

ORDINARY COUNCIL MEETING	5.1
26 AUGUST 2014	

QUEENSLAND COMPETITION AUTHORITY DRAFT REPORT AQUACULTURE REGULATION IN QUEENSLAND

J Elphinstone - Senior Planning Officer: #426541

Paul Hoye – General Manager Operations

RECOMMENDATION:

That Council notes the Draft Report on Aquaculture Regulation in Queensland undertaken by the Queensland Competition Authority.

EXECUTIVE SUMMARY:

In response to the Queensland State Government seeking opportunities to increase productivity the Queensland Competition Authority has released a draft report on Aquaculture Regulation in Queensland. The draft report recommends a number of actions including the identification of proposed terrestrial aquaculture areas north of the tropic of Carpentaria and the development of local codes.

The report recommends that the development of the codes be undertaken in consultation with local government. Council's Planning Scheme currently regulates aquaculture in the Shire under the *Sustainable Planning Act 2009*. Council needs to remain vigilant as to any changes to the SPA and the SP Regulation as to any possible inclusion of aquaculture as "exempt" development or the development of codes that are not respectful to the Shire's environments.

This report is for Council's information and no decision is required.

BACKGROUND:

The Queensland Government directed the Queensland Competition Authority (QCA) to investigate and report on regulation of the Queensland aquaculture industry seeking recommendations for a regulatory approach to facilitate the expansion of aquaculture in Queensland to promote economic development while balancing environmental concerns.

The QCA prepared an issues paper finding that Queensland has had no major aquaculture developments for over a decade due to regulatory barriers and relatively high cost of inputs such as electricity, labour and land. The QCA funded specific review reports, prepared by the Centre for International Economics and sought stakeholder feedback from organisations representing the aquaculture industry and government agencies including the Department of Agriculture, Fisheries and Forestry, the Department of National Parks, Recreation, Sport and Racing and the Great Barrier Reef Marine Park Authority.

The QCA uses the Commonwealth Department of Agriculture definition of aquaculture, being "*the farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants with some sort of intervention in the rearing process to enhance production, such as regular stocking, feeding and protection from predators.*"

Aquaculture can take the following forms:

- a. Extensive aquaculture which involves no provision of extra feed – e.g., oysters and mussels which consume algae already present in sea water;
- b. Intensive aquaculture involving the provision of food, e.g., breeding of salmon in Tasmania;
- c. Marine aquaculture occurring in sea or estuaries, e.g., oyster, salmon production;
- d. Terrestrial aquaculture utilising ponds on land which can be filled with sea water or fresh water. Ponds can be either near the coast or inland near river systems; and
- e. Cage farming which is a form of intensive marine aquaculture which is currently used in Australia for salmon and tuna production.

The QCA Issues Paper noted, “*most aquaculture in Queensland is land-based barramundi and prawn farming located within the Great Barrier reef (GBR) coastal zone. The only sea cage barramundi farm, located in the Hinchinbrook Channel, was damaged by Cyclone Yasi in the year 2011, and has not restarted operations.*”

The QCA has released a Draft Report seeking input from the community including local government. Submissions are due 1 September 2014. A copy of the executive Summary including the QCA’s draft recommendations is included in Appendix 1. Full details of the Issues Paper, Background Studies, Stakeholder Submissions and Draft Report are available on the QCA website at the following link: <http://www.qca.org.au/Productivity/Productivity-Projects/Review-of-Queensland-Aquaculture-Regulation/In-Progress/Review-of-Queensland-Aquaculture-Regulation>.

Solutions identified in the draft report include each “development area” having a public code explaining regulatory conditions for aquaculture in that area and that the code be developed in conjunction with local government, Queensland government agencies and Commonwealth government agencies. The report further recommends that the area code include, “*details such as construction conditions, permitted species, permitted wastewater discharges, the amount of required environmental offsets, approved locations for water intake and discharge structures, and operational matters such as noise and traffic restrictions.*”

The Queensland government has identified that the most prospective areas for aquaculture are those areas north of the Tropic of Capricorn, in particular the Great Barrier Reef region, the Torres Strait and the Gulf of Carpentaria. The recommendations generally discuss terrestrial aquaculture with little commentary on marine aquaculture.

COMMENT:

The Douglas Shire Planning Scheme 2006 includes the roads and adjacent waterways and regulates the development of Aquaculture in the Shire. The Scheme defines aquaculture as the following.

"Aquaculture"

Means cultivating or holding marine, estuarine or freshwater organisms, other than molluscs, in ponds or enclosures and, being:

- . *Aquaculture (minor) where activities involve fresh water Aquaculture in tanks or ponds with a production area less than 5 hectares and no offsite discharge to natural waters; or*
- . *Aquaculture (major) where activities are other than defined as minor."*

In all Localities except the Settlement Areas North of the Daintree River (SANDR) Locality and the Rural Area and Rural Settlement Locality, the development of Aquaculture is an impact assessable (inconsistent) development. The Scheme also identifies that the use is impact assessable (inconsistent) in all planning areas of these two localities except for the Rural Planning Area. In the SANDR Locality anywhere other than in the Degarra / Bloomfield area the use is also impact assessable (inconsistent).

The majority of the Shire's coastline is buffered from the Rural Planning Area by Conservation Planning Area and should therefore be protected from aquaculture developments. Some river systems, such as the southern banks of the Daintree River, the Mossman and Mowbray Rivers and part of Hartley's Creek have frontage to Rural Planning Area or Esplanade for which aquaculture could be developed. While the use remains as assessable development under the Planning Scheme Council can in due course consider and approve developments subject to conditions that consider environmental impacts.

Concern would be raised should the State seek to make certain aquaculture development exempt under the *Sustainable Planning Act 2009* or regulate solely via a State Code under the Sustainable Planning Regulation that does not adequately take into account Council's unique environmental concerns. Provided the State maintains consultation with local government for the development of local codes and local aquaculture areas these considerations should be sufficient. Council needs to remain vigilant to this issue and stay abreast of issues raised by the State agencies and the Great Barrier Reef Marine Park agency.

There would also need to be regard to the impact of future areas identified for aquaculture that may impact on the extent of land under cane production and the subsequent productivity of the local agricultural industry.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE:

The Draft Report itself does not have any impact on Council's ability to consider development against the Douglas Shire Planning Scheme 2008.

COUNCIL'S ROLE:

The following areas outline where Council has a clear responsibility to act:

<input checked="" type="checkbox"/>	<input type="checkbox"/>				
Information Provider	Advocate	Facilitator	Agent	Part Funder	Asset Owner
					<input type="checkbox"/>
					Fully Responsible
					<input checked="" type="checkbox"/>
					Regulator

Information Provider: Providing access to information to assist communities and organisations.

Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

FINANCIAL/RESOURCE IMPLICATIONS:

There is potential for officer review of planning reforms as future outcomes of the State's review into the regulation of aquaculture.

RISK MANAGEMENT IMPLICATIONS:

Risks in relation to the review have been identified in the report.

SUSTAINABILITY IMPLICATIONS:

- | | |
|----------------|--|
| ECONOMIC: | There is no impact from the Draft Report to the Douglas Shire as no aquaculture areas or local code has as yet been developed. |
| ENVIRONMENTAL: | There is no impact from the Draft Report to the Douglas Shire as no aquaculture areas or local code has as yet been developed. |
| SOCIAL: | No impact. |

INTERNAL/EXTERNAL CONSULTATION:

The Queensland Competition Authority is undertaking consultation with stakeholders including the general community, participants and organisations involved with aquaculture and local government. The consultation period is limited and any submission is required to be lodged by 1 September 2014.

ATTACHMENTS:

1. Queensland Competition Authority Draft Report Aquaculture Regulation in Queensland July 2014, extract of Executive Summary including recommendations.

Attachment 1 – QCA Executive Summary from Draft Report

Queensland Competition Authority

Executive Summary

EXECUTIVE SUMMARY

The challenge

- Over the last decade, investment in Queensland's aquaculture sector appears to have stalled, with no major new entrants to the market and only a modest expansion of established projects. This situation compares unfavourably with industry growth elsewhere in Australia and worldwide.
- Concerns have been raised that investment in Queensland is being discouraged by regulatory risks and costs.
- In response, the government has asked the Queensland Competition Authority (QCA) to recommend reforms to reduce the regulatory burden on the industry.
- The government has directed the QCA to balance environmental protection with industry development. The QCA recognises the unique conservation value of the Great Barrier Reef (GBR) and the pressing need to improve water quality in areas adjacent to the GBR.

A new regulatory framework for aquaculture

- In this draft report, the QCA presents for public comment a new regulatory framework for the Queensland industry.
- The framework is intended to offer prospective investors greater certainty about the areas available for aquaculture development and the environmental and other conditions which projects will need to satisfy.
- The framework would maintain effective environmental protection.
- The main elements of the framework are the creation of aquaculture development areas and a more predictable approval process with explicit conditions set in new regulatory codes.

Background to the review

The government has directed the QCA to investigate and report on regulation of the Queensland aquaculture industry. The QCA's report is to include recommendations for a regulatory approach that could facilitate expansion of aquaculture in Queensland, to promote economic development while balancing environmental concerns.

The policy context

The Queensland government aims to double agricultural production by 2040. As arable land in Queensland is a limited resource, lifting production will generally require more productive use of existing land. In the case of flat coastal land, aquaculture can be a high-value alternative to traditional crops; the value of aquaculture output per hectare can be 20 times greater than existing crops such as sugar cane.

The most prospective areas for aquaculture in Queensland are found north of the Tropic of Capricorn, in particular the GBR region, the Torres Strait and the Gulf of Carpentaria. Promoting aquaculture development in these regions could be an important part of the Northern Australia Development Strategy championed by the Commonwealth and state governments.

The commercial context

The QCA believes that Queensland's aquaculture sector has significant commercial potential. Despite the dearth of major new projects over the last ten years, the industry has still achieved compound annual growth of 4 per cent. Discussions with industry have confirmed strong interest in further development.

Barriers to growth and development

Many industry participants claim that regulatory risk is a significant barrier to new investment. In particular, two projects are often cited as cautionary examples: the Guthalungra terrestrial aquaculture project and the Sun Aqua marine aquaculture project.

- The Guthalungra prawn farm, proposed for grazing land near Bowen, has been seeking regulatory approval since 2001.
- The Sun Aqua project sought approval for snapper and kingfish production in cages on the eastern side of Moreton Bay. The project was proposed in 2001 but refused by the Queensland government in 2004. Of the 54 coordinated projects assessed by the Coordinator-General since 2000, the Sun Aqua proposal was one of only two proposals to be rejected. The then Queensland government reportedly paid \$1 million in compensation to the proponents.

In a similar vein, some industry participants complain that the regulatory requirements applying to terrestrial aquaculture projects do not apply to comparable agricultural activities on coastal land. Other concerns include the time required to secure regulatory approvals, the lack of clarity about key regulatory requirements and uncertainty about the availability of environmental offsets.

Whether well-founded or not, the perception of regulatory risk will tend to discourage investment.

Solutions – terrestrial aquaculture development areas

An effective regulatory framework should include clear regulatory conditions as well as a timely and transparent process for approvals.

As a first step, the QCA recommends that the Queensland government clarify which areas are appropriate for aquaculture development. Other states have set aside development areas for marine aquaculture; Queensland has laid the foundations for adopting this approach for terrestrial aquaculture.

In recent years, the Queensland Department of Agriculture, Fisheries and Forestry (DAFF) has been mapping prospective aquaculture areas for development, taking into account factors such as topography and land use zoning. Once this preliminary mapping is completed, consultation with the community and the collection of water quality data is the next step in delineating suitable development areas. Collection of groundwater quality should be included in this step. Previously, lack of baseline data on groundwater quality has left aquaculture operations open to litigation from neighbouring landholders who consider (rightly or wrongly) that the establishment of saltwater ponds has increased groundwater salinity.

The QCA recommends that this work program be accelerated with the target of establishing terrestrial aquaculture development areas allowing the development of 450 hectares of aquaculture operations within two years of the government response to this review. An audit of approved but unused aquaculture sites may expedite identification of appropriate sites.

The creation of aquaculture development areas will require significant additional resources. The financing of this process is beyond the QCA's terms of reference, but the QCA notes that cost recovery (as part of the licensing process in the development area) avoids subsidising aquaculture at the expense of competing users of the same resource.

Solutions – codes as a clearer process for regulatory approvals

Approval processes for projects in aquaculture development areas would be made more predictable and transparent by requiring projects to be assessed against a known set of conditions. The QCA recommends that each development area have a public code explaining the regulatory conditions for aquaculture in that area. Such a code should be developed in conjunction with local government, Queensland

government agencies and Commonwealth government agencies. In order to provide clear guidance to investors on costs and constraints, the code should include details such as construction conditions, permitted species, permitted wastewater discharges, the amount of required environmental offsets, approved locations for water intake and discharge structures, and operational matters such as noise and traffic restrictions.

Solutions — environmental offsets

The Queensland government's general policy for dealing with environmental impacts can be summarised as 'avoid, mitigate, offset'. Under this approach, businesses are expected to offset environmental impacts whenever the first two options are not feasible. Having access to appropriate offsets is likely to be essential for the approval of any significant aquaculture project.

The Commonwealth and the Queensland governments are developing, through the Reef Trust, a mechanism to deliver offsets which can be used to satisfy environmental requirements. The QCA recommends that aquaculture projects should be eligible to obtain offsets through the Trust.

Who implements the reforms?

Implementing the reforms mooted in this draft report will require a coordinated effort from government agencies and the industry. Responsibility for developing and implementing the reforms needs to be clearly allocated by government. DAFF seems a logical choice for holding primary responsibility for implementing reform.

Unlike Tasmania and South Australia, Queensland does not have an administrative unit dedicated to aquaculture. One option is to create such an administrative unit to have primary carriage of the reforms. Another option is to assemble a task force drawn from relevant agencies which could also include representatives from the Commonwealth, local government and industry. A permanent administrative unit may be more likely to develop a better long-term work program. On the other hand, a task force could ensure that the work program is achieved with minimal resources that can be redeployed once aims of reform have been achieved.

A single Act for aquaculture?

As specified in the government's direction, the QCA has considered the merits of introducing a single aquaculture Act. In South Australia, regulatory and administrative functions have been centralised in a single unit operating under a single Act. While this approach appears to have the virtue of simplicity, it does raise difficult issues about the allocation of roles and responsibilities within government.

The QCA believes that the priority should be practical regulatory reform. The QCA is confident that better coordination of administration and clarity on key regulatory requirements will address the underlying concerns which have prompted calls for a single Act. Once regulatory reform is well established, the government may wish to consider legislative and machinery-of-government changes.

Marine aquaculture

For the purposes of this draft report, and consistent with advice from industry, the QCA has concentrated its attention on terrestrial aquaculture.

Marine aquaculture can conflict with other uses of public waters, such as boating, recreational fishing and commercial fishing. One feature of the Sun Aqua project was significant opposition from tourism operators, recreational fishers and environmentalists. The same groups opposed cage aquaculture in the Great Sandy region. This experience suggests that cage aquaculture is unlikely to have community

support in south east Queensland or in other areas with significant tourism and recreational activity. It is also likely to be unacceptable in protected areas such as marine parks.

Marine aquaculture may have greater potential in less populated areas (such as the Torres Strait and the Gulf of Carpentaria). The government should investigate the merits of establishing marine aquaculture development areas in such locations.

Bonds and guarantees

Under existing policy, marine aquaculture projects in Queensland must provide a financial guarantee to ensure eventual remediation of the marine resource. However, terrestrial aquaculture projects are not required to provide guarantees. This arrangement stems from the fact that terrestrial aquaculture projects are undertaken on private land with usually limited impact on public land (e.g. easements). The QCA understands that terrestrial projects have not led to the Queensland government facing significant remediation liabilities. The QCA therefore does not expect to make any recommendations on this topic.

Research and marketing levies

Aquaculture businesses pay various statutory and voluntary levies to support activities such as industry marketing, research and development. After discussions with industry participants, the QCA does not expect to make any recommendations on this topic.

DRAFT RECOMMENDATIONS

Terrestrial aquaculture development areas

- To assist investors with identifying prospective aquaculture sites, the QCA recommends that the government create terrestrial aquaculture development areas.
 - The QCA notes that some development work has already been undertaken by DAFF.
 - Identification of these development areas could be led by DAFF. Broad community and industry consultation will be essential, as will support from relevant local, Queensland, and Commonwealth government agencies.
 - An audit of approved but unused sites may assist in the early identification of development areas.
 - The aquaculture development area should address issues of groundwater quality, to avoid future litigation risk from neighbouring landholders concerned about the impact of saltwater aquaculture ponds.
- The QCA recommends that the government set a target for establishing aquaculture development areas.
 - The target could be the identification of development areas enabling 450 hectares of aquaculture operations within two years of the Government's response to the QCA's recommendations. Public reporting of progress against this target could be provided at six-monthly intervals.

Codes as a clearer process for regulatory approvals

- The QCA recommends that development applications in terrestrial aquaculture development areas be assessed against public criteria set out in a code applicable to each area. The code would address key issues such as:
 - The species that can be farmed in the development area.
 - The maximum load and concentration of nutrients and suspended solids that can be discharged each year from the development area.
 - The amount of environmental offsets required to offset the permitted discharge of nutrients and suspended solids.
 - Approved locations for water intake and discharge structures.
 - Construction conditions related to matters such as acid sulphate soils, impact on threatened species, clearance of native vegetation and impact on marine plants.
 - Operational restrictions such as disease management precautions, noise restrictions, setback from residential housing, traffic restrictions, and permitted hours of operation.

Environmental offsets

- The QCA is aware of discussions between the Queensland and Commonwealth governments to establish a consistent environmental offsets framework. The QCA recommends that the Queensland government provide potential proponents with the maximum possible certainty about the future price and availability of offsets.