



Queensland

Fisheries Legislation Amendment and Repeal Regulation (No. 1) 2011

Explanatory Notes for SL 2011 No. 236

made under the

Fisheries Act 1994

General outline

Short title

Fisheries Legislation Amendment and Repeal Regulation (No. 1) 2011.

Authorising law

Section 223 of the *Fisheries Act 1994*.

Policy objectives and the reasons for them

The objective of this significant subordinate legislation is to:

1. repeal the expiring *Fisheries (Gulf of Carpentaria Inshore Fin Fish) Management Plan 1999* (the Management Plan);
2. integrate relevant provisions of the Management Plan in to the *Fisheries Regulation 2008* (the Regulation); and
3. incorporate additional amendments that reflect the outcomes of the review of the Management Plan in to the Regulation.

Lastly, the significant subordinate legislation also has the objective to declare Pine River Bay, in the Gulf of Carpentaria, a Fisheries Habitat Area

(FHA). This FHA amendment was developed through an extensive consultation process separate to the Management Plan's review.

The Management Plan was initially due to expire on 1 September 2009; however the Plan has been extended over the last three years due to an ongoing review. Despite the new expiry date of 31 August 2012, it is anticipated that the proposed new provisions will commence at the start of the next Gulf fishing season on 1 February 2012.

Queensland's fisheries rely on high quality fish habitats such as mangroves, seagrasses, sand bars and rocky reefs for their ongoing productivity. The existing declared FHA network protects these key fish habitats from future development impacts. Pine River Bay is proposed to become a declared FHA on the basis of the significant ecological value of the habitats to the sustainability of local fisheries resources. Existing uses such as commercial and recreational fishing and boating will be allowed to continue in the area.

Achievement of policy objectives

The significant subordinate legislation will achieve its objectives by amending the legislation.

Consistency with policy objectives of authorising law

The significant subordinate legislation is consistent with the main policy objectives of the *Fisheries Act 1994*.

Inconsistency with policy objectives of other legislation

The significant subordinate legislation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The State Government will not incur any additional costs in the implementation of this subordinate legislation.

Consistency with fundamental legislative principles

A potential fundamental legislative principle (FLP) issue has been identified in regard to the payment of fees for new fishery symbols issued following surrender of a previous fishery symbol. Fees for fishery symbols are charged on an annual basis in two half yearly instalments in arrears. The potential FLP could arise where a new symbol is issued part way through a year. Where this may occur this could diminish an individual's rights such that they are paying for access to a fishery for which they do not have benefit for the full period. However, the Regulation includes provision for the chief executive to waive or refund a fee or part of a fee. In such circumstance Fisheries Queensland would recommend that the fee payable would only be charged for the period in which the fishery symbol was held.

Consultation

The proposals have been made following significant consultation with all key stakeholders. The amendments regarding the Gulf of Carpentaria Inshore Finfish Fishery have been suggested following a consultation process that has included stakeholder meetings and a Regulatory Impact Statement. The Pine River Bay FHA declaration has been proposed following three rounds of consultation with the community.

The Queensland Office for Regulatory Efficiency (QORE) advised that the amendments relating to the Management Plan are excluded from the Regulatory Assessment Statement (RAS) process as they have undergone a comparable process under the former Regulatory Impact Statement process. Queensland Treasury was consulted regarding the need for a Public Benefit Test (PBT) and advised that a PBT would not be necessary.

In relation to the Pine River Bay FHA amendment, QORE confirmed that this proposal would not require a RAS on the ground that DEEDI had conducted extensive consultation with relevant stakeholders over an extended period.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Employment, Economic Development and Innovation.

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