

## **EXPLANATORY STATEMENT**

*Torres Strait Fisheries Act 1984*

### **Fisheries Management Notice No. 82**

The proposed Fisheries Management Notice would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Subsection 16(1) (c) of the *Torres Strait Fisheries Act 1984* (the Act) provides that the Minister may, by legislative instrument, prohibit the taking, processing or carrying of fish, or fish included in a class of fish specified in the instrument, by a method, or with the use of equipment or a boat, of a kind specified in the instrument.

Subsection 35(1) of the Act provides for the Protected Zone Joint Authority (PZJA) to exercise the powers of the Minister under subsection 16(1) of the Act.

#### **The fishery**

The Torres Strait Prawn Fishery (TSPF) is the most valuable commercial fishery in The Torres Strait. The fishery focuses primarily on brown tiger prawns (*Penaeus esculentus*), endeavour prawns (*Metapenaeus endeavouri*) and red spot king prawns (*Melicertus longistylus*). Prawns are taken by trawling at night. Commercial fishing occurs from 1 March to 1 December, inclusive, with a peak during March-June.

The TSPF has a Bycatch Action Plan (2005) in place which has the following primary aims:

- Eliminate to the greatest extent feasible, the catch of large animals such as turtles, sharks and stingrays, other protected species; and other species unable to withstand the effects of trawling;
- Substantially reduce the ratio of bycatch to prawns;
- Provide protection for areas that are important habitat for vulnerable species of marine life.

In line with the second primary aim, within the TSPF, a Bycatch Reduction Device (BRD) must be used in all nets except try nets. Currently there are six such devices listed in Fisheries Management Notice No. 70. They are as follows:

- Square Mesh Codend
- Square Mesh Panel
- Fisheye
- Bigeye
- Radial Escape Section
- V-Cut / Flap

In July 2004, the 'Popeye Fish Excluder' was tested in the East Coast Otter Trawl Fishery (ECOTF) showing a 29% reduction in bycatch, with no difference in prawn catch rates attributed to the BRD. Following these tests the 'Popeye Fish Excluder' was approved as an effective BRD and added to the list of BRDs in the Queensland Government *Fisheries (East Coast Trawl) Management Plan 1999*.

Addition of the 'Popeye Fish Excluder' will provide greater options for operators and provide consistency between the Northern Prawn Fishery (NPF) and TSPF, which has a significant overlap of operators.

The proposed BRD definitions for the 'Popeye Fish Excluder' in the TSPF are as per the ECOTF.

### **Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) advised AFMA that a Regulation Impact Statement was not required (OBPR Exemption No. ID 9509) for the proposed addition, as the proposed amendment is only a minor modification to the current notice (FMN No. 70) and has been supported by industry and the PZJA.

### **Consultation**

This Fisheries Management Notice revokes Fisheries Management Notice No. 70, dated 18 February 2004.

The 'Popeye Fish Excluder' BRD was discussed at the Torres Strait Prawn Management Advisory Committee (TSPMAC) on 14-15 June 2007. The TSPMAC comprises representatives from the Torres Strait Prawn Entitlement Holders' Association (representing commercial fishers), the Community Fisheries Group (CFG's) (representing traditional inhabitants) and Government. The MAC recommended that the PZJA add the 'Popeye Fish Excluder' device to the approved BRD list for the fishery.

The proposed content of this Notice was approved by PZJA at its 21<sup>st</sup> meeting on 28-29 August 2007.

### **Details of the Notice**

The proposed change to FMN 70 would add an additional BRD – the "Popeye Fish Excluder" to Schedule 1 of the Notice. This will give operators the choice of seven BRDs instead of six under the current version of the notice.

Paragraph 1 provides that the Fisheries management notice may be cited as the "Torres Strait Fisheries Management Notice No. 82".

Paragraph 2 states that the Instrument commences on the day it is registered.

Paragraph 3 states that the instrument applies in conjunction with any other notices in the area of the fishery.

Paragraph 4 states the fisheries management notices that will be revoked on registration of the present notice.

Paragraph 5 sets out interpretations of technical words used in the instrument. This paragraph also explains that terms not defined in this section have the same meaning as in the *Torres Strait Fisheries Act 1984*.

Paragraph 6 sets out the prohibitions and exceptions to prohibitions under the notice.

Schedule 1 defines the approved bycatch reduction devices that may be used under the notice.