

TORRES STRAIT PRAWN MANAGEMENT ADVISORY COMMITTEE	Meeting No. 17 20 April 2016
MANAGEMENT License renewal policy, and provision to cancel Units of Fishing Capacity attached to an expired license	Agenda Item No. 4.1

RECOMMENDATION

4.1.1 That the Torres Strait Prawn Management Advisory Committee (TSPMAC) **DISCUSSES:**

- a) the draft licence renewal policy; and
- b) adding a provision to the Torres Strait Prawn Management Plan (Attachment A) which allows for the cancellation and surrender of units of fishing capacity (units) where a licence has expired (in alignment with the draft policy (Attachment B)).

4.1.2 That the TSPMAC **RECOMMENDS** that the draft licence renewal policy be submitted to the Protected Zone Joint Authority (PZJA) for approval and provisions be added into the Torres Strait Prawn Management Plan (the plan) allowing for the cancellation and surrender of units of fishing capacity in the TSPF.

BACKGROUND

In 2015, one license holder decided they no longer wished to hold their Torres Strait Prawn Fishery (TSPF) licence and units of fishing capacity. Extensive consultation was undertaken to confirm this was the intention of the licence holder, emphasising that under Torres Strait fisheries legislation, there is no provision to renew an expired licence in any fishery. Consequently their licence expired on 25 February 2015 consistent with section 3.2 of the plan.

Currently the provisions within the plan to expire a licences do not extend to units connected to the licence, potentially resulting in Units being neither surrendered or cancelled. Units associated with expired licences are not of value to either the former licence holder (can't be sold) or the fishery (can't be traded) as they can't be fished without being attached to a licence, and can't be sold or traded when there are outstanding fees and levies associated with the units.

Disadvantages of not removing unconnected units from the fishery:

- Remaining licences holders will pay for the unrecovered levy debt from the expired licence and "limbo" units, however will not get an increase in the number of fishing days linked to their units (the units must be cancelled or surrendered from the fishery to allow this).;
- Greater complexity (and costs) regarding annual cost recovery/levy process due to unrecovered levies and requirements to recover these costs; and
- Less potential to see unit values increase (lesser number = higher value of each unit)

Units of fishing capacity were designed to be an ongoing access right, which is why no expiry date is set. However, the absence of a mechanism in the plan to cancel units of fishing capacity if a license holder does not pay levy, or chooses to “surrender” their licence and units was an oversight in the initial development of the plan. This oversight also places an unfair financial burden on remaining licence holders who currently are unable to access the unconnected Units.

DISCUSSION

Section 15A of the *Torres Strait Fisheries Act 1984* (the Act) provides that a management plan may make provision for the cancellation and surrender of units of fishing capacity. Other fisheries legislation such as the *Fisheries Management Act 1991* makes provision (in the Act) for suspension and cancellation in, among other things, the event of failure to pay levy. No provision was placed in the TSPF Management Plan during its development in this regard.

If a provision were added to the management plan allowing the cancellation of Units (in specific situations as defined in the policy), then the remaining licence holders will be able to fish these extra nights (by means of spreading the TAE across less units).

AFMA understands the sensitivity around the concept of cancelling units, however, the consequences under which cancellation could take place can be limited and are defined in the policy. Some may view it as an erosion of the value of their fishing concession, when in fact, under these particular circumstances; it could add value to the concession. Units connected with expired licences due to failure to pay levy cannot be fished or traded and simply sit as part of the overall unit pool (6,867 Australian units).

A copy of the draft policy regarding licence renewal, surrender and cancellation of units of fishing capacity is at [Attachment B](#). The paper aims to set a policy framework for the licence renewal process, and steps undertaken before unpaid units of fishing capacity would be cancelled.

AFMA is recommending that the TSPF management plan be amended to provide for the surrender and cancellation of units of fishing capacity. The terms in the management plan will be related directly to ‘failure to pay levy’.

FINANCIAL IMPLICATIONS

There will be some costs associated with amendments to the management plan.