

# **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture, Fisheries and Forestry

*Fisheries Levy Act 1984*

*Fisheries Levy (Torres Strait Prawn Fishery) Amendment (Levy Amount) Regulations 2023*

## **Legislative Authority**

The *Fisheries Levy Act 1984* (the Levy Act) provides for the imposition of a levy with respect to certain fisheries licences granted and renewed under the *Torres Strait Fisheries Act 1984* (TSF Act) and the allocation and renewal of certain units of fishing capacity (units) under a plan of management determined under that Act.

Section 8 of the 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 issued under the TSF Act. 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 are such amounts as specified in, or calculated in accordance with, the regulations.

Section 7 of the Levy Act provides who is to pay the levy and that it is payable at the time of the grant or renewal of the licence or at the time of the allocation or renewal of units.

## **Purpose**

The purpose of the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment (Levy Amount) Regulations 2023* (the Regulations) is to decrease the levy amount applicable to licences and units held in the Torres Strait Prawn Fishery (the Fishery).

The total amount of levy to be paid in the 2023-24 financial year by licence and unit holders that is prescribed by the Regulations is \$168,145. This is a decrease of 7.6 per cent (\$13,865) compared to the 2022-23 levy of \$182,010.

The Regulations decrease the annually calculated levy for licences granted or renewed for the Fishery from \$1,471.87 to \$1,364.78 per licence (a \$107.09 decrease per licence) for the 2024 fishing season. The levy for an allocated unit, or for the renewal of an allocated unit, also decreases from \$13.71 to \$12.62 per unit (a \$1.09 decrease per unit).

## **Background**

The Australian Government Cost Recovery Guidelines set out the basis on which a non-government sector may be charged some or all of the efficient costs of a specific government activity. Accordingly, each financial year, AFMA prepares a cost-recovery budget to recover the annual costs of managing all Commonwealth fisheries from fishing concession holders through the imposition of levies. This year, the 2023-24 cost-recovered budget for the Fishery is \$290,631. This is an increase of 1.0 per cent on the previous year.

The attributable costs of managing the Fishery are recovered from the holders of licences and units pursuant to a decision of the Protected Zone Joint Authority (PZJA), which is established by the TSF Act and has responsibility for managing all Torres Strait commercial fisheries.

Levy rates for the Fishery are determined annually in line with the Australian Fisheries Management Authority's (AFMA's) budgeting process and Cost Recovery Implementation Statement (CRIS). The recoverable costs of administering the Fishery are levied against the licence(s) and/or the units of fishing capacity held by a person or entity.

The *Torres Strait Prawn Fishery Management Plan 2009* is a legislative instrument made under section 15A of the TSF Act, which provides for the allocation of units to the Fishery licence holders. The units are then converted annually into a number of fishing days (referred to as an 'annual use entitlement') depending on the total allowable effort for the Fishery in a given season.

The units in the Fishery are divided into Australian units and Papua New Guinea (PNG) units. The PZJA must allocate Australian units to the Fishery licence holders. The PNG units are held in trust by the Australian Government for the purpose of meeting its obligation under the *Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters* for catch-sharing arrangements with PNG, although may be temporarily transferred to the Fishery licence holders.

The levy amount is influenced by the current year cost-recovered budget (2023-24) and the previous year's (2022-23) acquittal. The cost-recovered budget for 2023-24 (\$290,631) has increased by 0.97 per cent (\$2,784) from 2022-23 (\$287,847). There have been underspends in the last two financial years that have carried forward into 2023-24. These underspends were the result of reduced salary expenditure within the management team, lower than expected travel and meeting costs, as well as reduced observer, vessel monitoring and logbook costs due to reduced fishing effort.

## **Consultation**

AFMA consulted the Torres Strait Prawn Management Advisory Committee (TSPMAC) on the cost-recovered budget for the Fishery. The TSPMAC provides advice to the PZJA. The TSPMAC is independently chaired and comprises representatives from government, non-traditional inhabitant industry members, traditional inhabitant industry members and fisheries science experts. There is no peak industry body for the Fishery.

The TSPMAC was consulted on the 2023-24 cost-recovered budget for the Fishery in May 2023 and provided support for the budget. The budget is also published in AFMA's *Cost Recovery Implementation Statement 2023-24* on the AFMA website.

## **Impact and Effect**

The levy amount collected from all the Fishery licence holders reflects the level of activity required by the PZJA to manage the Fishery, 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 entitlements in the 2024 fishing season. The amount of levy payable by each holder depends on the quantity of licences and units held.

Consistent with the carve-out agreement made with the then Office of Best Practice Regulation (now the Office of Impact Analysis (OIA)) on 30 June 2014, AFMA is not required to complete an Impact Analysis in relation to this instrument. Under this agreement the annual setting of cost recovery levies is considered machinery in nature (OIA Ref: 14421).

The details of the Regulations are set out in Attachment A.

The Regulations are 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 B.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* and commence on the day after being registered on the Federal Register of Legislation.

## ATTACHMENT A

### Details of the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment (Levy Amount) Regulations 2023*

#### Section 1 - Name

This section provides that the name of the Regulations is the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment (Levy Amount) Regulations 2023*.

#### Section 2 - Commencement

This section provides that the Regulations commence on the day after the instrument is registered.

#### Section 3 - Authority

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

#### Section 4 - Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### Schedule 1 - Amendments

#### *Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016*

##### **Item [1] - Subsections 8(2) and (3)**

This item omits “\$1,471.87 plus \$13.71” and substitutes “\$1,364.78 plus \$12.62” to reflect the decrease to the amount of levy imposed on the grant of, or on the renewal of, a licence prescribed by section 7 of the *Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016* (Levy Regulation) for the purposes of paragraphs 5(d) and (f) of the *Fisheries Levy Act 1984* (Levy Act). This amendment has the effect that the amount of levy payable is \$1,364.78 plus \$12.62 for each unit of fishing capacity prescribed by section 6 of the Levy Regulation, for the purposes of paragraphs 5(bc) and (bd) of the Levy Act, to be held by the person in respect of the licence or renewed licence.

##### **Item [2] - Subsections 8(4) and (5)**

This item omits the amount “\$13.71” and substitutes it with the amount “\$12.62” to reflect the decrease to the amount of levy imposed on the allocation of, or by the renewal of, an allocation of a unit of fishing capacity prescribed by section 6 of the

Levy Regulation (other than a unit of fishing capacity referred to in subsection 8(2) or (3) of the Levy Regulation).

**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) Amendment (Levy Amount) Regulations 2023***

This Disallowable 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 Disallowable Legislative Instrument**

This Disallowable Legislative Instrument amends the *Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016* to decrease the levy amount applicable to licences and allocated units of fishing capacity held in the Torres Strait Prawn Fishery.

**Human rights implications**

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

**Conclusion**

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

**Senator the Hon. Murray Watt  
Minister for Agriculture, Fisheries and Forestry**