

## **EXPLANATORY STATEMENT**

### **TORRES STRAIT FISHERIES MANAGEMENT INSTRUMENT NO. 4**

Issued by the authority of the Protected Zone Joint Authority

*Torres Strait Fisheries Act 1984*

The Torres Strait Fisheries Management Instrument No. 4 (FMI 4) 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. 4— *Prohibition on Taking of Prawns by Papua New Guinea Boats* modifies and replaces the existing arrangements contained in Fisheries Management Notice No. 29, dated 14 April 1989. The new instrument prohibits the taking of prawns in the area of the TSPF with the use of a boat for which a Papua New Guinea (PNG) licence is in force unless that boat has a TSPF treaty endorsement to operate in this fishery.

### **Consultation**

The revised arrangements contained in FMI 4 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 4.

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. 4.

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 No. 29, dated 14 April 1989 is revoked. The FMI 4 maintains many of the existing arrangements contained in Fisheries Management Notice No. 29, which apply PNG licensed boats. It includes a prohibition on the taking of prawns and reinforcing the stowage configuration of fishing gear in the area of the fishery. The area of the fishery is described in clause 5.

Clause 5(1) defines how specific words and terms used in the instrument are to be interpreted. This includes the area of the fishery as described in the *Torres Strait Prawn Management Plan 2009*.

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 2010* has the same meaning as in the Act, Regulations or the Plan.

Clause 6 prohibits the taking of prawns in the area of the fishery, as described in clause 5, with the use of a boat for which a PNG licence is in force. It also provides that the person in charge of the PNG licensed boat must not, in the area of the fishery, carry otter trawl nets or boards unless no part of the equipment is in water and each board is stowed in the racks or hanging from the blocks and the cod ends of each net is open.

This clause ensures that compliance agencies are able to positively ensure that operators abide by the conditions and regulations that govern the area of the fishery in the TSPF.

Clause 7 makes provisions under section 16(1A)(d) of the Act for a person who holds a PNG license, and the boat holds a treaty endorsement for the purpose of commercial prawn fishing in the Australian jurisdiction, to be exempt from the prohibitions in clause 6.