teemburra Dam
- Tinaroo Falls Dam
- Wivenhoe Dam
- Wuruma Dam.

Increasing the number of impoundments in the scheme will help to enhance specific fisheries and contribute to building regional communities. The community-based stocking groups have nominated the impoundments below to join the scheme. The impoundment's water controlling body supported the nomination.

Fairbairn Dam

Emerald Fish Stocking Group Inc. has nominated Fairbairn Dam to be included in the SIP Scheme. SunWater, the water controlling body for Fairbairn Dam, supports the application. Including Fairbairn Dam in the scheme will supplement funding raised by the voluntary community-based fish stocking group. Species stocked in the dam include barramundi, saratoga and golden perch. There are no boating access restrictions on Fairbairn Dam.

Theresa Creek Dam

Clermont Fish Stocking Group Inc. has nominated Theresa Creek Dam for inclusion in the SIP Scheme and the water controlling body, Belyando Shire Council, supports the application. Including Theresa Creek Dam in the scheme will supplement funding raised by the voluntary community-based fish stocking group. Species stocked in the dam include golden perch, silver perch, barramundi, saratoga and eel-tailed catfish. There are no boating access restrictions on Theresa Creek Dam.

North Pine Dam

Pine Rivers Fish Management Association Inc. has nominated North Pine Dam to be included in the SIP Scheme. SunWater supports the application. Including North Pine Dam in the scheme will supplement funding raised by the voluntary community-based fish stocking group. Species stocked in the dam include Australian bass, golden perch, silver perch, saratoga and Mary River cod.

A yearly permit is needed for boating access on North Pine Dam. Currently, boating permit numbers are limited to 300 a year and there are also restrictions on the number of boats allowed on the dam at any given time. No boating access is allowed when the dam levels are less than 50 per cent of full capacity. Shore-based fishing is permitted.

Options and alternatives considered

Do not include the additional impoundments on the permit scheme

This alternative would not provide the impoundments or local communities with any benefits from the scheme which include:

- enhancing the fisheries through increased funding for fish stocking
- providing improved recreational fishing opportunities for regional communities
- economic development of regional communities.

Benefits and costs

Recreational fishers

This proposal will impose a cost to recreational fishers who will be required to purchase a permit to fish at these impoundments. However, there are many benefits to anglers with at least 75 per cent of permit funds going back to the dams for fish stocking and to fund other activities aimed at enhancing the fisheries. This continues to enhance inland recreational fishing opportunities and develop world-class fisheries that bring social and economic benefits to communities.

DPI&F

With more dams to oversee, enforcement costs for DPI&F will increase and additional funds will be needed to educate the public about the new management arrangements. However, the user-pays system ensures that anglers using the resource contribute to maintaining and enhancing those fisheries while also relieving fishing pressure on wild fish stocks.

Attachment 1: Draft Public Benefit Test and impact on competition

The Queensland Government is a signatory to the Competition Principles Agreement that requires a draft PBT for proposed new legislation or amendments to existing legislation where there are restrictions on competition.

The table below summarises the draft PBT as well as the likely impact of the proposals on competition. Restrictions that affect competition are considered necessary to protect the sustainability of particular species or components of the fishery.

Proposal	Reason for proposal	Impact on competition
Trawl fisheries		
Extend the SRA expiry dates by a further four years, shortening the time the areas are open from 2009 and opening the areas at midday 3 January each year.	SRAs are six discrete areas in Queensland closed to all trawling at certain times of the year. The current closures are due to expire in mid-2008. This proposal plans to extend the closures for another four years and reduce the time they are open from nine months to three from 2009.	This proposal is not expected to significantly affect competition. This proposal rolls over the current regulations that need to be remade by November 2008. The proposal to change SRA opening time from nine months to three is not expected to significantly affect competition. The shortened opening allows for improved protection of spat and juvenile scallops, improving recruitment to the fishery.
Phase-in 45 mm mesh nets.	This proposal aims to standardise net sizes throughout the industry to 45 mm to reduce the impacts on juvenile prawns and bycatch species.	This proposal is not anticipated to significantly impact on competition. The proposal will standardise minimum mesh sizes throughout Queensland, thus simplifying legislation.
Phase-in a new TED definition.	Changing the TED definition will standardise the design and increase the effectiveness of releasing marine turtles and other large animals that can be incidentally caught in trawl nets. It will also help the fishery gain access to United States' export markets.	The proposed changes to the TED definition are not anticipated to significantly affect competition.
Phase-in SMCs in the Saucer Scallop Fishery.	It is proposed to phase-in SMCs in the Saucer Scallop Fishery within two years. A recent study has found that a trawl net using a SMC and TED reduce bycatch rates by up to 77 per cent and catch rates of undersized scallops by 63 per cent with minimal loss of marketable scallop catch.	This proposal is not expected to significantly affect competition. The proposal is intended to ensure sustainability of the species and reduce bycatch in the fishery.
Restrict the length of nets that can be used in three bays near Cairns and Innisfail.	The prawn aquaculture sector relies solely on wild caught broodstock, often taken incidentally while trawlers target banana prawns. These proposed management arrangements will ensure a continued broodstock supply for the aquaculture sector while maintaining restricted access for all commercial operators. An operator wishing to use larger nets will require an official order from a prawn hatchery or farm and a broodstock collection permit from DPI&F.	Competition is expected to be impacted on by this proposal. Those most likely to be affected are large vessels that previously fished in the region with 88 m of net, who may not be able to operate profitably as a result of the proposal. The proposal is intended to optimise the economic use of the product via the aquaculture industry whilst maintaining restricted access for all commercial operators.

Proposal	Reason for proposal	Impact on competition
Close the EKP Fishery for one week in May, June and July.	A number of specific closures are proposed to protect EKP during spawning periods in the fishery's shallow and deepwater net areas. These closures are based on scientific evidence that fishing effort needs to be reduced and greater protection given to prawns during spawning periods. However, when the shallow water areas are closed the deepwater areas will be open.	The proposed new closures may have minor impacts on competition. All operators will have access to the open area. The proposed closures will provide protection to the EKP stocks in the region, ensuring sustainability of the fishery.
Introduce a new closure for North Reef.	The EKP Fishery is subject to a variety of existing closures in shallow waters. The deepwater net area to the north of Sandy Cape is of high industry value with significant catches of large EKP taken each year. This proposed closure aims to protect prawns in the area allowing them to grow to a larger size before capture. The proposed closure should improve the fishery's sustainability and protect young adult prawns in the lead up to peak spawning period.	The proposed closure is not anticipated to significantly affect competition. The proposal intends to improve the sustainability and annual harvest of EKP stocks in the region.
Amend the northern closure to include the Swain Reefs and Hydrographers Passage and allow scallop nets to be used in the area from 15 January to 21 February each year.	Different product is caught In the Swain Reefs and Hydrographers Passage area at different times of the year. Saucer scallops are harvested during summer and red spot king prawns during autumn and winter. Currently, the area is closed to all trawling for 11 weeks each year from midday 15 December to midday 1 March. It is proposed to include the Swain Reefs and Hydrographers Passage area in the northern closure area. It would be closed from midday 15 December to midday 1 March and be subject to a preferred access scheme from midday 1 March to midday 14 May each year for those operators who had not used their boat during the initial closure. Those operators not sitting out the northern closure from midday 15 December to midday 1 March will be given an exemption which will run from midday 15 January to midday 21 February. Operators would be required to conform to specific trawl net requirements.	The proposal is not expected to significantly affect competition. The proposal intends to remove unnecessary restrictions within sectors of the trawl fishery.
Close the FTF from midday 20 September to midday 1 November each year.	Recent scientific advice indicates the stout whiting spawning period runs from September to December with a peak for both sexes in October. Closing the fishery at this time will ensure the stock will be protected during the peak spawning period. It will also regulate the current voluntary practice in line with recommendations attached to the FTF Wildlife Trade Operation (WTO) approval.	The proposed closure for the FTF is not anticipated to significantly impact on competition. The proposed closure is designed to guarantee protection of the stock during the peak spawning period. Although all incumbent licence holders currently observe a voluntary closure the proposal would prevent a new entrant to the fishery from fishing during the closure. Notwithstanding this it is important to note that the FTF is a limited entry fishery and any new entrant would be buying out an existing licence holder.

Proposal	Reason for proposal	Impact on competition
East Coast Tropical Rock Lobster Fishery		
Set a commercial TAC for the ECTRLF at 181 tonnes and set aside an additional five tonnes of TRL for Indigenous communities to take commercially under an IFP.	It is proposed to implement a commercial TAC of 181 tonnes for the ECTRLF. This is based on a recent MSY calculation for the fishery. Setting a TAC for a high value species such as TRL will ensure sustainable harvest levels throughout the season. Cape York Indigenous communities aspire to fish commercially for TRL. This proposal recognises this and aligns with the Queensland Government policy to provide opportunities for economic development and self determination.	There may be a minor restriction on competition as the proposed commercial TAC caps the amount of TRL permitted to be harvested annually. However, the proposed commercial TAC approximates the annual commercial catch average over the past four years. The proposed commercial TAC is higher than the longer-term average annual commercial catch. The proposal is intended to ensure the sustainability of the species.
Allocate individual transferable quota for the ECTRLF.	It is proposed to allocate quota units to licences holding an endorsement to operate in the ECTRLF based on recorded catches both before and after the investment warning. This provides both a rights-based system for commercial operators and the flexibility to adjust the value of quota units in response to changes in the fishery. 181 000 quota units will be allocated with the initial value of each quota unit being one kilogram of weight TRL. The quota year is proposed to run from 1 February to 30 September (inclusive) each year with the first year beginning on 1 February 2009.	There may be a minor restriction on competition as the proposed quota allocation is based on historical activity and will result in initial inequity between operators. However, the relative economic position of operators will be maintained and the proposal provides flexibility to the industry allowing licence holders to tailor their operations through quota trading. New entrants or current operators who wish to increase their fishing operations will need to purchase quota from existing holders. The proposal is intended to ensure the sustainability of the species.
Allow transhipment of TRL taken under the same quota holding.	It is proposed to allow live and dead TRL to be transported between commercial fishing boats operating under the same quota holding without requiring that a carrier boat licence is held. The ECTRLF operates in remote locations and the ability to transport product taken under the same quota holding may increase profitability. DPI&F believes this proposal does not pose any significant risk to the integrity of the quota system.	This proposal does not restrict competition. The proposal increases flexibility and is intended to result in a reduction in the transport costs incurred by industry members. It is not expected to affect current carrier boat operations as they are not permitted to carry live lobsters. However, demand to transport lobsters by air may be reduced as fishers may opt to transport their own product to port.
Introduce licence fees for quota units and remove licence fees for the ECTRLF symbol.	In quota-managed fisheries the rights of individual fishers vary according to the size of their quota holding. The total fee they pay will be directly proportional to their share of the total access rights for that fishery. No fee is payable for holding a fishery symbol in the quota-managed fisheries. It is proposed that licence holders pay a fee for each ECTRL quota unit. A three-year phase-in period is proposed with the final fee set at 30 cents per unit per year.	Implementing a quota fee may result in a minor impact on competition. Implementing a quota fee is based on access rights to the fishery. Licence holders with higher quota allocations will have to pay higher fishery access fees. However, they will also have relatively higher access rights.

Proposal	Reason for proposal	Impact on competition
Introduce prior, transhipment and unload notices to monitor commercial ITQs.	A quota reporting system is necessary if a quota management system is introduced for the ECTRLF. There are concerns about black market activities emerging with such high value fish in the marketplace, compromising the integrity of the management regime. Auditing catch reports has been identified as a way to deter avoiding quota management requirements.	The proposal is not anticipated to significantly affect competition.
Introduce documentation requirements to allow whole-of-distribution chain tracking of commercially caught TRL.	This proposal requires buyers and other people commercially involved in TRL to keep a documentation chain enabling quota lobster to be tracked as they move through the commercial sector to the consumer. This scheme would apply whenever the lobsters were in Queensland jurisdiction regardless of whether or not they originated in this fishery. It also addresses concerns about black market activities resulting from such high value product in the marketplace.	This proposal is not anticipated to restrict competition for businesses as the documentation required is similar to that required for tax purposes.
Crab fisheries		
Phase-out inverted dillies in crab fisheries.	It is proposed to phase-out inverted dillies over twelve months. The apparatus are not environmentally friendly as they catch non-target species such as marine turtles, rays and sharks. The restriction would apply to recreational and commercial fishers.	This proposal is not expected to significantly affect competition as commercial operators use alternative apparatus to harvest crabs. There may be a minor impact on manufacturers and suppliers of the apparatus as they will no longer have a market in Queensland. However, this proposal is intended to ensure the fishery is ecologically sustainable by reducing impacts on non-target species and protected marine animals.
Extend the closed season for spanner crabs to 3 January each year.	An additional 14 days are proposed for the current spanner crab closure period. This is based on scientific evidence that egg-bearing females are still prevalent during this time. Although not permitted to be kept, they are often damaged when caught on the fishing apparatus and it is highly likely that egg viability is being compromised.	This proposal may have a minor impact on competition. Those most likely to be affected are fishers who previously fished during this time. The closure will apply equally to all recreational and commercial fishers. However, this proposal is intended to provide adequate protection to berried female crabs, which are still quite prevalent over this period.

Proposal	Reason for proposal	Impact on competition
Freshwater fisheries		
To add Fairburn Dam, Theresa Creek Dam and North Pine Dam to the SIP Scheme.	Adding the proposed three dams to the SIP Scheme will help to enhance specific fisheries and contribute to building regional communities. Permits will be needed to fish in the dams with the funds raised used to stock native fish fingerlings and for other activities that enhance these impoundment fisheries. The permits cost $35 for a year ($31.50 for some entitlement holders) or $7 for a week.	This proposal does not restrict competition.

ENDNOTES

1 Laid before the Legislative Assembly on . . .

2 The administering agency is the Department of Primary Industries and Fisheries.