

EXPLANATORY STATEMENT

Issued by Authority of the Parliamentary Secretary to the Minister for Agriculture and
Water Resources

Fisheries Levy Act 1984

Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016

Legislative Authority

Section 8 of the *Fisheries Levy Act 1984* (Levy Act) provides that the Governor-General may make regulations for the purposes of sections 5 and 6 of the Levy Act. Section 5 of the Levy Act imposes a levy on, amongst other things, the grant or renewal of a licence and the allocation and renewal of units of fishing capacity issued under the *Torres Strait Fisheries Act 1984*. Section 6 of the Levy Act provides that the amount of levy imposed on the grant or renewal of a licence or on the allocation or renewal of units of fishing capacity is as specified in the Regulations. Section 7 of the Levy Act provides that the levy is payable at the time of the grant, renewal or variation of the licence, and at the time of the allocation or renewal of units of fishing capacity.

Purpose

In each annual levy, the recoverable costs of administering the fishery are divided between the licence and the units of fishing capacity held by each fisher. The fixed cost components of the cost recovered budget are allocated to the levy for licences and the variable cost components are allocated to the levy for each unit of fishing capacity. The majority of the budget increase for 2016-17 relates to fixed cost components, and accordingly has been added to the levy on the licence.

The purpose of the *Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016* (the Regulation) is to increase the levy for licences granted or renewed in the Torres Strait Prawn Fishery (the Fishery) from \$2,740.62 to \$3,491.64 per licence, a \$751.02 increase per licence, and to increase the levy for each individual allocated fishing capacity unit from \$18.56 per unit \$23.75, a \$5.19 increase per unit.

The increase in costs for the 2016-17 season includes an increase in AFMA observer costs due to an increase in the number of fishing days in the fishery. Observer days are calculated on the basis of a 2.6 per cent target of total number of days fished in the fishery. The increase also reflects an additional one-off recovery of costs incurred by AFMA for administering the Vessel Monitoring System (VMS) in 2015-16 when it was transferred from the Queensland State Government. The costs associated with AFMA's administration of the VMS in 2015-16 were not recovered in the 2015-16 forecast budget and so must be recovered in 2016-17.

Background

The *Torres Strait Prawn Fishery Management Plan 2008* (the Plan) was determined on 6 February 2009. The Plan provides for the allocation of 'units of fishing capacity' to the Fishery licence holders. The units of fishing capacity are then converted annually

into a number of fishing days (annual use entitlement) depending on the total allowable effort for the fishery in a given season.

The attributable costs of managing the Fishery are recovered from industry pursuant to a decision of the Protected Zone Joint Authority (PZJA). The PZJA agreed to split the costs to be recovered on the basis of fixed (per licence) and variable (per day – now per unit) components to provide an equitable division of expenses depending on operators' investment in the Fishery. The Fishery is the only Torres Strait fishery currently subject to cost recovery arrangements.

The levy costs for the Fishery are attributable to services provided by AFMA and Queensland Department of Agriculture and Fisheries (QDAF). QDAF recently handed over the licensing function to AFMA including the distribution of the annual levy invoices. QDAF are now responsible for administering only the compliance component of the Fishery. AFMA is also responsible for general management and consultation in relation to the Fishery.

Impact and Effect

The *Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016* requires the holder of licences and units of fishing capacity to pay a levy to the Australian Government. The amount of levy payable by each fisher depends on the quantity of licences and units of fishing capacity held. The total of the levy collected from all Torres Strait Prawn Fishery licence holders reflects the level of activity the PZJA needs to undertake its functions for the good management of the fishery. This includes activities such as setting allowable fishing effort levels and monitoring the condition of the prawn stocks. Renewal of licences under the legislation is subject to payment of levy, which in turn will allow fishers to use their fishing licences in the 2016-17 fishing season.

Consultation

The Torres Strait Prawn Management Advisory Committee (the MAC) was consulted on the draft Fishery budget. The MAC includes five representatives from the commercial industry (levy payers, of which there are 46) as well as traditional inhabitants and State and Commonwealth Government representatives. All aspects of the budget are explained in detail to the MAC including the increases and decreases to each component of the budget. The Committee supported the budget which is the basis for calculating the 2016-17 levy. It is a responsibility of industry members on all of AFMA's MACs to communicate with the broader industry on the matters considered by the MAC, including the fishery budget. AFMA also consults on the annual cost-recovered budget with the peak industry body; the Commonwealth Fisheries Association.

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this Instrument consistent with the agreement updated on 30th June 2014 not to require an impact statement assessment for routine legislative instruments of a minor or machinery nature which specifically includes the annual setting of levies.

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Secretary) Act 2011*. A full statement of compatibility is set out in Attachment A.

The Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016*

Section 1 – Name of Regulation

This section provides for the instrument to be cited as the *Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016*.

Section 2 – Commencement

This section provides that the whole of the instrument commences on the day after it is registered.

Section 3 - Authority

This section provides that the authority for making the regulation is the *Fisheries Levy Act 1984*.

Section 4 - Schedules

This section repeals the instrument listed in Schedule 1.

Section 5 – Definitions

This section provides the definitions of terms in the instrument.

Section 6 – Prescribed units of fishing capacity

This section prescribes units of fishing capacity for the fishery according to the management plan.

Section 7 – Prescribed licenses

This section prescribes licenses for the fishery according to the management plan.

Section 8 – Amount of levy

This section prescribes the amount of levy imposed on licences granted and renewed, and units of fishing capacity allocated and renewed.

Schedule 1 – Repeals

This schedule repeals the previous levy regulations, the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instrument repeals the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998* to allow for an increase in the levy payable for licences granted or renewed and an increase in the levy payable for the units of fishing capacity in the Torres Strait Prawn Fishery.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Senator the Hon. Anne Ruston
Assistant Minister for Agriculture and Water Resources