

EXPLANATORY STATEMENT

Issued by authority of the Protected Zone Joint Authority

Torres Strait Fisheries Act 1984

Torres Strait Prawn Fishery Management Plan 2009

Torres Strait Prawn Fishery (Total Allowable Effort) Determination 2024

Legislative authority

Section 15A of the *Torres Strait Fisheries Act 1984* (the Act) provides that the Minister may, by legislative instrument, determine a plan of management for a fishery in an area of Australian jurisdiction. A management plan made under the Act is to set out, amongst other things, the objectives of the plan of management and measures by which the objectives are to be attained.

Subsection 15A(4) of the Act provides that the Minister may in a plan of management for a fishery, determine the manner in which the fishing capacity of the fishery is to be measured; and provide for the periodic determination of the fishing capacity, measured in that manner, permitted for the fishery.

Subsection 35(1) of the Act provides for the Protected Zone Joint Authority (PZJA) to exercise the powers of the Minister under subsection 15A of the Act in respect of a ‘Protected Zone Joint Authority fishery’.

Subsection 28(1) of the Act provides that a ‘Protected Zone Joint Authority fishery’ is a fishery in respect of which an arrangement under Part V of the Act is in place. The *Arrangement between the Commonwealth and the State of Queensland under section 31 of the Torres Strait Fisheries Act 1984* (the PZJA Arrangement¹), made under Part V of the Act, provides that the PZJA is to have management of commercial fishing of any kind other than certain exceptions, in the areas described in subsection 4(2) of the PZJA Arrangement.

Subsection 2.5(1) of the *Torres Strait Prawn Fishery Management Plan 2009* (the Management Plan) stipulates that at least every 3 years the PZJA will determine the total allowable effort (TAE) for the fishery, based on the reference points determined under section 2.4, or other management strategy.

The *Torres Strait Prawn Fishery (Total Allowable Effort) Determination 2024* (the Determination) is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

Due to application of subsection 44(1) of the Legislation Act, the Determination is exempt from parliamentary scrutiny and is not subject to sunseting by application of subsection 54(1) and paragraph 54(2)(b) of the

¹ PZJA Arrangement means the document titled “*Arrangement between the Commonwealth and the State of Queensland under section 31 of the Torres Strait Fisheries Act 1984*” dated 17 March 1999 and published on the Federal Register of Legislation, as that document exists at the commencement of this Instrument.

Note: The PZJA Arrangement could in 2024 be viewed on the website of the Federal Register of Legislation (<https://www.legislation.gov.au/Details/F2008B00750>).

Legislation Act, read together with item 63AB of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

Purpose

The purpose of the instrument is to determine the TAE for the Torres Strait Prawn Fishery (TSPF) for the 2024, 2025 and 2026 fishing seasons. The fishing season is determined under subsection 2.3(2) of the Management Plan. Pursuant to subsection 2.5(1) of the Management Plan, the PZJA determines the TAE for the 2024, 2025 and 2026 fishing seasons in the TSPF to be 9,200 fishing days for each fishing season.

Consultation

Subsection 2.5(2) of the Management Plan stipulates that before determining the TAE, the PZJA will consult the Torres Strait Prawn Management Advisory Committee (TSPMAC) and consider its views; and may consult and consider the views of interested persons. The TSPMAC is established under subsection 40(7) of the Act. Its membership comprises an independent Chair, PZJA agencies (Australian Fisheries Management Authority (AFMA), Torres Strait Regional Authority, and Queensland Department of Agriculture and Fisheries), a scientist and industry (from both the traditional inhabitant and non-traditional inhabitant sectors).

AFMA, on behalf of the PZJA, consulted the TSPMAC at its November 2022 meeting. The TSPMAC was supportive of maintaining the TAE at 9,200 days for each fishing season for the next three years, unless the TAE is required to be changed by the TSPF harvest strategy. If a new TAE level is needed the TSPMAC will be consulted to make a recommendation on a new TAE.

This recommendation was made noting that under the new proposed harvest strategy rules, a continuous TAE of 9,200 days is recommended, alongside catch rate triggers which indicate whether the TAE may need to be changed or left alone. Under the subsection 2.6 of the Management Plan, the PZJA can change the TAE during, and between, fishing seasons if needed.

Under subsection 2.5(5) of the Management Plan a determination made under section 2.5 of the Management Plan must be published on the PZJA website and, if practicable, notified to all holders of TSPF boat licences and TSPF Treaty endorsements.

Native Title

Native Title notification under section 24HA of the *Native Title Act 1993* was undertaken from 18 September – 16 October 2023. There were no comments received on the TAE as part of this process.

Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

As the instrument is exempt from disallowance through the process of parliamentary scrutiny, by application of subsection 44(1) of the *Legislation Act*, a statement of compatibility with human rights does not have to be prepared for the purpose of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Impact Analysis

The Office of Impact Analysis (OIA) advised that an Impact Analysis was not required for this instrument (OIA OIA24-06391).

Details of the instrument are set out in **Attachment A**.

ATTACHMENT A

Details on provisions

Torres Strait Prawn Fishery (Total Allowable Effort) Determination 2024

- Section 1** Provides that the name of the instrument is the *Torres Strait Prawn Fishery (Total Allowable Effort) Determination 2024*.
- Section 2** Provides that the instrument commences on the day after registration on the Federal Register of Legislation.
- Section 3** Provides that the instrument is made under section 2.5 of the *Torres Strait Prawn Fishery Management Plan 2009*.
- Section 4** Provides for the definitions used in the Instrument.
- Section 5** Provides that the total allowable effort for the Torres Strait Prawn Fishery for the 2024, 2025 and 2026 fishing seasons is a total of 9,200 fishing days for each fishing season.