

# **FISH RESOURCES MANAGEMENT AMENDMENT (FEES) BILL (No2) 2010**

## **EXPLANATORY MEMORANDUM**

### **Overview of the Bill**

The purpose of this Bill is to amend the *Fish Resources Management Act 1994* (**the Act**).

This Bill complements the *Fish Resources Management Amendment (Fees) Bill 2010*.

The Bill provides that where a fee for the issue of an authorisation under the *Fish Resources Management Act* (*the Act*) includes an amount that is construed to be a tax, then the management plan or regulations, as the case requires, may impose the tax.

Outlined below is an examination of the contents of the Bill on a clause-by-clause basis.

### **Clause 1 Short title**

Clause 1 provides that the title of this Act is the *Fish Resources Management Amendment (Fees) Act (No2) 2010*

### **Clause 2 Commencement**

This clause sets out the commencement provisions. The commencement of this Act is tied to the commencement of the *Fish Resources Management Amendment (Fees) Act 2010*. Where different sections of the *Fish Resources Management Amendment (Fees) Act 2010* are proclaimed to commence on different days, then the related provisions of this Act will commence on the same day.

Subclause (a) provides that sections 1 and 2 of the Act will come into operation on the day on which the Act receives the Royal Assent.

Subclause (b) provides that section 3 of the Act will come into operation when section 3 of the *Fish Resources Management Amendment (Fees) Act 2010* comes into operation. Section 3 of the *Fish Resources Management Amendment (Fees) Act 2010* specifies that that Act amends the *Fish Resources Management Act 1994*. Section 3 of this Act provides that this Act amends the *Fish Resources Management Act 1994* as amended by the *Fish Resources Management Amendment (Fees) Act 2010*.

Subclause (c) provides that section 4 of the Act will come into operation when section 4 of the *Fish Resources Management Amendment (Fees) Act 2010* comes into operation. Section 4 of the *Fish Resources Management Amendment (Fees) Act 2010* specifies amounts that may be included in the fee for the issue of a managed fishery authorisation

under section 58 of *Fish Resources Management Act 1994*. Section 4 of this Act provides that to the extent that a fee set under section 58 is a tax, then the management plan may impose the tax.

### **Clause 3 Act amended**

This clause provides that this Act amends the *Fish Resources Management Act 1994* as amended by the *Fish Resources Management Amendment (Fees) Act 2010*.

### **Clause 4 Section 58 amended**

Section 58(2)(m) of the Act provides that a management plan for a commercial fishery may prescribe fees payable for the issue of authorisations.

Clause 4 inserts a new section 58(4) to make it clear that to the extent that a fee set under section 58(2)(m) includes an amount under section 58(3) that is a tax, then the management plan may impose the tax.

Section 58(3) provides that a fee prescribed under section 58(2)(m) may include one or more of the following:

- (a) an amount in respect to the extent or value of any authority conferred by an authorisation;
- (b) an amount in connection with any purpose referred to in section 238(5) that is relevant to an authorisation;
- (c) an amount in respect of the costs of administering the Act.

### **Clause 5 Section 258 amended**

Section 258(1)(zc)(ii) of the Act (as amended by the *Fish Resources Management Amendment (Fees) Act 2010*) provides that the regulations may prescribe fees and charges for the purposes of the Act, including fees and charges payable in respect of the issue of authorisations.

Clause 5 inserts a new section 258(3) to make it clear that to the extent that a fee set under section 258(1)(zc)(ii) includes an amount under section 258(2) that is a tax, then the regulations may impose the tax.

Section 258(2) provides that a fee prescribed under section 258(1)(zc)(ii) may include one or more of the following:

(a) an amount in respect to the extent or value of any authority conferred by an authorisation;

(b) an amount in connection with any purpose referred to in section 238(5) or section 239(4) that is relevant to an authorisation;

(c) an amount in respect of the costs of administering the Act.

(d) if the fee is for the issue of an aquaculture licence — an amount in respect of the area to which the licence relates.