

EXPLANATORY STATEMENT

FISHERIES MANAGEMENT INSTRUMENT NO. 7

Issued by the authority of the Protected Zone Joint Authority

Torres Strait Fisheries Act 1984

The Fisheries Management Instrument 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 by legislative instrument to regulate fishing. Subsection 35(1) of the Act provides that the powers of the Minister under sections 14, 15A, 16 and 17 of the Act are exercisable by the Protected Zone Joint Authority (PZJA).

The fishery

The Torres Strait Pearl Shell Fishery is a small scale commercial fishery limited to Torres Strait Traditional Inhabitants. The fishery mainly targets the Gold-lip Pearl Shell (*Pinctada maxima*), although another six species, including the Black-lip Pearl Shell (*Pinctada margaritifera*), are also harvested. Pearl shell is collected live for pearl culture farms, principally by divers using hookah equipment. Only a small number of licensed boats specialise in collecting pearl shell and fish primarily through the months of October to March.

Fisheries Management Instrument No.7 – *Prohibition on Taking, Processing and Carrying of Pearl Shell (Gear and Size Restrictions)* replaces and revokes the arrangements contained in Fisheries Management Notice No.69. The Instrument allows for the inclusion of the genus *Pteria* under the regulations to ensure that collection of pearl shell within this genus is managed appropriately.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) has advised the Australian Fisheries Management Authority that a Regulation Impact Statement is not required for the Fisheries Management Instrument No.7 as the new Instrument contains only minor modifications to the previous prohibition on the taking, processing or carrying of pearl shell in Fisheries Management Notice No.69 (OBPR ID number 11153).

Consultation

This Fisheries Management Instrument replaces and revokes Fisheries Management Notice No.69, dated 18 February 2004.

The content of this Fisheries Management Instrument was considered and agreed to by the Torres Strait Hand Collectables Working Group (TSHCWG) in July 2008 and the Torres Strait Fisheries Management Advisory Committee (TSFMAC) in November 2009. The TSHCWG and TSFMAC are the principal advisory bodies for the PZJA on Torres Strait Hand Collectable fisheries issues. Both of these consultative bodies include members representing industry, Government and scientific interests.

The Australian Government Department of Agriculture, Fisheries and Forestry and the Queensland Fisheries have also been consulted on the content of the new Instrument.

Details of the Instrument

The content of the new Instrument amends Fisheries Management Notice No.69 to include the genus *Pteria* as one of the regulated groups of pearl shell for collection in the Torres Strait Pearl Shell Fishery. The new Instrument includes the following content:

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| Clause 1 | States that the Instrument may be cited as Torres Strait Fisheries Management Instrument No.7. |
| Clause 2 | States that the Instrument commences on the day after registration. |
| Clause 3 | States the period in which the Instrument is valid. |
| Clause 4 | Revokes Fisheries Management Notice No.69, dated 18 February 2004. |
| Clause 5 | Details how certain words and terms used in the Instrument are to be interpreted. |
| Clause 6.1 | Prohibits the taking, processing or carrying of live pearl shell of the species <i>Pinctada maxima</i> as well as the taking, processing or carrying of any other live or dead pearl shell species in the area of the Torres Strait Pearl Shell Fishery unless an exemption is in force. |
| Clause 6.2 | Prohibits the taking, processing or carrying of dead pearl shell of the species <i>Pinctada maxima</i> . |
| Clause 7(a) | Exempts a person holding the appropriate licence granted under subsection 19(2) or 19(3) of the <i>Torres Strait Fisheries Act 1984</i> from the prohibition to take, process or carry pearl shell in the area of the Torres Strait Pearl Shell Fishery. |
| Clause 7(b) | Exempts a boat from Papua New Guinea who is endorsed by Australia to take pearl shell from the prohibition to take, process or carry pearl shell in the Australian area of jurisdiction of the Torres Strait Pearl Shell Fishery. |
| Clause 7(c) | Exempts a person licensed to engage in pearl shell farming under the <i>Queensland Fisheries Act 1994</i> from the prohibition to take, process or carry pearl shell in the area of the Torres Strait Pearl Shell Fishery. |
| Clause 7(d) | Exempts a person from the prohibition to take pearl shell if their boat is less than 6meters in length. |
| Clause 7(e) | Exempts a Traditional Inhabitant in the course of traditional fishing from the prohibition to take, process or carry pearl shell in the area of the Torres Strait Pearl Shell Fishery. |
| Clause 8 | Describes the size limit in place for the Gold-lip Pearl Shell (<i>Pinctada maxima</i>) and the Black-lip Pearl Shell (<i>Pinctada margaritifera</i>). |
| Clause 9 | Describes the method for measuring the size of pearl shell. |
| Clause 10 | Exempts a Traditional Inhabitant in the course of traditional fishing from the size restrictions outlined in Clause 8. |
| Clause 11 | Describes the methods permitted for collecting pearl shell. |