

EXPLANATORY STATEMENT

TORRES STRAIT FISHERIES MANAGEMENT INSTRUMENT NO. 2

Issued by the authority of the Protected Zone Joint Authority

Torres Strait Fisheries Act 1984

The Torres Strait Fisheries Management Instrument No. 2 (FMI 2) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Subsection 16(1) of the *Torres Strait Fisheries Act 1984* (the Act) provides for the Minister for Agriculture, Fisheries and Forestry to regulate fishing through an instrument registered on the Federal Register of Legislative Instruments (FRLI). 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 Torres Strait Prawn Fishery (TSPF) is one of the most valuable commercial fisheries in the Torres Strait. The fishery focuses primarily on brown tiger prawns (*Penaeus esculentus*), blue endeavour prawns (*Metapenaeus* spp) and red spot king prawns (*Melicertus longistylus*). Prawns are taken by trawling at night. Commercial fishing occurs from 1 March to 30 November, inclusive, with a peak during March-June.

The *Torres Strait Prawn Management Plan 2009* (the Plan) was approved by the PZJA and registered on 12 February 2009. The Plan provides for a unitised allocation system representing a share of the total available effort and replaces the current system of fishing days.

Fisheries management instruments are required to support the Plan. In general, they deal with prohibitions and management arrangements that are expected to change more frequently than management plans. In addition they may be used to prescribe things that by virtue of the Act cannot be prescribed in a management plan.

Fisheries Management Instrument No. 2 – *Prohibition on Taking Prawns and Carrying Equipment (Exclusion Zone)* modifies and replaces the existing arrangements contained in Fisheries Management Notice Nos. 40, 49 and 68. The new instrument prohibits the taking or carrying of prawns in the exclusion zones outlined in Schedule 1 by reference to the Australian Geodetic Datum 1966 (AGD66), except in an area that is a transit zone. For convenience, the coordinates of the exclusion zones have also been expressed in Schedule 2 of the instrument based on the World Geodetic Datum 1984 (WGS84).

Consultation

The revised arrangements contained in FMI 2 were considered by the Torres Strait Prawn Fishery Management Advisory Committee (TSPMAC) at its December 2008 meeting. The TSPMAC is the principal advisory body for the PZJA on TSPF management issues. The TSPMAC includes members representing industry, government and scientific interests. The TSPMAC recommended that the PZJA approve FMI 2.

The Office of Best Practice Regulation (OBPR) has advised that as the impacts of the amendments will be 'low', the preparation of a Regulatory Impact Statement or quantification of compliance costs is not required (OBPR ID number 10033).

Details of the Instrument

Clause 1 provides that the name of the instrument is the Torres Strait Fisheries Management Instrument No. 2.

Clause 2 provides that the instrument commences on the day after registration.

Clause 3 provides that the instrument applies in conjunction with any other notice or instruments in force in the TSPF.

Clause 4 provides that Fisheries Management Notice (FMN) No. 40, dated 24 February 1994, FMN No. 49, dated 16 April 1998, and FMN No. 68, dated 8 December 2003 are revoked. FMI 2 maintains many of the existing arrangements contained in FMN No.40, FMN No. 49 and FMN No. 68 and sets out the new prohibitions on taking prawns and carrying equipment in exclusion zones in the TSPF. The exclusion zones set out in Schedule 1 and Schedule 2 are designated areas west of Warrior Reef, Darnley Island, Deliverance Island, Kerr Islet and Turu Cay.

Clause 5(1) defines how specific words and terms used in the instrument are to be interpreted.

Clause 5(2) confirms that a word used in the instrument that is used in the Act, the *Torres Strait Fisheries Regulations* or the *Torres Strait Prawn Management Plan 2009* has the same meaning as in the Act, Regulations or the Plan.

Clause 6 provides a description of the area of the exclusion zones in Schedule 1 by reference to the Australian Geodetic Datum 1966 (AGD66) *Geoscience Australia*.

For convenience of the use of navigational aids, Schedule 2 also provides a description of the area of the exclusion zones by reference to WGS84.

Any inconsistencies in coordinates between the AGD66 and the WGS84 description will be resolved by referencing Schedule 1.

The *Guidelines for Describing Maritime Boundaries 2006*, Geosciences Australia provides good reference material on how maritime boundaries are described and where possible, should be used in conjunction with FMI 2 and this explanatory statement.

Clause 7 prohibits the taking and carrying of prawns in an exclusion zone, except in an area of the exclusion zone that is a transit zone. The transit zone is set out in FMN No1 and is only to be used for the purposes of traversing into and out of the area of the fishery.

All TSPF boats are prohibited from carry fishing gear while traversing through the transit zone unless all the fishing gear is out of the water. If the gear is in the water the operator must ensure all cod ends are open and drawn to the boat so

that the cod ends are visible from an aircraft or another boat and the boards are at the blocks.

This clause ensures that compliance agencies are able to positively ensure that operators abide by the conditions that govern transit zones in the TSPF.

Schedule 1

Specifies the exclusion zones by reference to the Australian Geodetic Datum 1966 (AGD66).

Schedule 2

Specifies the exclusion zones by reference to the World Geodetic Datum 1984 (WGS84).