

Operational policy

Visitor Management

Recreational fishing on protected areas

Operational policies provide a framework for consistent application and interpretation of legislation and for the management of non-legislative matters by the Department of Environment and Science. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.

Policy issue

Recreational fishing is allowed in designated areas within the protected area estate. Policy guidance is required on a range of issues associated with recreational fishing to ensure a consistent approach by Queensland Parks and Wildlife Service (QPWS) staff to managing this activity across the State.

Background

Recreational fishing is allowed on resource reserves, conservation parks and specific national parks in Queensland. The *Nature Conservation Act 1992* (the Act), and the Nature Conservation (Protected Areas Management) Regulation 2017 (Protected Areas Management Regulation) contain legislative provisions which have implications for managing recreational fishing activities on protected areas. This legislation and the issues it relates to are outlined below.

This policy does not apply to national park (Cape York Peninsular Aboriginal Land (NP CYPAL)).

Section 62 of the Act allows the take of fish, invertebrate bait and mud crabs in a prescribed area, subject to the following conditions:

- a person must comply with the *Fisheries Act 1994* and all subordinate legislation; and
- a person must not take any species of the genus *Euastacus* (freshwater spiny crabs) for use as bait.

However, under section 62 (5) a person is not authorised to take –

- an animal for a commercial purpose; or
- an animal prescribed as rare and threatened wildlife, or any other animal prescribed under regulation relating to section 62; or
- an animal prescribed under regulation for this section of the legislation.

A prescribed area is an area within a regional park; coordinated conservation area; or a national park listed in schedule 6 of the Protected Areas Management Regulation.

Under **section 144** of the Protected Areas Management Regulation, a person must not possess or use appliances in a protected area unless the person –

- a) has the Chief Executive's written approval for possessing or using the appliance; and
- b) possesses or uses the appliance in a way that complies with the approval.

It is only lawful to possess fishing gear in a protected area where fishing is permitted. Fishers travelling through a protected area where fishing is not permitted must ensure fishing gear is securely stowed, not easily accessible and out of sight in their vehicle or boat.

Section 130 of the Protected Areas Management Regulation states a person must not take a live animal, or have a live animal under the person's control, in a protected area. However, a person is authorised to bring onto a protected area:

- a fish or mud crab lawfully taken in the area or a place adjacent to the area; or
- an invertebrate animal lawfully taken in the area or a place adjacent to the area for use as bait for fishing;

The Protected Areas Management Regulation allows for fish, crabs and live bait to be brought onto a protected area only if taken from an area in the immediate vicinity of the park or reserve. For the purposes of this policy, immediate vicinity is within 200m of the boundary of the protected area.

All frogs are protected under the Act and are not to be used as bait. Fines of up to \$400,000 can be imposed for committing such an offence.

The legislation relating to fishing does not give people the right to enter a protected area where entry is otherwise restricted or to undertake any other activity such as camping without the necessary permits.

Section 24HA of *Native Title Act 1993* (Cwlth) provides that legislative acts involving the management or regulation of living aquatic resources are valid. Erecting regulatory notices to manage fishing in an area does not require notification, as this activity does not affect native title and is not caught by the requirements of section 24HA.

Determination

Where recreational fishing is permitted

A person may be allowed to recreationally fish:

- in the area of national park specified in Schedule 6 of the Protected Areas Management Regulation;
- in a conservation park; or
- in a resources reserve.

No new areas within the protected area estate will be added to Schedule 6 of the Protected Areas Management Regulation unless recommended following a thorough investigation of the following matters:

- alternative fishing opportunities in the regional area;
- potential impacts on natural and cultural resources; and
- potential impacts on visitor use, safety and enjoyment.

In areas adjacent to marine parks, such as island national parks or areas of foreshore adjoined by marine park, recreational fishing must be conducted in accordance with any relevant zoning plans under the *Marine Parks Act 2004* and the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

Restrictions on recreational fishing in protected areas

All fishing in Queensland, including in protected areas, must be conducted in accordance with the provisions of the *Fisheries Act 1994* and all subordinate legislation.

Regulatory notices may be erected on protected areas where fishing is normally permitted to restrict or prohibit fishing on a temporary, seasonal or semi-permanent basis, in response to resource management situations such as

- rehabilitation;
- protection of flora and fauna, (for example protecting breeding/nesting waterfowl or endangered fish);
- where there is a conflict with/danger to other park users such as at popular swimming locations; or
- declining fish numbers.

Future gazettal of land into the protected area estate

Prior to the addition of land to the protected area estate, an assessment of existing fishing activities on these lands will be undertaken to allow suitable decisions regarding future tenure and management to be made.

Fishing competitions

The fishing component of fishing competitions will not be permitted on protected areas. However, there are circumstances such as on Fraser Island, where a protected area is used as a base for fishing competitions and the fishing occurs outside of the protected area. In such circumstances, the proponent will require appropriate written approval in the form of a deed of agreement or relevant permit specifying conditions relating to the activity (e.g. waste disposal and the location and use of competition infrastructure).

Fish stocking

Stocking of fish in protected areas will only be permitted as part of a formal recovery program for a rare or threatened species found, or formerly found, in a protected area. A reduction in bag limits, introduction of measures such as catch and release fishing or a temporary closure will be used to allow rehabilitation of the fish populations if required. Fish stocking in a protected area will not be authorised for the purpose of facilitating recreational fishing.

Commercial tours

Operators of charter fishing tours require both a commercial activity permit under the Act and a general fisheries permit for a commercial fishing tour under the *Fisheries Act 1994*.

Spear fishing

Spear fishing will not be permitted in waters of terrestrial protected areas. However, spear fishing may be undertaken in adjacent waters, subject to the provisions of relevant marine park zoning plans and fisheries legislation. Spear guns must be dismantled when on a terrestrial protected area and only be loaded when in the water.

Other issues to consider

Management planning

Management plans and related regulations may set out specific bag limits or other requirements that differ from those specified in fisheries legislation. It is the responsibility of recreational fishers to ensure that they comply with both the fisheries legislation and any management arrangements in place for specific protected areas.

Safety

Fishers are to take responsibility for their own safety and be aware of the safety of other park users. Fishing from walking tracks, boardwalks, viewing platforms and in areas of major public use for activities such as swimming will not be permitted.

A brochure produced by QPWS, *Be croc wise in croc country*, contains essential information for visitors undertaking activities such as fishing in areas inhabited by crocodiles.

Boundaries on protected areas

As the boundaries of protected areas vary between individual parks, it is the responsibility of fishers to ensure they are aware of the boundaries of protected areas in which they may fish. To clarify the boundary of a protected area, reference should be made to the gazettal map for the area. Gazettal maps are held at QPWS offices where they are available for inspection upon request.

QPWS - Sunfish Code of conduct for recreational fishing on protected areas

A code of conduct has been developed between the recreational fishing group Sunfish and QPWS. The code provides further details on behaviour and procedures when fishing on protected areas.

Human Rights Act 2019 compatibility

The department is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this operational policy, officers must comply with that obligation (refer to [Comply with Human Rights Act](#)).

Disclaimer

While this document has been prepared with care, it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved By

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Signature

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Date

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