

Policy for the allocation of temporary NX symbols for January 2024

FIS/2023/6648

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Under the *Human Rights Act 2019* a decision maker has an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this policy, to give proper consideration to human rights.

Owner Fisheries Management

Endorsed by Director (Management)

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1 Purpose

The intention of this policy is to help achieve the main purpose of the Fisheries Act 1994 (the Act) through management of the Queensland east coast net fisheries. The policy will achieve its purpose by establishing criteria and a decision-making process for the allocation of temporary NX fishery symbols (Net Fishery no. NX) to certain primary commercial fishing licences (PCFL) for the period of 2 January to 30 January 2024.

The policy provisions aim to protect the future sustainability of inshore fin fish and other animals (including threatened, endangered and protected species) by limiting the number of fishers taking particular species or using particular fishing gear.

2 Scope

The scope of this policy is to establish criteria and a decision-making process for the allocation of a temporary fishery symbol NX (Net Fishery no. NX) for the period 2 January to 30 January 2024 and as detailed under Schedule 4, Part 9A 9B of the Fisheries (Commercial Fisheries) Regulation 2019.

Section 10 of this policy provides the specific fishing rules which will be implemented through licence conditions in relation to the temporary NX till 30 January 2024.

3 Background and context

The Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023 was made on 8 December 2023. This amendment subordinate legislation retires all N1, N2 and N4 commercial fishing symbols on 1 January 2024. The subordinate legislation introduces two new limited fishery symbols, the N15 and NX. This policy deals with the allocation of a temporary NX fishery symbol for the period 2 January to 30 January 2024 only. A further policy will guide NX symbol allocation, assessment process and conditions for the period 1 February 2024 to 30 June 2027.

The NX is the replacement fishery symbol for commercial net fishers in management region 2 to 4 impacted by the deletion of the N1, N2 and N4. It was established to allow net fishing to continue within the GBRMP until 30 June 2027. It is not a new fishery symbol designed to be issued to new applicants without demonstrated commercial fishing history in the N1, N2 and N4 fisheries.

3.1 Temporary - NX (net fishery no. NX)

The temporary NX symbol authorises the holder to fish in the NX fishery and can only be used in east coast inshore management region 2 to 4 as identified in Schedule 4, Part 9B, s153U of the Fisheries (Commercial Fisheries) Regulation 2019 until 30 January 2024.

The issuing of temporary NX symbols will allow a limited number of eligible PCFLs to fish with gillnet apparatus for the period 2 January 2024 to 30 January 2024. This is to allow time for the chief executive to finalise a NX Fishery Symbol policy and fishing requirements, engage with stakeholders, consider applications and write the new symbol on eligible PCFLs.

Of the 97 licences that have reported harvest under large mesh endorsement in management regions 1 to 4 (Great Barrier Reef), only a limited number have caught significant amounts of fish, and expended reasonable fishing effort in January 2022 and January 2023. The issue of NX symbols for the temporary period of 2 January to 30 January 2024 recognises this previous historical catch by some licence holders and provides for the issue of symbols to eligible applicants.

NOTE: There is no guarantee that a PCFL which is issued a temporary NX under this policy will receive a long term NX symbol that will expire on 30 June 2027.

4 Acronyms and definitions

Term / acronym	Definition
The Act	<i>The Fisheries Act 1994</i>
The policy	<i>This Policy for the allocation of NX fishery symbols (no. NX)</i>
PCFL	Primary commercial fishing licence
Structural adjustment	The structural adjustment for the Great Barrier Reef and Great Sandy Marine Park rezoning
N15	Fishery symbol 'N15'
NX	Fishery symbol 'NX'
The department	Department of Agriculture and Fisheries, represented by Fisheries Queensland
QRIDA	Queensland Rural and Industry Development Authority
Applicant	A PCFL holder applying for the temporary NX symbol (net fishery no. NX)
Relevant PCFL	A PCFL that meets the application criteria for a temporary NX symbol
Relevant period	September 2021 to 30 June 2023

5 Consistency with relevant legislative and overarching policy objectives

The Policy is in line with the Act and the objectives of the structural adjustment amendment legislation. It is also consistent with the deliberations and intent of the Future Fishing Taskforce and the Queensland Government Reef Inter-Departmental Committee (Reef IDC) to minimise disruption and authorise limited fishing in exceptional circumstances for those who have historically done so in January, under restricted conditions.

6 Key principles

6.1 Ecological sustainability

All applicants for the temporary NX symbol must:

- adhere, and be committed, to the ongoing ecological sustainability of commercial fisheries resources in line with the principles of ecological sustainable development
- ensure impacts to threatened, endangered and protected species are minimised and accurately reported
- use the symbol in accordance with any relevant fisheries, marine or other relevant legislation and policies

The chief executive (or authorised delegate) in issuing a temporary NX symbol must ensure that the objectives in Section 3 of the Act are met.

6.2 Transparent and consistent approach

This policy will establish transparent criteria and a decision-making process for the allocation of a temporary symbol NX (Net Fishery no. NX) to an eligible PCFL.

7 Human rights

In accordance with section 58 of the *Human Rights Act 2019*, it is unlawful for any public servant to act or make a decision in a way that is not compatible with human rights or fails to give proper consideration to a human right relevant to the decision.

The policy may engage section 24, Property Rights, and section 28, Cultural rights – Aboriginal peoples and Torres Strait Islander peoples, of the *Human Rights Act 2019*. These impacts have been clearly identified in the Human Rights Certificate issued under The Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023.

8 Policy provisions

The department will refer to this policy to guide their assessment of applications against the eligibility criteria when issuing temporary NX fishery symbols.

8.1 Temporary NX eligibility criteria

All of the following criteria must be met – the PCFL holder must:

1. hold a relevant PCFL with the N1, N2 or N4 symbol written on it on 22 December 2023 **and**
2. have recorded and submitted catch and effort logbooks in the Queensland east coast net fishery, or shark and ray logbooks (EN, NC, SR and SRE), under the N1, N2 or N4 fishery symbol within management regions 2 to 4 **and**
3. noting that the “relevant period” is 1 January 2022 to 31 January 2022 and 1 January 2023 to 31 January 2023, the harvest and number of days fished during the relevant period is equal to or above 500 kilograms and 4 days respectively with catch and effort logbooks having been submitted to the chief executive as required and received before 15 July 2023 **and**
4. have not had the relevant PCFL revoked, cancelled or surrendered **and**
5. have not made an application with QRIDA for the surrender of the PCFL under the Fisheries Structural Adjustment Scheme process to which the relevant N1, N2 or N4 with catch history relates **and**
6. when applying for the temporary NX, submits a completed and signed amend authority application form to Fisheries Queensland surrendering the symbol on 30 January 2024.

9 Expiration

A temporary NX symbol issued under this policy must be surrendered by 30 January 2024. To facilitate this process an amend authority form to remove the NX symbol from the PCFL on 30 January 2024 must be completed and accompany the initial application.

10 Licence conditions

The following conditions will apply to the temporary NX symbol for 2 to 30 January 2024. In recognising established lease agreements, there is a requirement for the symbol holder to nominate **one commercial fisher in charge who will be in attendance of the fishing operation at all times.**

Due to the sensitivity of Dugong Protection Areas and the requirement for the proper establishment of the independent onboard monitoring program for the holder of an NX which will not be required during the period for which the temporary NX symbol applies, there will also be a restriction placed on the authority to **not operate in any defined Dugong Protection Area (A or B) or adjacent waterway.** As A zones are already restricted in the Fisheries Declaration 2019, it is only necessary to list the B zones for further restrictions.

The following conditions will be written as conditions on each temporary NX PCFL.

1. Nominated authority holder

The authority holder is required to nominate one commercial fisher in charge who must be in attendance for any fishing operations while operating under the NX symbol. For this authority, the nominated commercial fisher in charge of operating under the NX symbol will be -

Name:

Licence No:

2. Restricted area of operation

In addition to all regulations listed in the *Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023 section 153U*, The authority holder or nominated commercial fisher in charge will not be permitted to operate under the NX symbol in the following Other particular dugong protection areas: Port of Gladstone–Rodds Bay (dugong protection area), Clairview Bluff–Carmilla Creek (dugong protection area), Llewellyn Bay (dugong protection area), Ball Bay–Sand Bay (dugong protection area), Repulse Bay (dugong protection area), Edgumbe Bay–Bowen (dugong protection area), Bowling Green Bay (dugong protection area) and Lucinda to Allingham–Halifax Bay (dugong protection area).

3. Fishing operating

In addition to all regulations listed in the *Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023 section 153W* the authority holder or nominated commercial fisher in charge is required to operate whist fishing under the NX symbol as follows-

For the purpose of this authority, the following definitions are to be used:

a) Set mesh net –

A set mesh net is a mesh net that has —

2 or more points that are each fixed to the ground, the bed of a body of water or a thing to prevent the net from moving from the position in which it is set.

b) A ring or partially fixed net –

A ring or partially fixed net is –

a mesh net shot in a way that allows it to encircle the fish being targeted or;

a mesh net that is fixed to a boat and another point that is fixed to the ground, the bed of a body of water or a thing.

c) A net that is neither fixed nor hauled

A net that is neither fixed nor hauled is a mesh net that, while it is being used for taking fish, is -

allowed to move freely in the water; and

is not fixed to a place or otherwise restricted in its movement by the person using the net.

Unless otherwise specified only one net may be used at the same time to take fish under the authority. For the purpose of a way fish may be taken authority, the following conditions are to be followed:

d) Use of set mesh nets in nearshore waters

1. This section applies for using a set mesh net in nearshore waters within East coast inshore management regions 2, 3 and 4.
2. A set mesh net used in any nearshore waters must have 1 part of the net in nearshore waters or on a foreshore while the net is being used.
3. A set mesh net used from 2 January to 30 January in nearshore waters must —
 - a. be no longer than 600m; and
 - b. have a mesh size of at least 100mm but no more than 115mm; and
 - c. be made of monofilament no more than 1.85mm in diameter.
4. Up to 3 set mesh nets may be set if their combined length is no more than 600m and the distance between the first and last net is no more than 800m.
5. A set mesh net must not be set within 400m of a jetty or wharf.
6. A set mesh net must not be set within 100m of another net that is being used.
7. A total of 3 set mesh nets may be set in nearshore waters with none permitted in waterways (rivers and creeks).
8. A set mesh net must not be used in addition to a ring or partially fixed net or a net that is neither fixed nor hauled.
9. A set mesh net must be completely checked within 2 hours of the total set of that particular net, and again every two hours for the duration of time the net is set.
10. The commercial fisher using the net must remain on board a boat floating on the water and in a position between nets or within 100m when using a single net, to tend to the nets at any time while any net is being used.

e) Use of set mesh nets in offshore waters

1. This section applies for using a set mesh net in offshore waters within East coast inshore management regions 2, 3 and 4.
2. A set mesh net may be used in the waters only if—
 - a. the single net—
 - i. is used completely within offshore waters; and
 - ii. is no longer than 600m; and
 - iii. has a mesh size of at least 160mm but no more than 165mm; and
 - iv. is made of monofilament that is no more than 1.25mm in diameter; and

- v. the commercial fisher using the net remains on a boat floating on the water and within 100m of the net while the net is being used.
- 3. A set mesh net must not be set within 400m of a jetty or wharf.
- 4. A set mesh net must not be set within 100m of another net that is being used.
- 5. A set mesh net used in offshore waters cannot be used in any combination with setting in rivers and creeks and nearshore waters.
- 6. A set mesh net must not be used in addition to a ring or partially fixed net or a net that is neither fixed nor hauled.
- 7. A set mesh net must be completely checked within 2 hours of the total set of that particular net, and again every two hours for the duration of time the net is set.

f) Use of a ring or partially fixed net in nearshore waters or waterways

- 1. This section applies for using a ring or partially fixed net in nearshore waters or waterways within East coast inshore management regions 2, 3 and 4.
- 2. From 2 January to 30 January a ring or partially fixed net may be used in nearshore waters or waterways only if the single net—
 - a. is no longer than 400m; and
 - b. has a mesh size of at least 50mm but no more than 115mm; and
 - c. is made of monofilament that is no more than 1.85mm in diameter.
 - d. the commercial fisher using the net remains on a boat floating on the water and within 100m of the net while the net is being used.
- 3. A ring or partially fixed net must not be used within 400m of a jetty or wharf.
- 4. A ring or partially fixed net must not be used within 100m of another net that is being used.
- 5. A ring or partially fixed net must not be used in addition to a set mesh net or a net that is neither fixed nor hauled.
- 6. A ring or partially fixed net must be completely checked within 2 hours of the deployment of the net, and again every two hours for the duration of time the net is set.
- 7. A ring net may be fixed temporarily while shooting or retrieving the net.
- 8. A partially fixed net may be fixed for no longer than 2 hours.

g) Use of nets that are neither fixed nor hauled in offshore waters

- 1. This section applies for using a net that is neither fixed nor hauled in offshore waters within East coast inshore management regions 2, 3 and 4.
- 2. A net that is neither fixed nor hauled may be used in the waters only if—
 - a. The single net—
 - i. is used completely within offshore waters; and
 - ii. is no longer than 600m; and
 - iii. has a mesh size of at least 160mm but no more than 165mm; and
 - iv. is made of monofilament that is no more than 1.25mm in diameter.
 - v. the commercial fisher using the net remains on a boat floating on the water and within 100m of the net while the net is being used.
- 3. A net that is neither fixed nor hauled must not be used within 400m of a jetty or wharf.
- 4. A net that is neither fixed nor hauled must not be used within 100m of another net that is being used.
- 5. A net that is neither fixed nor hauled must be not used in addition to set mesh net or a ring or partially fixed net.
- 6. A net that is neither fixed nor hauled must be completely checked within 2 hours of the deployment of the net, and again every two hours for the duration of time the net is set.

h) Marking nets

1. A ring or partially fixed net used during the day must be marked by—
 - a. light coloured floats no more than 20m apart along its length; and
 - b. a solid, white float—
 - i. no less than 15cm in any dimension; and
 - ii. with the commercial fisher's name and the primary boat mark for the net written on it at both ends of the net; or
 - iii. with the commercial fisher's name and the primary boat mark for the net written on it at one end of the net not at the vessel.
2. A set mesh net used during the day must be marked by—
 - a. light coloured floats no more than 20m apart along its length; and
 - b. a solid, white float—
 - i. no less than 15cm in any dimension; and
 - ii. with the commercial fisher's name and the primary boat mark for the net written on it at both ends of the net.
3. Also, a net that is neither fixed nor hauled used in offshore waters used during the day must also be marked by—
 - a. a pole, with an orange-coloured flag no less than 15cm in two dimensions on it at least 2m above the water, attached to one end of the net; and
 - b. solid, light-coloured floats, no less than 15cm in any dimension, no more than 100m apart along the length of the net.
4. A ring or partially fixed net used at night must also be marked by—
 - a. a white light, visible at least 400m in all directions from the light, at both ends of the net or;
 - b. if attached to the vessel, a white light, visible at least 400m in all directions from the light, at one end of the net not at the vessel.
5. A set mesh net or a net that is neither fixed nor hauled is used at night must also be marked by—
 - a. a white light, visible at least 400m in all directions from the light, at both ends of the net.
6. Also, a net that is neither fixed nor hauled used in offshore waters used at night must also be marked by—
 - a. a white light, visible at least 400m in all directions from the light, at both ends of the net or;
 - b. if attached to the vessel, a white light, visible at least 400m in all directions from the light, at one end of the net not at the vessel.

4.0 Reporting Conditions:

- 4.1 In addition to all regulated reporting requirements, the authority holder or commercial fisher in charge must notify Fisheries Queensland within 24 hours of the mortality of a TEP species.
- 4.2 The commercial fisher in charge may report through either the AIVR or eFisher app, however must possess the East Coast Net, Sharks and Rays and Threatened Endangered and Protected Species paper logbooks onboard at all times when operating under the authority so that it may be completed in the event of inability to report through the eFisher app.

11 Related and referenced documents

Fisheries Act 1994

Fisheries (General) Regulation 2019

Fisheries (Commercial Fisheries) Regulation 2019

Fisheries Declaration 2019

Fisheries Quota Declaration 2019

Fisheries and Other Legislation (Structural Reform) Amendment Regulation 2023

Human Rights Act 2019