

Fisheries and Another Regulation Amendment Regulation (No.1) 2015

Report No. 8, 55th Parliament
Agriculture and Environment Committee
October 2015

Agriculture and Environment Committee:

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Acknowledgements

The Committee thanks the Department of Agriculture and Fisheries and stakeholder groups for their assistance during the examination of the regulation.

¹ The Leader of the House appointed Mr Madden to the committee from 28 September to 6 October 2015 during the absence of Mrs Julianne Gilbert MP, Member for Mackay.

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Abbreviations

DAF	Department of Agriculture and Fisheries
ECIFFF	East Coast Inshore Fin Fish Fishery
OBPR	Office of Best Practice Regulation
QSIA	Queensland Seafood Industry Association
RFH	Recreational Fishing Haven
RIS	Regulatory Impact Statement
ROFA	Recreational Only Fishing Area

Chair's foreword

This report presents a summary of the Agriculture and Environment Committee's examination of the Fisheries and Another Regulation Amendment Regulation 2015.

I commend this report to the House.

A handwritten signature in black ink that reads "J Howard". The signature is written in a cursive style with a large, looped initial 'J'.

Jennifer Howard MP

Chair

Points for clarification

Request for clarification:

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The committee invites the Minister to clarify, for the information of the House, the consultation processes undertaken with stakeholders during the development of the Government's Sustainable Fishing policy, which includes the establishment of net-free fishing zones.

Request for clarification:

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The committee invites the Minister to clarify, for the information of the House, what steps his department will take to gather base-line data on the populations of fish and other species in the net-free zones, and on recreational fishing activity for monitoring the future success of the zones and managing their impacts.

1. Introduction

Role of the committee

The Agriculture and Environment Committee (the committee) is a portfolio committee appointed by a resolution of the Legislative Assembly on 27 March 2015. The committee's primary areas of responsibility are: Agriculture, Fisheries, Sport and Racing; and Environment, Heritage Protection, National Parks and the Great Barrier Reef.²

Section 93(1) of the [Parliament of Queensland Act 2001](#) provides that portfolio committees are responsible for examining each Bill and item of subordinate legislation in their portfolio area to consider–

- a) the policy to be given effect by the legislation
- b) the application of fundamental legislative principles (FLPs) to the legislation, and
- c) for subordinate legislation – its lawfulness.

FLPs are defined in Section 4 of the [Legislative Standards Act 1992](#) as the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

The Fisheries and Another Legislation Amendment Regulation (No.1) 2015

The Fisheries and Another Legislation Amendment Regulation (No.1) 2015 was gazetted on 11 September and tabled on 15 September 2015 by Hon Bill Byrne MP, Minister for Agriculture and Fisheries and Minister for Sport and Racing.

The regulation was made by the Department of Agriculture and Fisheries (DAF) and amends the *Fisheries Regulation 2008* and the *Rural and Regional Adjustment Regulation 2011*.

On 16 September 2015, the Member for Nanango gave notice of an intention to move that the regulation be disallowed by the Parliament in accordance with SO 59. When notice of a motion to disallow a statutory instrument or guideline pursuant to an Act has been given, SO 59(1) provides that the motion shall be considered within seven sitting days after notice has been given. The committee anticipates that the motion may be considered by Parliament during the sitting week ending Thursday 15 October 2015.

At its meeting on 21 September 2015, the committee agreed to hold public briefings and a public hearing on 28 September for its examination of the regulation, and to report its finding to Parliament on 8 October 2015. The committee adopted this timetable to ensure its report is available when the Parliament considers the Member for Nanango's disallowance motion.

The committee's process

For its examination of the regulation, the committee:

- researched the use and impacts of restricted fishing zones
- requested a written briefing from the Department of Agriculture and Fisheries (DAF) and Queensland Rural Adjustment Authority (QRAA) in relation to the policy intent, consultation, implementation of the regulation and compensation package for fishers affected by the net-free fishing zones. The [brief](#) received on 24 September 2015 is available from the committee's web pages
- requested the department to nominate the key stakeholders for the regulation based on its consultation processes, and

² Schedule 6 of the [Standing Rules and Orders of the Legislative Assembly of Queensland](#).

- received public briefings from DAF and QRAA and heard oral submissions from key stakeholders at a public hearing on 28 September 2015.

The committee's selection of stakeholders to invite to appear at the hearing was guided by advice provided by DAF. The briefing officers and witnesses who participated in the hearing are listed at **Appendix A**. The transcript of the briefings and hearing is available from the Parliament of Queensland website.

Policy objectives of the regulation

According to the Explanatory Notes, the policy objectives of the regulation are to:

- establish three net-free fishing zones with a combined area of 1,619 square kilometres in north and central Queensland at:
 - Trinity Bay – Cairns
 - St Helens Beach – Cape Hillsborough, North of Mackay
 - Yeppoon/Keppel Bay/Fitzroy River, Capricorn Coast
- provide for the buyout of particular commercial fishing boat licences, and
- provide for payments to commercial fishers affected by the establishment of the zones.

Maps showing the location and extent of the three net-free zones are at **Appendix B**. The regulation prohibits commercial fishers from using a cast net, mesh net, seine net or set pocket net in the designated net-free zones.

The East Coast Inshore Fin Fish Fishery

The three net-free zones are in the East Coast Inshore Fin Fish Fishery (ECIFFF). According to a recent study of Queensland fisheries management approaches by MRAG Asia Pacific for the Queensland Government, the East Coast Inshore Fin Fish Fishery is a very complex multi-species, multi-sectoral, multi-regional, multi-gear fishery, ranging from the NSW border to the tip of Cape York, and:

... arguably the most socially and economically important recreational fishery in the State, including bread and butter target species such as bream, whiting and flathead in the southern part of the State, and prized angling species such as barramundi in the northern part. The fishery is also an important source of fresh local fish for coastal communities and the tourist trade.³

Recreational and commercial fishers

The department advised the committee that there are over 600,000 recreational fishers and 2,000 commercial fishers in Queensland.⁴ There are also 1,437 commercial fishing licences in Queensland that can work in one or more of the State's trawl, net, crab and line commercial fisheries.⁵

There are currently 411 commercial fishing licences to net fish commercially along the Queensland east coast.⁶ Of these licences, 281 licences (68 per cent) are endorsed to use large mesh nets which are designed to take larger fish species such as king threadfin salmon, mullet and shark, and 305 (74 per cent) are endorsed to use small mesh nets. These nets are designed to take smaller species which are more commonly used as bait. Some licences have both large and small mesh net endorsements. The take of barramundi is limited to a subset of 120 large mesh endorsements.

Typically commercial netting operations are run by family businesses operating out of small vessels, and fishing is dependent on seasons, tides and weather.⁷

³ MRAG Asia Pacific, 2014, [Taking Stock: modernising fisheries management in Queensland](#), December.

⁴ Spencer, S., 2015, Briefing and hearing transcript, p.2.

⁵ Department of Agriculture and Fisheries, 2015, *Correspondence*, 24 September.

⁶ Department of Agriculture and Fisheries, 2015, *Correspondence*, 24 September.

⁷ Thwaites, A., 2015, Briefing and hearing transcript, p.2.

2. Consultation

Consultation for the Government's Sustainable Fishing Policy

According to the Explanatory Notes, the establishment of three net-free fishing zones was included in a policy document released to the public by Queensland Labor as an election commitment prior to the January 2015 state election. The Explanatory Notes also state that Queensland Labor consulted with recreational fishing stakeholders to develop the policy document, called *Sustainable Fishing – Labor's plan for fishing in Queensland*, and that a copy of the policy was sent to all major stakeholders.⁸ The department was not involved in the development of the policy and could not advise the committee who the policy was distributed to or when it was distributed.⁹

The Queensland Seafood Industry Association (QSIA) was critical of how the fishing policy which provides for the establishment of net-free zones was developed:

The industry believes that development of the policy did not follow due process. There is evidence that the policy was developed well before the election and drafted to the exclusion of the commercial seafood industry.¹⁰

The department's consultation processes

In a written brief prepared for the committee dated 24 September, the department summarised its consultation processes for the regulation.¹¹ Departmental officers also discussed consultation work for the regulation at the committee's public briefings on 28 September 2015. The department explained their consultation role as follows:

In terms of the department's role for consultation, which was one of the issues that the committee specifically asked us to comment on, after the election our role was to deal with the boundaries in particular, and, of course, once the government determined the assistance scheme it was about that. Our role was not to negotiate the policy. That was set by the government. We are very well aware of the views. Obviously, through the process both commercial and recreational fishers and other sectors with an interest in fishery made their views abundantly clear to us, which obviously we passed on to the government.¹²

The Explanatory Notes also state that the Office of Best Practice Regulation (OBPR) of the Queensland Competition Authority (now the Queensland Productivity Commission) was consulted as to whether the amendments in the regulation qualified for an exclusion from the Regulatory Impact Statement (RIS) system. The OBPR advised that a RIS was not required for the amendments as:

.... public consultation was undertaken on the boundaries of the regulated waters, the impacts of the zones are well understood and a buyback scheme and settlement scheme will mitigate these impacts.¹³

⁸ Explanatory Notes, p.4.

⁹ DAF, 2015, *Correspondence*, 30 September.

¹⁰ Swindells, D., 2015, Briefing and hearing transcript, p.8.

¹¹ [DAF, 2015, Correspondence, 24 August.](#)

¹² Spencer, S., 2015, Briefing and hearing transcript, p.2.

¹³ Explanatory Notes, p.5.

Targeted consultation

Following the January 2015 state election, officers from DAF undertook 'targeted consultation' with the recreational and commercial fishing sectors and conservation sectors regarding the Government's Sustainable Fishing policy which includes the commitment to introduce three net-free Zones. According to the department,¹⁴ this targeted consultation was mainly through face to face meetings with individual sectors and supplemented with phone calls and email exchanges. The department advised the committee that its targeted consultation:

- involved '...peak bodies representing broader Queensland and sectoral views' as well as members from the commercial, recreational, charter and tourism sectors
- occurred mostly in the Cairns, Mackay and Rockhampton regions
- was conducted before the regulation was finalised, and
- informal and formal consultation occurring between March and July 2015.¹⁵

Minister Byrne advised the House on 17 August that nine meetings were held with commercial fishers or their representatives on 19 & 29 March, 8, 9, 10, 13, 14 & 16 April & 26 June 2015. The Minister further advised that 29 fishers or their representatives from all sectors were consulted by DAF in face-to-face meetings or teleconferences, and that all major fisheries representative bodies in Queensland were consulted.¹⁶

In its written brief for the committee, DAF notes:

During the first series of meetings in March and April, it became evident that commercial fishers were opposed to the introduction of the zones and that it was their view that the Government, while in Opposition, had failed to consult them in the development of the Sustainable Fishing Policy. In their view there were alternatives to zones that should be discussed and adopted. The Honourable Bill Byrne MP, Minister for Agriculture and Fisheries and Minister for Sport and Racing, noted these views however advised that the introduction of zones were an election and policy commitment of the Government and as such would be implemented.¹⁷

Public consultation on zone boundaries

The department conducted a public consultation process in relation to the boundaries of the net-free zones which were not specified in the policy. The department in its written brief advised:

In order to determine the boundaries of the zones, public consultation was held from 15 May 2015 to 15 July 2015. During that time members of the public were asked to make an online or written submission to zone proposed boundaries. The draft boundaries were based on Zones put forward by recreational fishers from each of the three areas.¹⁸

¹⁴ DAF, 2015, *Correspondence*, 30 September.

¹⁵ DAF, 2015, *Correspondence*, 30 September.

¹⁶ [Byrne, Hon W., 2015, Answer to Question on Notice No. 676, 18 August.](#)

¹⁷ [DAF, 2015, Correspondence, 24 August.](#)

¹⁸ [DAF, 2015, Correspondence, 24 August.](#)

The zone boundaries and the assistance arrangements were announced on 21 August.¹⁹ The department explained to the committee:

*Once the boundaries were established by the government and the settlement scheme, we were able to then calculate who was exactly affected. As soon as that happened, we wrote to all affected fishers and offered to meet with them directly to talk about what the government was offering and how the scheme would work. It was actually impossible, until that decision was made, to identify all of the people, although in the early days we were able to find some numbers because of the broad nature of the maps we were given.*²⁰

The committee questioned the department about the duration of its public consultation processes in relation to the zone boundaries. The department stated:

*This is a new process for us. In terms of previous buybacks that we have done, they have been progressive. There has been a committee, but at that stage the policy was not set. Two months is probably standard for government type processes.*²¹

Minister Byrne advised the House that the public consultation sought online and written submissions, and that approximately 6,300 responses were logged online or in writing. Of these responses, 49 per cent identified as 'recreational fishers', 33 per cent as 'general community', 13 per cent as 'conservation', 4 per cent as 'commercial fishers', and the remaining one per cent of submissions identified themselves as 'indigenous fishers' or 'charter fishing businesses'.²² The Committee was also advised at the public hearing that a petition containing around 26,000 signatures was collected from those who opposed the closures.²³

The committee questioned the department further in relation to the consultation method, specifically the use of email and an internet survey, the response rate for commercial fishers to the internet survey, and its appropriateness as a method of engaging with the fishing industry. The department told the committee the electronic means was chosen because of the very large number of stakeholders - 600,000 recreational fishers, over 2,000 commercial fishers and interest groups such as conservation groups, councils and community groups.²⁴ On the adequacy of the responses to the survey, the department explained:

*Four per cent of the total number of submissions was still around the 200-odd mark, which in terms of a response rate to submissions was well and truly above the average that you would expect from the commercial sector. There are 411-odd licences and over 200 responses from commercial fishers, so from a census point of view, if you like, it was actually a very high rate of return with that mode of consultation.*²⁵

The committee sought further clarification as to the how the commercial sector was made aware of the submission period. The department stated that they sent a broadcast email to major stakeholder groups and to those who had contacted the department in the previous two months prior to the start of the consultation date (15 May).²⁶ At the public hearing, the committee questioned the department on the use of emails to notify commercial fishers.

¹⁹ Thwaites, A., 2015, Briefing and hearing transcript, p.3.

²⁰ Spencer, S., 2015, Briefing and hearing transcript, p.2.

²¹ Howard, J. & Spencer, S., 2015, Briefing and hearing transcript, p.4.

²² [Byrne, Hon W., 2015, 18 August.](#)

²³ Swindells, D., 2015, Briefing and hearing transcript, p.8.

²⁴ Spencer, S., 2015, Briefing and hearing transcript, p.2.

²⁵ Thwaites, A., 2015, Briefing and hearing transcript, p.5.

²⁶ Thwaites, A., 2015, Briefing and hearing transcript, p.5.

The department explained:

From 15 May we sent out a broadcast email to the major stakeholder groups and people who had contacted me in the previous two months before the consultation started.

And:

Yes. There was also the Fishermens Portal and various other bits and pieces. Very quickly that message spread through industry that this was happening. As I said, we had a number of concerns from people saying they did not have access to the internet and they were not able to do it et cetera. That is when we said we would accept written submissions, and a number of people did take the opportunity to provide written submissions.²⁷

The QSIA was critical of how the consultation processes conducted by the department, particularly the use of an internet based survey (Survey Monkey²⁸):

SurveyMonkey was a joke. All that SurveyMonkey was about was the boundaries; it was not about whether this process is going to help the tourist industry or not. We are not objecting to tourism. Tourists and us have to go hand in hand. Industry was told what the process was going to be. They did not come and consult with us. They said that they spoke to us over a number of years. I have been a board member of the QSIA for a number of years, and I can never recall this coming up.²⁹

The committee questioned QSIA about whether their organisation was involved in the consultation process. The QSIA explained:

I do not know the dates specifically, but Keith Harris, John O'Neil, Adam Kelly, Gary Sykes, Quentin Warnock and I were invited to come along so they could talk to us. They told us what was going to happen; they did not ask us whether we agreed with this process. They did not ask us for our opinion on whether tourism would be a success or not. They just came in and told us, 'This is government policy. This is what is going to happen.'³⁰

Concerns about consultation were also raised by other QSIA representatives. The committee was advised:

People like me have not been consulted. I spoke once with Andrew right after this decision was made three days before the election. It caught me by surprise, and other guys at this table had been talking with Tim Mulherin a month before and there was no word of any of this coming. It came on us as a bit of a surprise. We were blindsided.³¹

Something very important that our industry is trying to get across to this committee is the fact that there has been very little consultation. We have asked for consultation. We have asked for compromise. We feel that we have been quite disrespected in the fact that this will happen and this is going to happen. We know that QSIA has sought five separate written requests for consultation that have been ignored by the minister. ... We are here fighting for our industry. It is very important to us. I have 34 staff plus my own livelihood. That is something that we want this committee to recognise: we want consultation and we want compromise. There is a way that this can work. It needs

²⁷ Bennett, S. & Thwaites, A., 2015, Briefing and hearing transcript, p.5.

²⁸ Survey Monkey is a leading web-based survey software program. Information on the program is available at www.surveymonkey.com

²⁹ Swindells, D., 2015, Briefing and hearing transcript, p.7.

³⁰ Swindells, D., 2015, Briefing and hearing transcript, p.8.

³¹ Ahern, M., 2015, Briefing and hearing transcript, p.9.

*to be handled with parliamentary scrutiny so that it is looked at correctly before it is implemented.*³²

Following the briefings and hearing on 28 September, the committee sought further information from the department in relation to its consultation processes and outcomes from those processes. The committee notes that:³³

- the department did not consult with stakeholders specifically on the regulation or provide a draft regulation to comment on, and only consulted on the intent of the regulation
- the department contacted the following representative groups to provide updates on implementation of the three net-free zones and to seek feedback: Queensland Seafood Industry Association, Queensland Seafood Marketers Association, Sunfish Queensland, Gulf of Carpentaria Commercial Fisherman's Association, Fisherman's Portal, Moreton Bay Seafood Industry Association, World Wildlife Fund, and Australian Marine Conservation Society
- DAF officers sought comment from stakeholders on the proposed net-free zones, the way the buyback of commercial licences would occur and on what a settlement package would look like for impacted fishers. Officers also explained the operation of the compensation provisions under the *Fisheries Act 1994*
- The concerns and issues raised by stakeholders were recorded by the department and provided to the Government for consideration as part of its decision making process
- As a result of the consultation, the area of the three zones combined was reduced by 28 per cent from 2,246 square kilometres to 1,619 square kilometres, a reduction of 627 square kilometres
- Also as a result of the consultation, the settlement scheme was developed to provide compensation for commercial fishers themselves in recognition that there needed to be an alternative to compensation under the *Fisheries Act 1994* which is only available to commercial fishing boat licence holders, and
- DAF officers have been working with counterparts in the Department of Tourism, Major Events, Small Business and the Commonwealth Games since May 2015 in relation to the regulation and the establishment of net-free fishing zones to boost fishing tourism.

³² Morgan, K., 2015, Briefing and hearing transcript, p.13.

³³ DAF, 2015, Correspondence, 30 September.

Committee comment

From the advice provided to the committee and comments by departmental officers and hearing witnesses, it is clear that the Government while in opposition, and not the department was responsible for the Sustainable Fishing policy document that provides for the implementation of net-free fishing zones. The committee could not determine which consultation occurred during the policy's development, which 'major stakeholders' were provided with a copy of the policy after it had been finalised, or when this occurred. The committee invites the Minister to clarify the processes for the policy's development as it may assist Members to gauge whether the processes were reasonably inclusive of stakeholders.

It is not unusual for policies, such as the Government's Sustainable Fishing policy, to be devised and announced whilst in opposition, and for those policies to be implemented after having achieved government. There are precedents for this occurring at virtually every change of government.

The department's role since January 2015 appears to have been focused on providing information to stakeholders, consultation on the intent of the regulation and wider public consultation on the boundaries of the net-free zones. The public consultation on the zone boundaries occurred between 15 May and 15 July 2015 and included written and emailed submissions and an internet survey. Some 6,300 responses were received by the department. It appears based on the level of response, that the information did reach its intended audience.

From the feedback provided to the committee by commercial fishers, internet-surveys may not be the most appropriate interface for engaging with the industry, particularly in relation to a regulation that may impact significantly on their businesses. Despite these concerns, it appears that the consultation was effective in assisting the department to gather feedback which was then provided to the Government.

As a result of the department's consultation with stakeholders, the Government agreed to reduce the coverage of the three net-free zones by 28 per cent and to provide additional compensation arrangements for commercial fishers who were not covered by compensation arrangements under the *Fisheries Act 1994*. These changes represent important concessions to the commercial fishers affected by the net-free fishing zones and validate the worth of the consultation.

Request for clarification:

The committee invites the Minister to clarify, for the information of the House, the consultation processes undertaken with stakeholders during the development of the Government's Sustainable Fishing policy, which includes the establishment of net-free fishing zones.

3. The establishment of net-free zones

The following section discusses key issues regarding the establishment of net-free zones, their usage in other states and territories and impacts on:

- fish populations
- the marine environment
- tourism and local economies, and
- commercial fishers and the availability of local seafood.

This section also discusses costs of the regulation to government.

The regulation implements parts of the Government's Sustainable Fishing Policy. The policy commits the Government to set aside \$10 million to fund a buyout of commercial fishing activity and to provide the compensation needed to establish the three net-free fishing zones.

The regulation implements the closed waters for the zones at St Helens Beach and Yeppoon/Keppel Bay/Fitzroy River, but the Trinity Bay zone is already in place.³⁴ The Trinity Bay zone was closed to commercial net fishing 15 years ago with an arrangement put in place to allow fishers who historically fished in the Barron River, Trinity Inlet or Trinity Bay an exclusive non-transferrable right to fish in Trinity Bay only. The Trinity Bay arrangement was put in place following the signing of a deed that was executed by the fishers in favour of the state and made in connection with ex gratia payments in the year 2000. It was because of this arrangement that the details around the implementation are slightly different for Cairns as opposed to the zones near Mackay and Rockhampton.³⁵

The introduction of the net-free fishing zones in the regulation are designed to remove commercial nets for the take of certain inshore species that are important to recreational fishers. The prohibition on net-fishing does not apply to commercial trawling, crab fishing or line fishing, all of which can continue within the three designated zones.³⁶ The department advised the committee that the regulation is intended to increase the availability of fish to recreational fishers without creating sustainability concerns for fish stocks:

The three net-free zones are designed to increase the local abundance of inshore fish species that are important to recreational fishers. By excluding commercial fishing nets, the numbers of fish within the zones is expected to increase both in terms of the numbers of fish and the size and age of fish. It is this increase in the availability of fish that is expected to support increased recreational fishing participation and fishing tourism which in turn will have positive economic benefits which the Government expects to be greater than those currently generated by commercial net fishers.³⁷

The department further advised that current state-wide assessments of Queensland inshore fish stocks show most are harvested at a level where there are no significant concerns about sustainability, although that does not mean that stock levels are high overall:

If current stock levels are compared to the level they would be if no fishing were to occur, they are between 30 per cent and 50 per cent of their unfished levels. From a scientific perspective the fisheries are categorised as being "fully exploited", that is they should not be subject to additional fishing pressure.³⁸

³⁴ Spencer, S., 2015, Briefing and hearing transcript, p.2.

³⁵ Thwaites, A., 2015, Briefing and hearing transcript, p.3.

³⁶ Thwaites, A., 2015, Briefing and hearing transcript, p.33.

³⁷ DAF, 2015, *Correspondence*, 24 September.

³⁸ DAF, *Correspondence*, 30 September.

The closures for the net-free zones come into effect at midday on 1 November 2015 which coincides with the closure of the barramundi fishery.³⁹

Minister Byrne informed the House on 21 May 2015 of support for net-free zones in the Federal Government's *Reef 2050 Long Term Sustainability Plan* signed off by Hon Greg Hunt MP, Minister for the Environment.⁴⁰ And strong support for the establishment of at least one of the Mackay net-free zones from the Member for Whitsunday.⁴¹

Policy background

Net-free zones as a concept are not new. According to the department, they have been around for 30 or 40 years.⁴² They are a form of Recreational Only Fishing Areas (ROFAs). These are areas where commercial fishing is banned, leaving exclusive access to recreational fishers (anglers).

According to the President of Sunfish Qld Inc:

*The first closures were in 1989 with Nev Harper from the National Party.*⁴³

The committee heard from Mr Jim Higgs of WWF-Australia, a former fisheries officer and office manager/CEO for the QSIA. Mr Higgs outlined work by government since 2009 to better manage the inshore Fin Fish Fishery, the main component of the net-free zones established by the regulation, through reducing latent commercial licences and imposing fish size and bag limits on recreational fishers. Mr Higgs also explained that the second stage of this work, to provide local solutions to local issues, wasn't fully implemented:

*...As I mentioned, the second stage—local solutions for local issues—was to provide a mechanism to address localised issues such as where fishing occurs in a region, what or how apparatus are used and temporal or spatial closures. The second stage was never really implemented. A lot of the grief between the commercial and recreational sectors maybe stems from that time where the recreational sector believe they got the size and bag limits but they do not believe that the commercial sector had the spatial management component of the second stage.*⁴⁴

The committee heard that the commercial fishing industry had wanted a 50 per cent reduction in licences, and that this had also been the LNP policy.⁴⁵ Sunfish also confirmed that restrictions on the use of commercial fishing nets and a \$9 million licence buyback scheme were flagged as early as 2012 by the previous LNP Government.⁴⁶ In his evidence Mr Higgs noted that the former government's buy-back of commercial fishing licences failed to achieve the 50 percent target.⁴⁷

³⁹ Spencer, S., 2015, Briefing and hearing transcript, pp. 5-6.

⁴⁰ [Extract from the Reef 2050 Long Term Sustainability Plan, Tabled Paper No.443, 21.5.15, Tabled Papers Database.](#)

⁴¹ [Letter dated 30 October 2014 from the Member for Whitsunday to the MRAG Asia Pacific Review, regarding his support for a net-free zone, as proposed by the Mackay Recreational Fishers Alliance, Tabled Paper No.442, 21.5.15, Tabled Papers Database.](#)

⁴² Thwaites, A., 2015, Briefing and hearing transcript, p.33.

⁴³ Lynne, J., 2015, Briefing and hearing transcript, p.15.

⁴⁴ Higgs, J., 2015, Briefing and hearing transcript, p.18.

⁴⁵ Power, L. & Higgs, J., 2015, Briefing and hearing transcript, pp.20-1.

⁴⁶ Lynn, J., 2015, Briefing and hearing transcript, p.15.

⁴⁷ Higgs, J., 2015, Briefing and hearing transcript, P.19.

Usage of recreation-only fishing refuges in other states and territories

All states and territories in Australia have implemented ROFAs, particularly in coastal areas.

New South Wales

In New South Wales areas along the coast were classified as “Recreational Fishing Havens”, where commercial fishing was either completely banned or significantly restricted. These ROFAs included the following locations:⁴⁸

Bellinger River ⁴⁹	Lake Tabourie	Nelson Lake (Nelson Lagoon)
Deep Creek	Meroo Lake	Bega River
Hastings River	Tomaga River	Back Lake (Back Lagoon)
Lake Macquarie	Tuross Lake ⁵⁰	Pambula River
St Georges Basin	Lake Brunderee	Yowaka River
Lake Conjola	Dalmeny Lake ⁵¹	Nullica River
Narrawallee Inlet	Little Lake ⁵²	Towamba River ⁵³
Burrill Lake	Bermagui River	Wonboyn Lake, River and Wonboyn Beach ⁵⁴

These ROFAs resulted in the closure of 24 per cent of estuarine waters in New South Wales to commercial fishing.⁵⁵

Victoria

The Victorian Government announced a commitment to grow recreational fishing through a number of measures including the phasing-out of all commercial netting in Port Philip Bay over an eight-year period starting late 2014. The Victorian Government has also announced that the process and compensation package for the removal of the netting is being considered.⁵⁶ There are already restricted fishing locations in place but these locations prohibit all forms of commercial and recreational fishing.⁵⁷

Western Australia

In Western Australia, recreational fishing is permitted in General Use Zones, Recreation Zones and some Special Purpose Zones of marine parks, but fishing is not allowed in Sanctuary Zones and many Special Purpose Zones of marine parks or in the Hamelin Pool Marine Nature Reserve. Commercial fishing is not permitted in Recreation Zones.⁵⁸ Seasonal closures are in place to provide additional protection for fish species that are vulnerable during reproduction.⁵⁹

⁴⁸ Steffe et al (2005a), An assessment of changes in the daytime, boat-based, recreational fishery of the Tuross Lake estuary following the establishment of a ‘Recreational Fishing Haven’, NSW Department of Primary Industries and Fisheries, No. 81, ISSN 1449-9967, Cronulla, p.vi.

⁴⁹ Including Kalang River.

⁵⁰ Including Tuross River and Borang Lake.

⁵¹ Also known as Mummaga Lake.

⁵² Also known as Little Tilba Lake and Hoyers Lake.

⁵³ Also known as Kiah River.

⁵⁴ To 500 metres from mean high water level.

⁵⁵ New South Wales Government. Department of Primary Industries. [Recreational Fishing Havens](#).

⁵⁶ Victoria State Government, Agriculture – Fisheries: Removal of net fishing from Port Philip Bay, [FAQs](#).

⁵⁷ Victoria State Government, Agriculture – Fisheries: [Restricted Fishing Locations](#).

⁵⁸ Western Australia State Government, Parks and Wildlife; [know your zones](#).

⁵⁹ Western Australia State Government, Department of Fisheries; [Recreational fishing guide 2015](#); p43.

South Australia

Fishing is not permitted in sanctuary zones inside marine parks in South Australia. Restrictions on fishing in the sanctuary zones which represent six per cent of the state waters came into effect 1 October 2014. Seasonal closures and aquatic reserves restricting recreational fishing also apply.⁶⁰

Northern Territory

In the Northern Territory, commercial fishing is excluded from all freshwater areas, Darwin Harbour, Kakadu National Park, and the Daly, Mary and Roper Rivers.⁶¹ Section 22 of the *Fisheries Act (NT)* outline that the Minister may by notice in the Gazette declare an area, place or any waters to be a fishery management area or a fishery to be a managed fishery.⁶²

Impacts on fish populations

As noted above, ROFAs and net free zones are intended to increase the local abundance of inshore fish species that are important to recreational fishers which is expected to support increased recreational fishing participation and to positively benefit local economies.

Despite anecdotal evidence through fishing clubs that ROFAs has resulted in improved catches, there is no scientific information to support claims of improved fishing quality in most cases.⁶³ Where scientific studies have been conducted, the results have been mixed in that, in some areas, improvements in recreational catches have not been evident whilst in others, post-closure catch rates have increased.

One specific example in the Pumicestone Passage in Queensland, recreational catches before and after commercial fishing was banned in 1995 found no improvement in recreational rates, although the researcher acknowledged at the time that further sampling needed to be done.⁶⁴

The department referred to successes with ROFAs in other jurisdictions, e.g. Lake Macquarie, New South Wales in their brief for the committee.⁶⁵ In relation to the outcomes from ROFAs in Victoria, the department further advised:

Commercial fishing activities have been removed from a number of estuaries in Victoria and elsewhere in recent years. In many cases, the stated objective of these closures to improve the quality of recreational fishing has been achieved. Total mortality rate estimates of legal-sized black bream indicated a 20 per cent increase in availability of fish (that is, mortality declined) following the removal of commercial fishing in Mallacoota Inlet. Approximately 72 tonnes of annual commercial fishing effort was removed in 2003 when commercial fishing was ceased in Mallacoota Inlet.⁶⁶

⁶⁰ South Australia State Government, National Parks; Recreational Fishing in SA Marine Parks January 2015.

⁶¹ Tobin, R. (2010). Recreational Only Fishing Areas: have they reduced conflict and improved recreational catches in North Queensland, Australia? Lambert Academic Publishing, Saarbrücken, Germany.

⁶² Northern Territory. *Fisheries Act Section 22*: management areas and managed fisheries.

⁶³ Tobin, R. (2010). Recreational Only Fishing Areas: have they reduced conflict and improved recreational catches in North Queensland, Australia? Lambert Academic Publishing, Saarbrücken, Germany.

⁶⁴ O'Neill M (2000), 'Fishery assessment of the Burnett River, Maroochy River and Pumicestone Passage', QO99012, Queensland Department of Primary Industries and Fisheries, Brisbane, p.112.

⁶⁵ DAF, 2015, *Correspondence*, 24 September.

⁶⁶ DAF, 2015, *Correspondence*, 30 September.

In relation to New South Wales' ROFAs, the department advised:

Surveys taken before and after establishment of haven indicated significant increase in availability of fish (because of reduced fishing pressure from commercial fishers). The mean and median sizes of many species has increased.⁶⁷

The committee notes that two recreational fishing surveys after Recreational Fishing Haven (RFH) zoning in Lake Macquarie indicated improvements for some species (i.e. number and weight increased significantly) while recreational harvest of other species by weight and number decreased significantly. Overall, the survey found that there was no significant difference between survey years in the total annual harvest by number or weight for the whole fishery. The study authors attributed the changes in part to the implementation of the RFH and/or, in part, to natural fluctuations in fish abundance and catchability in an open estuary system.⁶⁸ A similar study of Tuross Lake estuary in New South Wales indicated that, although overall findings showed an improvement in recreational fishing quality, some prized recreational species showed significant decline whilst others showed significant increase.⁶⁹ Most studies have recommended that ongoing monitoring and further sampling be done at intervals of about three to five years.⁷⁰

Impacts on the marine environment

In its written brief for the committee, the department notes that the net-free zones and the removal of commercial nets from inshore areas will benefit the marine environment through reducing impacts associated with commercial fishing:

Commercial net fishing is an efficient and generally selective form of fishing where the fisher selects a particular mesh size to target a certain size of fish. Smaller fish are able to swim through unharmed while larger fish are not able to be tangled in the mesh. The nets are also used in a way that generally does not damage the physical environment.

However, these same nets are known to be responsible for the inadvertent capture and/or drowning of protected species such as turtles, dolphins and dugong and the incidental capture of protected fish such as certain shark species.

The Australian Department of the Environment lists the incidental catch of dugong by accidental entanglement in gill and mesh nets set by commercial fishers as a key risk to the population of dugong. Nets are considered to be a major, but largely unquantified, cause of dugong mortality in many countries, including Australia.

While the zones are being introduced to increase recreational fishing opportunities, the location of the zones is such that there are known populations of protected species in or around the zones that will likely benefit from the removal of nets and the reduced risks of accidental drowning. For example the Mackay Zone is a known area of high value to dugongs which is listed as Vulnerable in Queensland while the Rockhampton Zone is a known area for a large population of snubfin dolphins which is listed as Near Threatened in Queensland.⁷¹

⁶⁷ DAF, 2015, *Correspondence*, 24 September.

⁶⁸ Steffe et al (2005), An assessment of changes in the daytime recreational fishery of Lake Macquarie following the establishment of a 'Recreational Fishing Haven', NSW Department of Primary Industries and Fisheries, No. 79, ISSN 1449-9967, Cronulla, p.vii.

⁶⁹ Steffe et al (2005a), An assessment of changes in the daytime, boat-based, recreational fishery of the Tuross Lake estuary following the establishment of a 'Recreational Fishing Haven', NSW Department of Primary Industries and Fisheries, No. 81, ISSN 1449-9967, Cronulla, p.vi.

⁷⁰ Tobin, R. (2010). *Recreational Only Fishing Areas: have they reduced conflict and improved recreational catches in North Queensland, Australia?* Lambert Academic Publishing, Saarbrücken, Germany.

⁷¹ DAF, 2015, *Correspondence*, 24 September.

While the impacts of recreational fishing are less well known than the impacts of commercial fishing, recreational fishing does affect marine environments, particularly in inshore areas where recreational boat traffic is heaviest. Accidental collisions between boats and cetaceans, seals, turtles and dugongs are known to occur. As green turtles and dugongs often browse in seagrass meadows/beds, individuals of these species are frequently injured by boating activity.⁷² Furthermore, dugongs are vulnerable even to sailing boats and are at risk of displacement from their natural habitat because of sensitivity to, and avoidance of boat-generated noise.⁷³

At the committee's public hearing, WWF Australia commented on the welfare of dugong and snubfin dolphin:

Some of the earlier speakers have discussed the sustainability of fish stocks in Queensland, but there has not been a discussion about the sustainability of dugongs and snubfin dolphins which was a key aspect of the original listing of the World Heritage area in the early eighties. Again, some of the research shows that, unlike the fishery stock assessments where you can have one good recruitment from good seasons, the protected species do not bounce back. They have very low rates of increase. Even a single human induced mortality can lead to the demise of that population.

Daniele Cagnazzi is a researcher who has done a lot of work with snubfin dolphins in the southern closed area, and his estimates suggest there are fewer than 100 snubfin dolphins that reside pretty much within the closure that is being proposed. Even the loss of one dolphin could head that population to extinction. As I mentioned, these things cannot bounce back like fish stocks with a good season. They will take decades and decades to recover....⁷⁴

The Association of Marine Park Tourism Operators highlighted the lack of research:

Another issue that is missing is a complete lack of research. I am horrified to think that we do not even have a handle on the inshore shark fishery. I do not know whether what we are doing is sustainable or not. You would think that, for a peak predator, we would have that information, yet we do not.

Mr BENNETT: *We do not have the information, but we are arbitrarily going to close off large sections of net-free zones without the data, without the science?*

Mr McKenzie: *It is not large sections; it is only three sections and they are not particularly large when you look at the overall shoreline of Queensland.⁷⁵*

Impacts on tourism and local economies

The Rockhampton Regional Council Mayor indicated their strong support for the regulation and net-free fishing zones based on the significant economic and employment benefits to the Rockhampton area:

I am very supportive of the net-free zones. We can see a lot of value for tourism, aquaculture and agriculture in our community. Preliminary information is talking about a direct economic benefit to our council area of about \$22 million with another \$14 million or so as flow-on. Obviously, it needs to be independently assessed. It is one of

⁷² Hardiman, N and Burgin, S. (2010). Recreational impacts on the fauna of Australian coastal marine ecosystems. *Journal of Environmental Management* 91: 2096-2108.

⁷³ Preen, T., 2001. Dugongs, Boats and Turtles in the Townsville-Cardwell Region and Recommendations for a Boat Traffic Management Plan for the Hinchinbrook Dugong Protection Area. In: Great Barrier Reef Marine Park Authority Research Publication No.67. Great Barrier Reef Marine Park Authority, Townsville.

⁷⁴ Higgs, J., 2015, Briefing and hearing transcript, p.19.

⁷⁵ McKenzie, C. & Bennett, S., 2015, Briefing and hearing transcript, p.23.

*those things that you probably do not know until it happens, but we are estimating anywhere up to 200 local jobs and that is not including at Livingstone shire.*⁷⁶

In its evidence, the department noted that the establishment of 30 recreational fishing havens across New South Wales in the early 2000s had positive effects on tourism:

*For example, Port Macquarie has one recreational fishing haven with the Hastings River closed to commercial fishing; Bermagui-Narooma has five havens, including Tuross Lake, Tuross River and Bermagui River. In 2005 (latest available data), Port Macquarie had around 79,600 visitor nights; Bermagui-Narooma 102,900 visitor nights specifically for the purposes of fishing – this represents around 17-20 per cent of total visitor nights. Around 55 per cent of recreational fishing in both Port Macquarie and Bermagui-Narooma is undertaken by visitors. The economic value of this additional tourism activity was between \$15-20 million per year.*⁷⁷

The figures quoted by the department are from a report in March 2005⁷⁸ commissioned by the NSW Department of Primary Industries using funds from the NSW Recreational Fishing Saltwater Trust.

This expectation that there would be an increase in recreational fishing activity was fulfilled in one of the ROFAs in New South Wales. In the Tuross Lake estuary, recreational effort (boat days) increased by about 25 per cent approximately 1.5 to 2.5 years after ROFA implementation.⁷⁹ However it can be argued that even if recreational fishing activity improved, there is not necessarily a positive relationship between fish abundance and the number of recreational fishers. For example, after commercial fishing was banned in the Mary River in the Northern Territory recreational fishing decreased despite the reported increase in available barramundi stock in the river.⁸⁰

In Victoria, given the popularity of recreational fishing in some areas, there is the potential for overfishing to occur which can exacerbate threats to the reproductive viability of local populations. For example, it was found that longtail tuna may be particularly vulnerable to overfishing by sport fishers because of their restricted coastal distribution and slow growth. The Victorian report suggested that recreational fishing has the potential to create fishing pressure on low stock levels.⁸¹

The department had suggested that there would be positive economic benefits in local communities although the reduction in licences as a result of the voluntary buyback scheme will likely result in a corresponding loss of jobs in the sector.⁸² In many cases, increased expenditure on fuel, bait, supplies, fishing gear, boats is expected to result in an expansion in employment in the recreational sector. While economic benefits are theorised, at present there are no published cases where such expectations of increased expenditure in adjacent communities have been tested following the implementation of ROFAs. Some studies suggest that if expenditure does increase in the region, it may be as a result of transfer or re-distribution of spending from other areas such as other leisure activities or nearby towns. As such, such benefits may only be realised in some areas, e.g. areas that are positioned close to population centres.⁸³

⁷⁶ Strelow, M., 2015, Briefing and hearing transcript, p.25.

⁷⁷ DAF, 2015, Correspondence, 30 September.

⁷⁸ Dominion Consulting Pty Ltd. (2005). The importance of recreational fishing expenditure to the economies of two coastal towns in northern and southern New South Wales: Port Macquarie and Narooma/Bermagui.

⁷⁹ Steffe et al (2005a). An assessment of changes in the daytime, boat-based, recreational fishery of the Tuross Lake estuary following the establishment of a 'Recreational Fishing Haven', NSW Department of Primary Industries and Fisheries, No. 81, ISSN 1449-9967, Cronulla, p.vi.

⁸⁰ Tobin, R. (2010). Recreational Only Fishing Areas: have they reduced conflict and improved recreational catches in North Queensland, Australia? Lambert Academic Publishing, Saarbrücken, Germany.

⁸¹ Ford, J. and Gilmour, P. (2013). The state of recreational fishing in Victoria: a review of ecological sustainability and management options, a report to the Victorian National Parks Association, Melbourne, p.33.

⁸² DAF, 2015, Correspondence, 24 September.

⁸³ Tobin, R and Sutton, S. (2011). Perceived benefits and costs of recreational-only fishing areas to the recreational and commercial estuarine fishery within North Queensland. American Fisheries Society Symposium 75: 128-138.

In his evidence, Deputy Mayor of Livingstone Shire Council, Councillor Graham Scott, while optimistic, suggested that improving the recreational fishing catch will not of itself grow a fishing tourism industry, based on his extensive experience as a charter boat operator:

With regard to tourism, particularly through Capricorn Enterprise and our membership, we do not see the immediate nexus between net-free zones and an increase in tourism. It might happen; it might not. This is simply a resource reallocation, as Scott Spencer mentioned at the outset. It is simply a resource allocation. It does no more than that. It does not even necessarily increase the opportunity for recreational fishermen to catch barramundi. It might; it might for the short term; it might not.

It is also worth remembering that, as part of the Southern Great Barrier Reef, one of the hero experiences is about culinary delights and tropical delights. Particularly, barramundi from North Queensland is seen as one of the iconic opportunities for people who come to our region. From a charter-fishing perspective and from my business knowledge in charter fishing, over six or seven years I never got a request to fish for barramundi and I never got a request to go to the Fitzroy River - except Jim Higgs mentioned Daniele Cagnazzi as the lead researcher on snubfin dolphins.

And:

If I could catch twice as many fish on those charters, I would not have got a single additional charter. It was about the opportunity to catch those fish and the overall product—the quality of the boats and the fun you have out there. But the control, which is the same as this issue here, was the number of times you could do it. I was limited by weather. Even those nine-day fish closures for spawning impacted me. That is what my concern is with this legislation: if we are going to build a recreational tourism industry, we have a closure for three months where you cannot target barramundi... I really hope that Rockhampton and the Capricorn Coast do establish this wonderful tourism industry. This alone does not do it. It does not do it at all.⁸⁴

The Executive Officer of the Association of Marine Park Tourism Operators, who stated that his members carry 90-95 per cent of tourists who visit the Great Barrier Reef, told the committee:

...Our association totally supports the proposed legislation. We think the legislation is the only way to go. .. There is no doubt in our mind that if we had better catches in the areas that are now proposed as net-free areas we would significantly improve the local economy with the creation of jobs. There are far more people involved in recreational fishing than there are commercial fishing. When you start looking at what has happened in Darwin and the Northern Territory, a lot of commercial fishermen have simply swapped over to being commercial guides, and they are making far more from the charter fishery than they ever made when they were looking at trying to make a living from net fishing....⁸⁵

⁸⁴ Scott, G., 2015, Briefing and hearing transcript, P.25 & p.28.

⁸⁵ McKenzie, C., 2015, Briefing hearing transcript, p.22.

The Chairman of Mackay Tourism which represents 200 local tourist interest, advised the committee that the expansion of recreational fishing in the Mackay region, particularly saltwater fishing, had been on the agenda of his organisation since 2005:

We have been looking for opportunities across a number of years to be able to find more incentives for tourists to visit the region. In 2005 we commissioned a study from the Stafford Group to identify the benefits of fishing tourism in the region. That study was particularly focusing on the impoundments of the area—Kinchant Dam, Eungella, Teemburra and the Peter Faust Dam located in the Whitsundays. This particular study also included some information on the benefits of adding saltwater fishing to the mix to provide a complete angling opportunity for the region. We also identified back in 2005 that a New South Wales study had shown that saltwater fishing takes in 86 per cent of the market, with the rest preferring freshwater fishing. The long-term plan that Mackay Tourism embraced back in 2005 and is still working on in 2015 is identifying the natural opportunities for people to be encouraged, firstly, to visit the region and, secondly, to stay a little longer. We certainly see the opportunity of an improved fishing environment as one that will stimulate further attractiveness for the region.⁸⁶

Impact of the net-free zones on commercial fishing and fishers

In relation to impacts on commercial fishers, the department advised the committee:

There are 1,437 commercial fishing licences in Queensland that can work in one or more of the trawl, net, crab and line commercial fisheries in Queensland. Only the net fishery, in which 411 of the commercial fishing licences can operate, are impacted by the zones. That is the regulations applying to 70 per cent of commercial fishing licences are not changed at all by the introduction of the zones.

Of the 411 netting licences that are able to fish in the zones, 92 (or 22 per cent) actually did so between 2012 and 2014. However not all licences are impacted to the same extent. For example 26 of these licences accounted for 73 per cent of the effort in the zones and 65 of those licences have recorded less than 15 per cent of their fishing effort for the year in the zones. Overall the number of 'full time equivalent' licences operating in the net fishery within the zones is around 4 per cent of the total number of 1,437 commercial fishing licences in Queensland.

Without a buyback of licences, fishing catch and effort would be displaced into other areas or into other fisheries. Such a move would result in increased competition and conflict within the sector and between sectors as well as create the potential for localised pressure on the fish stocks. To reduce the possibility of displaced effort, the voluntary buyback scheme aims to remove approximately 46 commercial licences.⁸⁷

The department advised that 'logbook records for commercial fishing between 2012 and 2014 also show that 92 commercial licences fished for at least one day in the zones, and that 73 per cent of the netting effort in the zones is undertaken by 28 per cent of the licences which have operated there'.⁸⁸

⁸⁶ O'Connor, P., 2015, Briefing and hearing transcript, p.22.

⁸⁷ DAF, 2015, *Correspondence*, 24 September.

⁸⁸ Thwaites, A., 2015, Briefing and hearing transcript, p.2.

The department explained:

For the commercial fishing sector the reduction in licences, as a result of the voluntary buyback scheme, will likely result in a corresponding loss of jobs in the sector.

The impacts of the zones on jobs in business that are reliant on the commercial fishery are unknown. While some impact is likely, it is difficult to determine its level as the activities of crab, trawl and line fishers will not be impacted by the zones introduction and net fishing can still occur in waters outside the zones. Due to the nature of the seafood marketplace, these businesses will be able to adapt should they wish by sourcing product from other regions, sourcing product from other fisheries or by developing new customers, potentially recreational fishers.⁸⁹

At the hearing, the representative from the Queensland Recreational Fishing Network advised the committee that fisheries experiences peaks and troughs in terms of annual harvest. The representative stated:

The worst-case scenario is that these three new net-free areas are declared as proposed by this legislation resulting in a direct reduction in catch of less than 200 tonnes per annum from a fishery that averages a total harvest annually of between five and 6,000 tonnes with natural fluctuations far in excess of 200 tonnes.⁹⁰

Displaced fishing and compensation

The department notes that the exclusion of commercial fishing nets from the net-free zones creates two issues. The first is that commercial fishers operating within the zones will have to move to other areas and into other fisheries, referred to as 'displaced fishing effort'. Secondly, where reallocation to another sector occurs, the *Fisheries Act 1994* provides that commercial licence holders are entitled to compensation.⁹¹

The problems associated with displaced fishing effort were highlighted by QSIA representatives at the committee's public hearing:

Mr Caracciolo: *Displacement of effort is a big issue.*

And:

Mr Harris: *Like Dave said, I am a multiendorsed fisher. I am similar to Dave. What we are talking about here today will mean that I will lose 25 per cent of my income. It will be gone with no prospect of it being replaced—not in the net fishery, because there is nowhere else along the coast that I can go to access a river system like the Fitzroy River to replace what I catch. Therefore, I am going to have to put, as they said, effort into another fishery. That could be either mud crab or the line fishery, which I would not normally access at that time of the year. To do that, I will have to probably move to another area and impose on other fishermen's areas. They do not want me there, I do not want to go there, but I am being forced to do that.*

And:

Mr Swindells: *To explain how bad this is—and Keith was talking about the transfer of effort—there have actually been guns drawn already up the coast where commercial fishermen are threatening to shoot each other because of them moving from one area into another. I hate to see that happen. We should all be getting along together, not doing that.⁹²*

⁸⁹ DAF, 2015, *Correspondence*, 24 September.

⁹⁰ Martin, K., 2015, Briefing and hearing transcript, p.31.

⁹¹ DAF, 2015, *Correspondence*, 24 September.

⁹² Caracciolo, D., Harris, K. & Swindells, D., 2015, Briefing and hearing transcript, p.13.

The department advised that to address these issues, the regulation establishes two compensation schemes which are to be administered by QRAA. The department explained:

*The first is a voluntary buyback scheme which targets the removal of approximately 46 licences to prevent displaced fishing effort. The second scheme is a voluntary settlement scheme which is designed to give fishers a payment dependent on their level of fishing effort within the zones.*⁹³

The committee was advised that impacted commercial fishery licence holders could apply for compensation under the *Fisheries Act 1994* as an alternative to the QRAA schemes. Compensation under the Act is limited to licence holders and is calculated based on the loss of probable taxable income and any reduction in licence value as a result of the regulation change. The department stated:

*The important difference between the settlement scheme and compensation under the Act is that the settlement scheme is available to affected licenced commercial fishers whereas the compensation scheme is limited to the holders of a commercial fishing boat licences. A licenced commercial fisher must be in charge of every operation using a commercial fishing boat licence however the fisher does not necessarily own the commercial fishing licence.*⁹⁴

Compensation arrangements are discussed further in Part 4 of this report.

Impacts on the availability of seafood

The committee sought advice from the department as to the likely impacts of the regulation on supplies of local seafood from affected areas. The department advised that the total net catch from the three net-free fishing zones covered by the regulation represents 1 per cent of Queensland's total seafood production and 0.1 per cent of Australian seafood production according to the Australian Bureau of Agricultural and Resource Economics and Sciences.⁹⁵

The department stated that analysis of commercial fishing logbook records between 2012 and 2014 shows that, by weight, the commercial net catch in the three net-free fishing zones established under the regulation represents approximately:

- 8 per cent of the Queensland (east coast) net fishery catch
- 6 per cent of the Queensland (total) net fishery catch
- 1 per cent of Queensland seafood production
- 0.1 per cent of Australian seafood production
- 33 per cent of the Queensland (east coast) barramundi catch, and
- 13 per cent of the Queensland (total) barramundi catch.⁹⁶

According to DAF, the estimated gross value of commercially net-caught fish from the zones is \$2 million per annum.⁹⁷ This gross value is the department's estimate based on the value of \$6 per kilo for caught fish at the wharf.⁹⁸ The department also advised:

*While there will undoubtedly be a reduction in the volume of some species put into the market place it is most likely that the supply chain will adapt and that product from other areas or alternative product from other fisheries will be made available.*⁹⁹

⁹³ DAF, 2015, *Correspondence*, 24 September.

⁹⁴ DAF, 2015, *Correspondence*, 24 September.

⁹⁵ DAF, 2015, *Correspondence*, 24 September.

⁹⁶ Thwaites, A., 2015, Briefing and hearing transcript, p.2.

⁹⁷ Thwaites, A., 2015, Briefing and hearing transcript, p.2.

⁹⁸ Spencer, S., 2015. Briefing and hearing transcript, p.6.

⁹⁹ DAF, 2015, *Correspondence*, 24 September 2015.

At the hearing, commercial fishers disputed the department's assessment of impacts when the catch is considered in terms of retail value of fillets and total numbers of meals lost. One representative from the QSIA stated:

I have a wholesale-retail business outlet in Cairns. It is a very small area where only four people operate, so it gives you an idea of what the product can actually be worth. One vessel alone—I have done the analysis—turns over somewhere in the vicinity of 25 tonne of fish per year into the local economy. That 25 tonne of fish cut down into pieces equates to probably 150,000 pieces of fish. If anyone can buy a piece of fish for \$6, as they stated before, I think you are getting a pretty cheap meal. Those species of fish we are talking about are very high quality fish served in restaurants. We are talking about king salmon and barramundi. You would pay anywhere in the vicinity of \$8 to \$16 to \$20 for a piece of fish. Working it out at \$8 a piece of fish, which is what you pay across the seafood bar, you are looking at very close to \$1.2 million from one vessel alone. That is one of my boats, so I know what I am talking about when you come down to pieces of fish—\$1.2 million from one vessel on one licence in one area.¹⁰⁰

The committee also heard from a retailer who explained:

QFish has released figures and it is public information. In terms of the net-free zones, once they are closed that will mean a loss of 1.275 million serves with approximately 1.2 million serves of local wild caught fish which will be permanently eliminated from Queensland plates. That is estimated on 160 grams of fish. For example, in my shop we would sell a piece of battered barramundi for \$9 a piece. But in the entirety of these net-free zones it is 1.2 million serves of fish taken away from the Queensland public.¹⁰¹

The representative from the Queensland Recreational Fishing Network provided information highlighting a survey that was undertaken in Rockhampton and the Capricorn Coast investigating the availability and origin of fish for sale in that marketplace. He explained that the survey covered 44 retail outlets across the survey area, including the two specialist seafood retailers in the area, restaurants, hotels, clubs, fish and chip shops and supermarkets. The representative stated:

In summary, the report reveals that, apart from the two specialist seafood retailers where you would expect to find locally sourced finfish, only one restaurant and one fish and chip shop definitely had fish - in both cases barramundi -that had been caught by commercial net fishers in Central Queensland waters. The data shows that fish and chip shops predominantly sell Spanish mackerel and reef fish, which are both commercially line-caught species and will not be impacted in any way at all by the proposed net-free areas. Other species sold in many fish and chip shops are imported from wild fisheries and fish farms outside Australia.¹⁰²

Sunfish Queensland Inc. also commented on the findings of surveys of retail outlets:

From Sunfish ourselves, a survey of retail outlets was done in the Rockhampton area. Another has been published from Hervey Bay. We have done two so far over a time period in Moreton Bay which show that less than 20 per cent of outlets actually stock locally caught net fish. By net fish, I am talking about gill netting and not tunnel netting. Tunnel netting tends to produce a higher quality fish. In this day and age, that is what the market is demanding. They are not demanding the stuff that is gill netted, drowned and damaged.¹⁰³

Sunfish Queensland Inc. also commented on consumers' preference for higher quality seafood:

¹⁰⁰ Batch, B., 2015, Briefing hearing transcript, pp.10-1.

¹⁰¹ Morgan, K., 2015, Briefing and hearing transcript, p.11.

¹⁰² Martin, K., 2015, Briefing and hearing transcript, p.30.

¹⁰³ Lynne, J., 2015, Briefing and hearing transcript, p.16.

The stuff that is appearing in our local markets is generally line caught or tunnel-net caught. It is a much better appearing product. It does not have marks and bruises on it. It is a lot fresher. When people are buying fish in the supermarkets, they now have guides to show how to source really good quality commercially caught fish. With the net-free areas, we are certainly not looking to stop people being able to purchase fish. We would like to see that the fish that is available locally is of a higher quality and a quality that the Australian consumer is looking for.¹⁰⁴

Costs to government

The committee sought clarification from the department to explain the likely one-off and ongoing costs to government associated with the establishment of net-free zones, enforcement of the zones, the payment and administration of administration of compensation to affected fishers and other support for displaced fishers and affected businesses.

The department advised the committee:

The Government has allocated \$10 million dollars to fund the introduction of the Zones including the payment and administration of funds to impacted commercial fishers and licence holders.

There is no financial support being offered to affected businesses, beyond that available to impacted commercial fishers and licence holders.

The ongoing costs of the Zones in relation to management, education, compliance and monitoring will be covered within the existing budget of the Department of Agriculture and Fisheries. Existing resources will be prioritised as required.¹⁰⁵

¹⁰⁴ Lynne, J., 2015, Briefing and hearing transcript, p.16.

¹⁰⁵ DAF, 2015, *Correspondence*, 24 September.

Committee comment

The establishment of net-free zones in the regulation is intended to boost recreational fishing and the development of fishing tourism and local economies in areas near the three zones. In other jurisdictions, the establishment of fishing refuges to encourage fishing tourism has had mixed results in terms of fish populations and improved catches for recreational anglers. It will be important to monitor impacts on dugong, in-shore dolphin and other marine species as recreational fishing increases in the three zones as is anticipated. Establishing base-line data on inshore species and the marine environment now at the commencement of the net-free zones will be important for tracking and managing any adverse impacts in future.

From experience in other areas with the establishment of recreational fishing refuges, it is reasonable to expect that tourism growth and economic benefits can be achieved with effort by local operators and councils working cooperatively with the State Government in the Mackay, Rockhampton/Fitzroy and Cairns regions where net-free fishing zones will be created by the regulation.

The committee notes that licence buybacks and constraints on commercial fishing have been proposed by government since 2009 to better manage the Inshore Fin Fish Fishery. This included a 50 per cent reduction in East Coast fishing licences which was supported by the commercial fishing industry and implemented by the former government. The committee also notes that the buy-back of licences by the former government only achieved 30 per cent, well short of the 50 per cent target.

The committee notes that, based on log-books and catch data, the exclusion of commercial net fishing from the three zones will result in relatively small changes to the total Australian and Queensland seafood catch. The committee also notes the expectation from the department that the seafood market will adapt and find new sources of seafood for current markets to meet demand, including other local sources. There maybe some loss of choice for seafood consumers and businesses in some areas as supplies of commercially gill-netted species from the net-free zones are affected. It is also possible that net-free zones could lead to more availability of local seafood of superior quality.

The establishment of the net-free zones will impact on commercial fishers and related businesses to varying degrees, depending on the extent that their activities are linked to gill net fishing in the areas now declared as net-free zones. The committee encourages commercial fishers to consider the Government's compensation package.

Request for clarification:

The committee invites the Minister to clarify, for the information of the House, what steps his department will take to gather base-line data on the populations of fish and other species in the net-free zones, and on recreational fishing activity for monitoring the future success of the zones and managing their impacts.

4. Compensation arrangements

The regulation establishes a two-part support scheme to assist commercial fishers affected by the loss of net fishing rights: a voluntary buy-back of commercial fisher licences in the zones; and a settlement scheme administered by QRAA.

Alternatively, fishers can claim compensation under s.42 of the *Fisheries Act 1994*. The committee notes that the compensation available under the Fisheries Act is three years taxable income and any loss of licence value.

Following the Government's announcement of the boundaries for the zones and the Assistance arrangements, the department wrote to all of the net fishers and net licence holders to advise them of the Government's decisions and the implications for them. Since then, the department has contacted over 40 fishers and has met approximately half of them face to face to explain the options.¹⁰⁶

QRAA was engaged by the department under a memorandum of understanding to administer both the net-free fishing zone buyback scheme and the net-free fishing scheme settlement scheme.¹⁰⁷

Compensation amounts

The regulation inserts new schedules into the Rural and Regional Adjustment Regulation 2011. New Schedule 26 *Particular commercial fishing boat licences surrender scheme* provides at s.6 that the relevant amount for a surrender offer is essentially the total of:

- the amount in the table in s.19 for a commercial fishing boat licence (\$18,000)
- the total of the amounts stated in the table for the Class 1 fishery symbols (which range from \$48,000 to \$60,000 per symbol) held at 5pm on 16 August 2015, and
- the total of the amounts stated in the table for the Class 2 fishery symbols (which range from \$12,000 to \$42,000 per symbol) held at 5pm on 16 August 2015.

New Schedule 27 *Payments to holders of commercial fisher licences for prohibition on possession or use of particular nets scheme* provides at s.3 that the relevant amount for an application is worked out as the total of the zone amounts calculated using the base rate for each zone multiplied by the applicant's average net use days for the zone (the number of logged days during 2012, 2013 or 2014 that the applicant used a qualifying net to take fish in the zone under a relevant fishing symbol) divided by three. Use of multiple qualifying nets on the same day only qualifies as one day's use.

The schedule provides at s.3 that the base amounts for the three zones are:

- \$500 for the Yeppoon-Keppel Bay-Fitzroy-Capricorn Coast waters zone
- \$500 for the St Helens Beach-Ocape Hillsborough –North of Mackay waters zone, and
- \$1,000 for the Trinity Bay-Cairns zone.

Stages of the administration of the compensation schemes

Mr John Rossberg of QRAA explained the four stages of the administration of the schemes at the committee's public briefing.¹⁰⁸

Stage 1 - on 15 October 2015, QRAA will issue an invitation pack (comprising a cover letter, scheme guidelines and a prepopulated surrender offer application and some questions and answers to assist them) by registered mail to those eligible holders of a Queensland commercial fishing boat licence endorsed with the relevant fishing symbols, who have conducted netting operations in one of the three net-free zones between 2012 and 2014. QRAA has been provided a preliminary list of 73 licence

¹⁰⁶ Thwaites, A., 2015, Briefing and hearing transcript, p.3.

¹⁰⁷ Rossberg, J., 2015, Briefing and hearing transcript, p.3.

¹⁰⁸ Rossberg, J., 2015, Briefing and hearing transcript, pp.3-4.

holders who are eligible to receive an invitation to participate. The department provided QRAA a preliminary list on 1 October.

On 15 October QRAA will also issue a separate information pack by registered mail to eligible holders of a Queensland commercial fisher licence, as distinct from a boat licence, who have recorded net-fishing activities in the net-free zones between 2012 and 2014. QRAA has a preliminary list of 92 licence holders who are eligible to receive an invitation to participate in the scheme.

Stage 2 – 15 October – 2 December 2015. During this period, the scheme is open to applications. QRAA will register applications as they are received, though the outcome won't be determined until after the application period has closed. QRAA will provide a freecall telephone number for all fishers.

Stage 3 – within three days of 2 December, QRAA advise the department of the number and value of applications received for the licence buyback, and for payment under the settlement scheme. The department will then advise QRAA within two days of the final amount of funding available for buybacks and settlement payments.

QRAA is then to determine successful applicants under the scheme based on the funding that is available and using an order of merit as set out in the regulation:

What that means for the buyback scheme is that it is in decreasing order of priority in each zone from the holder of the highest number of net-use days in the net-free zone to the lowest. Then for the settlement scheme it is just in order of receipt. QRAA will write to all applicants and advise the outcome of their application. QRAA plans to have written to all fishers by Friday, 11 December 2015.¹⁰⁹

Stage 4 – is the settlement or payment stage. For buybacks, successful applicants will receive a surrender pack which comprises a surrender authority form for completion to surrender their Queensland commercial fishing boat licences to Fisheries Queensland, plus an authority to pay form. QRAA expects most payments will be made by 24 December 2015. For the settlement scheme no further documentation is required from the fisher and successful applications will be paid out within a few days from 11 December.

The department advised the committee that fishers will have access to farm financial counsellors.¹¹⁰

The committee questioned QRAA on the timing for the compensation scheme:

Mr BENNETT: *I want to talk to John from QRAA. In terms of compensation, it seems that the fishers have to make this commercial decision about probably a lifetime of fishing in less time than they had for the consultation. I am curious as to why there is an accelerated period to December. I am trying to work through the decisions that these small business people, mums and dads, have to make about their future. We seem to be putting what could be seen as onerous time frames on them. It is a significant decision they have to make.*

Mr Rossberg: *I totally understand the significance of the decision they need to make. QRAA abides by the regulation and those dates are part of that. The department might be able to assist in responding to that.*

Mr BENNETT: *Has the regulation set the time frame?*

Mr Spencer: *That is correct. (Transcript,,p4-5.)*

¹⁰⁹ Rossberg, J., 2015, Briefing and hearing transcript, p.4.

¹¹⁰ Spencer, S., 2015, Briefing and hearing transcript, p.4.

What the compensation will cover

The committee heard from commercial fishers and related businesses that the compensation does not provide adequate recompense for their equipment and other costs:

For me to do that netting, I still had to purchase a boat—an outboard—and thousands and thousands of dollars worth of nets. I have bundles of nets that have not even been used yet. If this is imposed on me, how am I going to be compensated for all of my equipment? It is not just me: it is Keith; it is everybody sitting at this table. We have thousands of dollars worth of stuff that will be sitting in the back room. Where is it going to end up? Probably in the hands of recreational users so they can go and catch black market fish.

And

If you remember correctly, if you go back to when we introduced the green zones, they estimated that they would be able to get out of the compensation package for 50 million. I have heard two figures. I have heard one say that it was over \$300 million, but I have had one politician tell me that it was over \$500 million that they ended up having to pay out in compensation and we have been offered \$10 million.¹¹¹

And:

Mr Caracciolo: *There is no compensation or even any mention of any compensation to the marketers. In the figures that I have produced there, over five years I will lose \$1.7 million in income. I will be putting off staff. We are not even considered in the whole package. How the compensation package was done intrigues me totally. With regard to what the fishermen have been offered, everyone I have spoken to has flatly rejected it. It is a joke, it is an insult and it is totally embarrassing the way the government has done it.¹¹²*

The committee heard that some equipment used for netting in the net-free zones may not be suitable for use in other areas:

Mr Caracciolo: *To answer what Linus was asking, in terms of the nets and the ropes because of the tide range down there, you have seven-metre tides north of the Rockhampton area and some in Mackay. You have bigger head ropes, you have bigger leads and you have bigger mesh—eight-inch mesh or six-inch mesh. Those nets cannot be used on the foreshores in Brisbane or Hervey Bay because they are not suitable for those areas. So certainly the equipment is designed for those areas.¹¹³*

The committee questioned the department on the adequacy and coverage of the compensation being offered:

Mr SORENSEN: *When you take away a percentage of somebody's income, especially in a business, are you going to compensate them for their whole business or are you only going to compensate them for the part in that net-free zone? If you are going to take away half of someone's livelihood who has the boats and the nets and who cannot make a living out of it anymore, are you going to take them completely out or are you only going to compensate them for—*

Mr Rossberg: *There are probably a couple of components to that question. One is the compensation component, which I will throw back to Fisheries, and the other is the regulated schemes. The regulated schemes nominate a formula that we are to use, and then there is the opportunity for the fishers to decide whether they wish to take up that*

¹¹¹ Swindells, D., 2015, Briefing and hearing transcript, p.12.

¹¹² Carracciolo, D., 2015, Briefing and hearing transcript, p.12.

¹¹³ Carracciolo, D., 2015, Briefing and hearing transcript, p.10.

offer. We are very much restricted to what the regulation says, the formulas that are incorporated within that regulation and the defined amount that goes with each particular fishing symbol. Beyond that, I will hand it back to Fisheries.

Mr Spencer: *The scheme deals only with the licences and the settlement. It does not deal with the other parts of the business that you were talking about. If the fishers chose not to accept those offers, they can seek compensation under section 42 of the act. That provides for three years taxable income and any loss of licence value. They are the two things that are prescribed by the parliament in terms of payments.¹¹⁴*

And:

Mr POWER: *Obviously for any fishers there are costs involved with the capital cost of the equipment, the nets, diesel and things like that, as well as deckhands and others who are not part of a family enterprise.*

Mr Spencer: *Certainly.*

Mr POWER: *We have heard the figures that 26 or 28 people spend more than 73 per cent of their time and then 92 at least one day, but that does not give us a clear indication because there is a big gap between those two figures. Is there a clearer way to express that than those two figures?*

Mr Spencer: *Certainly on the analysis that we have done they range from one day through to over 120 days or around about that.*

Mr Thwaites: *Yes, per year on average.*

Mr Spencer: *But the vast majority of effort days was undertaken by a relatively small number—26 or 28, whatever the number was—who undertake about three-quarters of the effort days across the zones.*

Mr Thwaites: *So the curve falls rapidly away.¹¹⁵*

Committee comment:

The committee notes the compensation for affected fishers that is included in the regulation, and the steps that will be taken by QRAA to engage with affected fishers during their staged administration of the scheme.

The committee considers that the compensation on offer is reasonable and provides good coverage of affected commercial fishing boat licence holders as well as affected fishers who do not own boat licences.

The committee also notes that affected commercial fishers may, alternatively, be entitled to receive compensation under s.42 of the Fisheries Act 1994 as a result of the loss of fishing rights.

¹¹⁴ Sorensen, E, Rossberg, J. & Spencer, S., 2015, Briefing and hearing transcript, p.6.

¹¹⁵ Power, L., Spencer, S., & Thwaite, A., 2015, Briefing and hearing transcript, p.6.

5. Fundamental legislative principles

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

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

Section 4(2)(a) Legislative Standards Act 1992 – Rights and liberties of individuals

The OQPC Notebook states:

Legislation should not, without sufficient justification, unduly restrict ordinary activity...

Regulation of business, although prolific, is an interference in a right to conduct business in the way in which the persons involved consider appropriate.

Clause 6 of the amending regulation inserts section 123B “Prohibited activities” into the Fisheries Regulation 2008. This provision will prohibit the use of net fishing in certain areas including: Trinity Bay – Cairns; St Helens Beach – Cape Hillsborough, North of Mackay; and Yeppoon/Keppel Bay/Fitzroy River, Capricorn Coast.

The explanatory notes provide a number of reasons for the interference with this commercial business activity. These include that:

- the three net-free fishing zones were an election commitment
- public consultation was undertaken on the boundaries of the regulated waters
- the impact zones were well understood
- the buyback scheme and settlement scheme would mitigate impacts
- there would be environmental benefits to the community through protection of fish populations and protection for protected species that become entangled in commercial fishing nets (including dugong, turtles and dolphins)
- there would be social benefits for recreational fishers, and
- there would be economic benefits through growth in recreational and charter fishing industries.

The explanatory notes state the Government has set aside \$10 million to fund the necessary buyout of commercial fishing activity in the new net free zones. There is a level of priority assigned to applicants and “...*applicants will be decided on a competitive basis to the limit of available funding*”. From the information provided it is unclear how many people the buyback scheme will compensate and how many people may miss out if the ‘limit of available funding’ is reached before all claims are settled. The Explanatory Notes also state the scheme does not buy out boats, nets or other equipment.

Committee comment:

The committee considered the impact of the regulation and its prohibition of net fishing on commercial fishers who are accustomed to working in certain zones of the Inshore Fin Fish Fishery, and who derive income from their licences to commercially fish in the newly declared net-free fishing zones. The committee also notes the justifications for the regulation that the department has given.

In its examination of the regulation, the committee further noted the concessions and features of the net-free zones in the regulation that are intended to minimise and constrain adverse impacts on commercial fishers.

The committee also notes that commercial fishers will continue to have rights to crab and line fish in the net-free zones, and will also maintain their rights to generate incomes from commercial net fishing along the coast outside of the three declared net-free zones. The committee also notes the compensation arrangements that are provided in the regulation for fishers to offset the impacts and who choose to surrender their licences and the alternative compensation rights under s.42 of the *Fisheries Act 1994*.

In the committee's view, the impact on the rights of persons whose livelihood is tied to commercial fishing in those declared waters is reasonably justified.

Appendix A: Departmental briefing officers and hearing witnesses 28 September 2015

Department of Agriculture and Fisheries

Mr Scott Spencer, Deputy Director-General, Fisheries and Forestry

Mr Andrew Thwaites, Director, Implementation and Consultation

QRAA

Mr Cameron MacMillan, Chief Executive Officer

Mr John Rossberg, Manager, Program Delivery

Queensland Seafood Industry Association

Mr Mark Ahern, Fisher and Retailer

Mr Bruce Batch, Fisher

Mr David Caracciolo, Retailer and Wholesaler

Mr Keith Harris, Fisher

Mr David Swindells, Fisher

Sunfish Queensland Inc

Mrs Judy Lynne, Executive Officer

World Wildlife Fund - Australia

Mr Jim Higgs, Great Barrier Reef Fisheries Policy Manager

Association of Marine Park Tourism Operators

Mr Col McKenzie, Executive Officer

Mackay Tourism

Mr Paul O'Connor, Chairman

Livingstone Shire Council

Cr Graham Scott, Deputy Mayor

Rockhampton Regional Council

Cr Margaret Strelow, Mayor

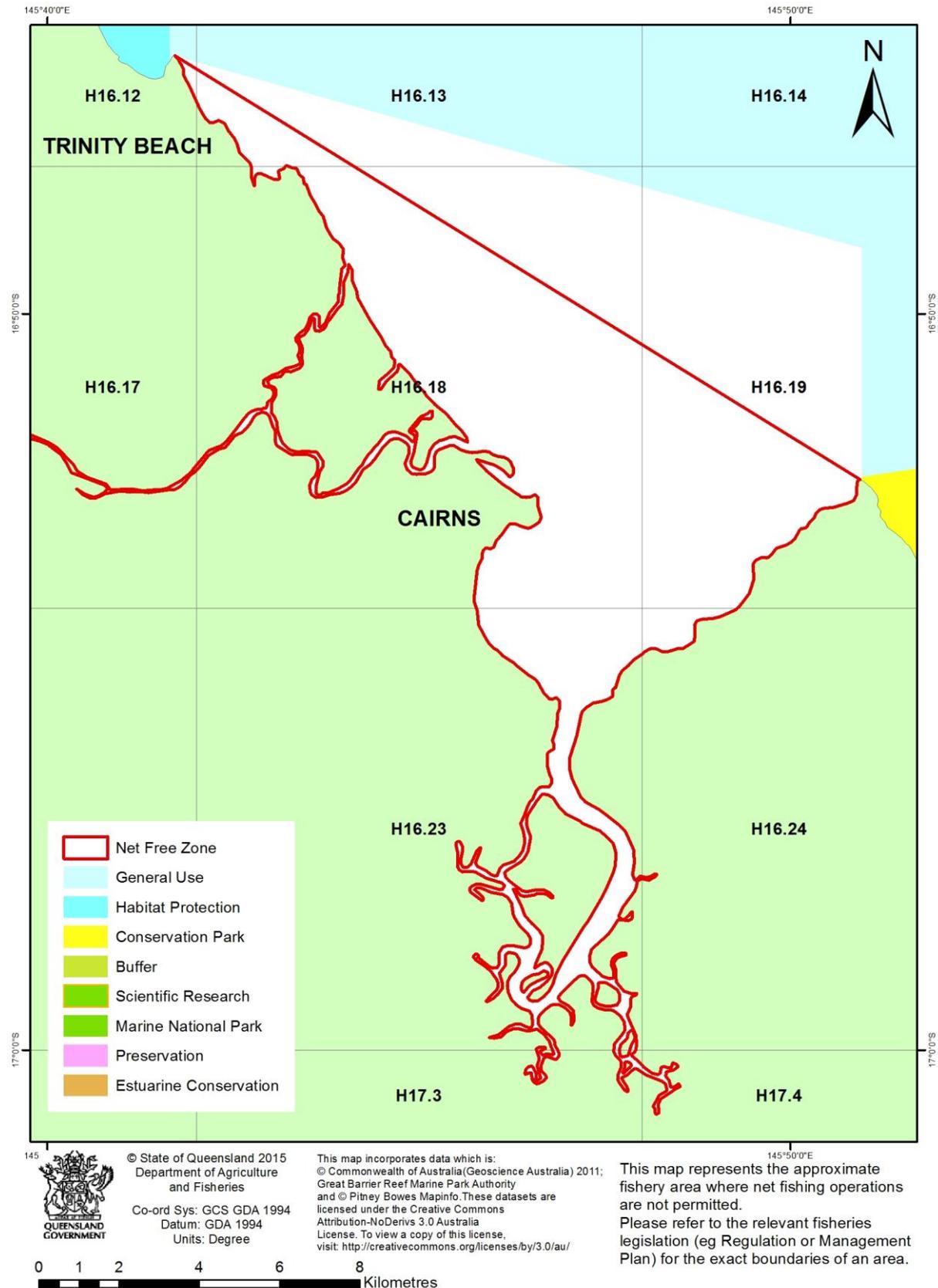
Mackay Recreational Fishers Alliance Inc. (via teleconference)

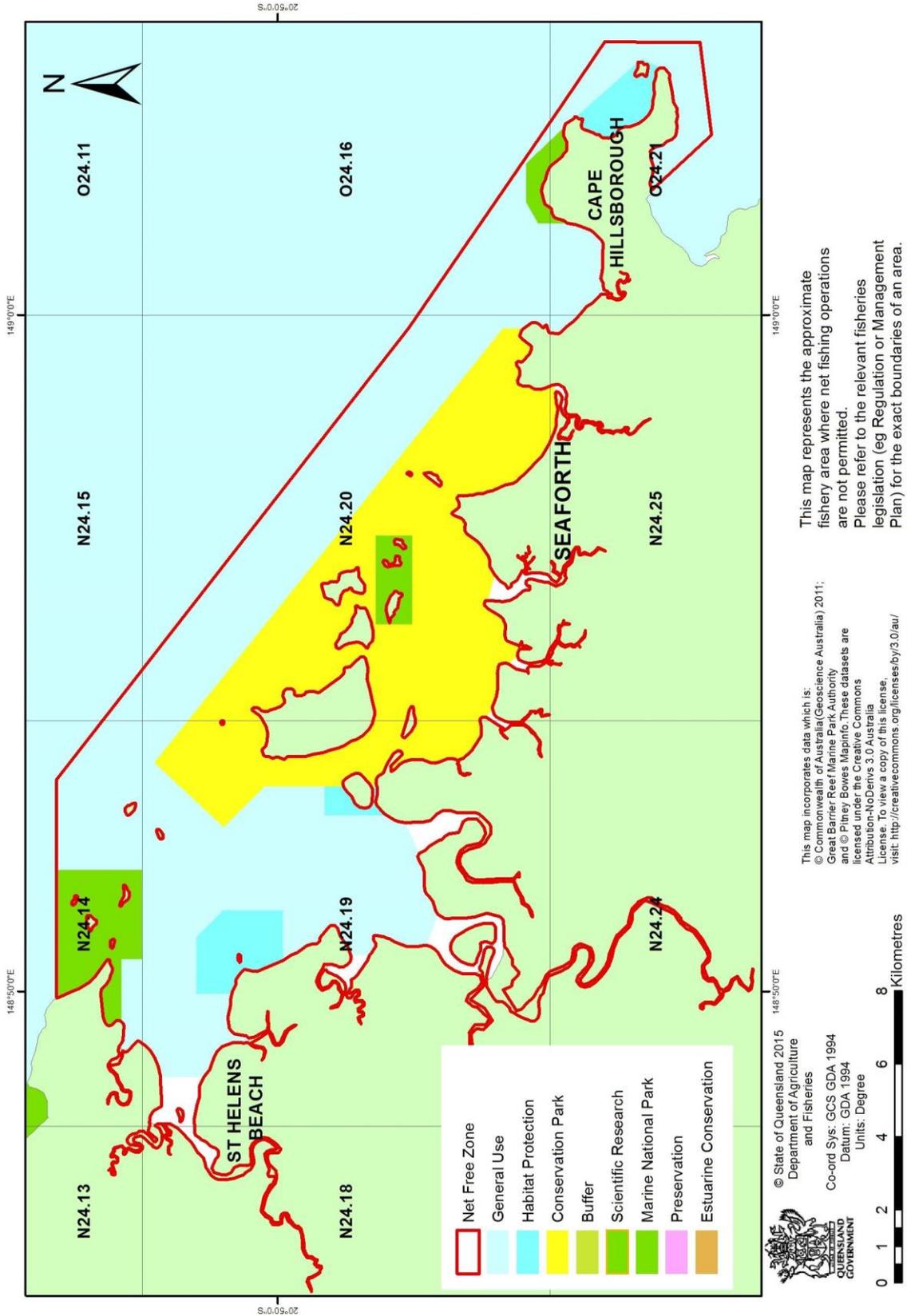
Mr John Bennett, Vice-President

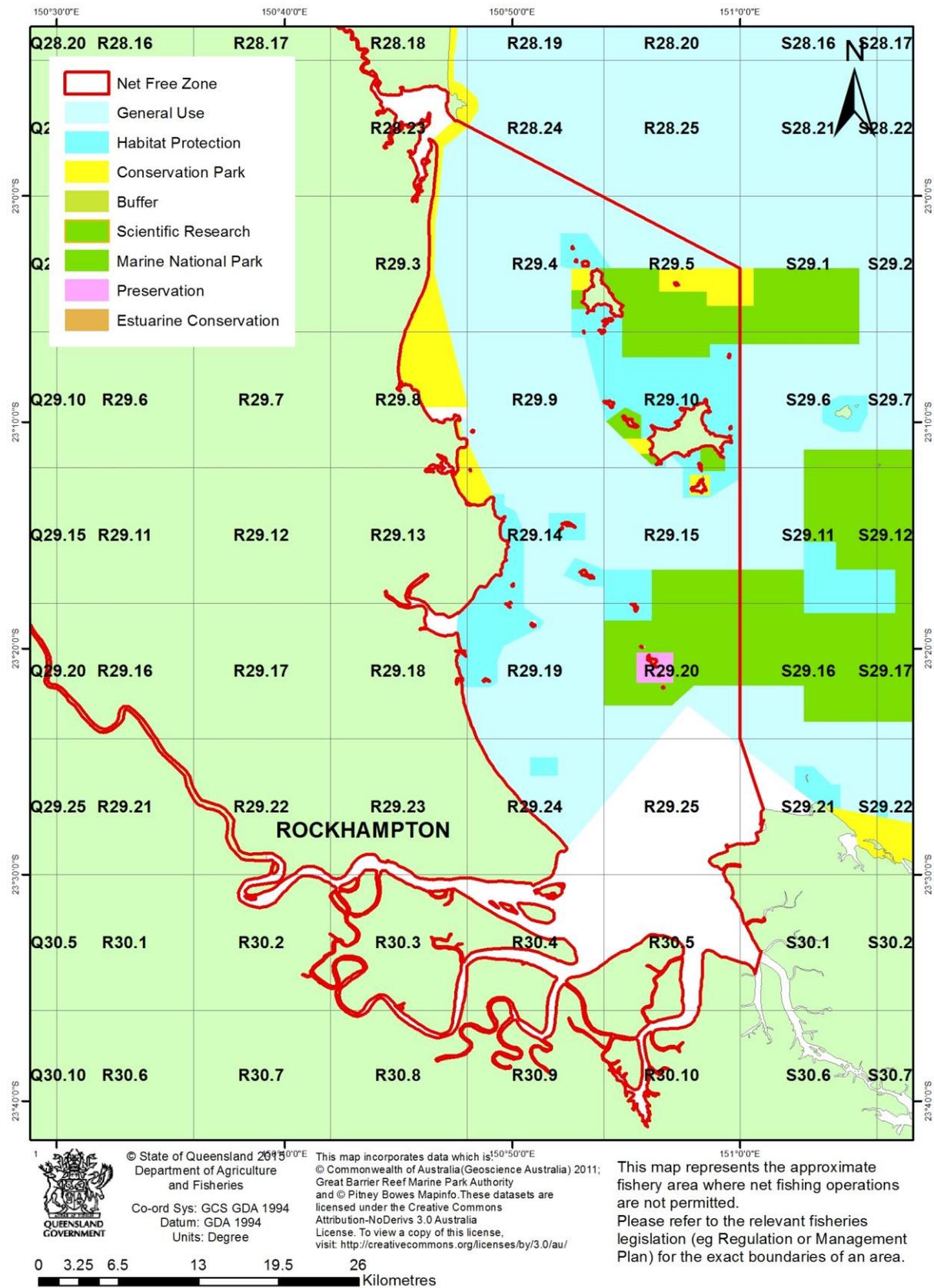
Queensland Recreational Fishing Network (via teleconference)

Mr Kim Martin

Appendix B: Net-free fishing Zones







Statement of Reservation



Stephen Bennett MP

MEMBER FOR BURNETT

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7 October 2015

Ms Jennifer Howard MP
Chair, Agriculture and Environment Committee
Parliament House
George Street, Brisbane QLD 4000.

Dear Ms Howard,

RE: *The Fisheries and Another Regulation Amendment Regulation Amendment Regulation (N01) 2015.*

I wish to notify the committee in accordance with SO214 of our reservations about Report No.8 2015 of the Agriculture and Environment Committee.

Our objections to the recommendations and comments of the report no 8 reflect the lack of real consultation, lack of adequate compensation and the failure of the Government's Sustainable Fishing Policy to set a new course for fisheries management.

The regulation that introduces Sections 37, 42 and 223 of the Fisheries Act 1994 and Sections 10, 11 and 44 of the Rural and Regional Adjustment Act 1994 further add to systems that have evolved over time to manage and share access to Queensland Fish resources, adding to the complexity and does not support the best use or stewardship of our fisheries. The industry needs long term investment and policy leadership, not rushed short term options.

The regulation has not introduced management or structural changes facing Queensland fisheries and only raises more concerns and ignites local issues of concern to many fishers. Queensland commercial fishers comprise mostly family-run businesses. They have invested in licences (net and boat) and they pay annual fees to access state fish stocks. They need a secure, stable operating environment that provides certainty for investment in plant and equipment and staff training. They need the same certainty that all businesses expect.

Recreational fishers need further recognition of the potential and contribution that's possible if allocation of an explicit share of key target species is to be made available. Under the State Government's rushed program, this has not happened and importantly, it also appears that consultation with traditional owners and issues of cultural importance have been ignored in the rushed process.

During the committee process we heard many stakeholders discuss the exceedingly complex and inadequate policies and legislation that have evolved over time in the management of Queensland fisheries. The regulation and potential further proposed changes without a clear direction will continue the passionate debates over resource allocation. The Committee heard of threats already being made with firearms to 'displaced' commercial fishers in Central Queensland who had tried to move to other areas. Clearly this rushed process, with pressure now coming for three other NFZs, runs a real risk of escalating conflict between sectors and further lowering confidence in Queensland fisheries management.

The committee heard from stakeholders reflecting insecurity about their rights for which they had paid. Strong concern was expressed about the lack of clear arrangements in the regulation for resource sharing. This must surely mean we will see conflict over shared fisheries with no process for resolution. Sadly the State Government has adopted fisheries management 'from the Minister's office' with no formal structure to allow stakeholders to have their say on the future of our fisheries. We now in Queensland have stakeholders disconnected and disenfranchised from this Government and the Department, operating in a policy vacuum. Data from the State

Government's own fisheries experts clearly shows that our fish stocks are sustainably managed. Queensland regularly heads the national list for best management of our fisheries.

The committee has heard many references to the \$10 million fund to compensate/buyout commercial fishers to support an ideological notion to grow the economic benefits from recreational and charter fishing and tourism. Any data to support this notion was anecdotal at best and totally ignores the role commercial fishing plays in supplying fresh, local seafood for tourists who don't fish for whatever reason. The Committee heard from commercial fishers of the big potential loss of 'wild caught' Barramundi and King and Blue salmon from the loss of access to the Fitzroy region alone.

Of major concern to the committee was the briefing from the State Government's own Fisheries Department experts, including the Fisheries Manager, which included commercial logbook records (between 2012 and 2014) showing that the commercial catch in the three proposed zones accounts for 8 per cent of the Queensland east coast net fishery catch by weight, which is significant and also the fact supplied by Qld Fisheries that three zones account for 13 per cent of the total Barramundi catch by weight. The State Government appears to be ignoring this significant loss and has no plans as to how our local commercial seafood industry will be able to redress this potential shortfall.

The adjustments to the rural and Regional adjustment Act falls well short of what is fair and reasonable.

A review of Fundamental Legislative Principles exposed issues that "legislation should not, without sufficient justification, unduly restrict ordinary activity", and "regulation of business, although prolific, is an interference in a right to conduct business in the way in which the persons involved consider appropriate".

If there are to be closures, there must be fair compensation, it should be sustainable and reflect the real value of losing access to a valuable resource.

The committee heard that the process for fishers to access compensation was complicated and accelerated. In effect there is less time available for fishers to review and make a decision to access the compensation than there was for the consultation.

What was particularly disappointing was the reference to the consultation being reported. We heard many times the reference to the 6000 responses on an internet survey using a survey tool, while ignoring the 26,000 signatures tabled in Parliament supporting the sustainable harvest of fresh Queensland Seafood, particularly for those persons who do not catch their own.

Statistics were widely utilised in discussions and justification for a particular stance and were used by all stakeholders. Many of the statistics were at best subjective, excluding and including items to suit a particular argument. Items not captured were issues like the significant black market that exists.

With a large quantity of seafood already imported into Australia, it was particularly disturbing that the committee had acknowledgment there would be a reduction in the volume of some species into the market place; that the supply chain must adapt and we will see product from other areas or alternative product from other fisheries. We seem destined to obtain seafood from the black market or imported from Asia.

In summary, the committee is very concerned that the entire process leading to this Amendment Regulation is flawed. It is being rushed for political expediency and fails all the basic tests for sound, sustainable, and equitable management of fisheries for all Queenslanders.

Yours sincerely,



Stephen Bennett MP
Member for Burnett