

EXPLANATORY STATEMENT

FISHERIES MANAGEMENT INSTRUMENT NO. 9

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 Tropical Rock Lobster Fishery is the most valuable commercial fishery in the Torres Strait. It is a single species fishery targeting the Ornate Tropical Rock Lobster (*Panulirus ornatus*) and is an important commodity to both Traditional Inhabitants and non-Traditional Inhabitants.

Tropical Rock Lobster (TRL) is collected by hand or hand-held instruments by divers generally working from dinghies. Divers use either hookah (surface supplied air) equipment or free-dive.

The commercial fishing season for TRL is from 1 December through 30 September the following year (inclusive), with use of hookah gear prohibited from 1 October to 31 January (inclusive).

Fisheries Management Instrument No. 9 replaces and revokes the arrangements contained in Fisheries Management Notice No. 80. The Instrument extends the exemption on the prohibition to take, carry and process tropical rock lobster to include any persons endorsed to fish in the Torres Strait Tropical Rock Lobster Fishery under section 20 of the Act being those Papua New Guinea fishers holding a cross-endorsement to fish in the Australian area of jurisdiction of the Torres Strait Protected Zone. This amends an administrative oversight.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) has advised Australian Fisheries Management Authority that a Regulation Impact Statement is not required for the Fisheries Management Instrument No. 9 as the new Instrument contains only minor modifications to the previous prohibition on the taking, processing or carrying of finfish in Fisheries Management Notice No. 80 (OBPR ID number 12199).

Consultation

This Fisheries Management Instrument replaces and revokes Fisheries Management Notice No.80, dated 22 September 2006.

The content of this Fisheries Management Instrument was agreed to by the Protected Zone Joint Authority (PZJA) Standing Committee in February 2011. The PZJA

Standing Committee is made up of senior executives from the Australian Government Department of Agriculture, Fisheries and Forestry, Australian Fisheries Management Authority, Torres Strait Regional Authority and the State Queensland Government agency, Queensland Fisheries. This committee provides policy advice to the PZJA on Torres Strait fisheries issues.

Details of the Instrument

The content of the new Instrument amends Fisheries Management Notice No. 80 to extend the current exemption on the prohibition to take, carry and process tropical rock lobster to any person with a section 20 endorsement being those holding a cross-endorsement. The new Instrument includes the following content:

Clause 1	States that the Instrument may be cited as Torres Strait Fisheries Management Instrument No. 9.
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. 80, dated 22 September 2006.
Clause 5	Details how certain words and terms used in the Instrument are to be interpreted.
Clause 6	Prohibits the taking, processing or carrying of tropical rock lobster in the area of the Torres Strait Tropical Rock Lobster Fishery unless an exemption is in force.
Clause 7a	Exempts a person holding a commercial fishing licence granted under subsection 19(2) or 19(3) or an endorsement granted under section 20 of the <i>Torres Strait Fisheries Act 1984</i> from the prohibition to take, process or carry finfish in the area of the Torres Strait Tropical Rock Lobster Fishery.
Clause 7b	Allows a person that is licensed under subsection 19(2) or 19(3) or endorsed under section 20 of the <i>Torres Strait Fisheries Act 1984</i> to take tropical rock lobster during the period of 1 December to 30 September each year (inclusive).
Clause 7c	Exempts a Traditional Inhabitant in the course of traditional fishing from the prohibition to take, process or carry tropical rock lobster in the area of the Torres Strait Tropical Rock Lobster Fishery on the condition that; <ul style="list-style-type: none"> a. the number of tropical rock lobster in possession does not exceed three if fishing with or without the use of a boat; and b. the number of tropical rock lobster in possession does not exceed six if fishing from a boat with at least one other person.
Clause 8	Prohibits the take of tropical rock lobster in the area of the Torres Strait Tropical Rock Lobster Fishery if the lobster is less than the size limits specified (i.e. minimum carapace length of 90 millimetres or a minimum tail length of 115 millimetres). It also describes the accepted method for measuring the carapace and tail length.
Clause 9	Exempts a Traditional Inhabitant from the size limits outlined in clause 8.

Clause 10	Specifies the accepted methods for taking tropical rock lobster by a person holding a commercial fishing licence granted under subsection 19(2) or endorsed under section 20 of the <i>Torres Strait Fisheries Act 1984</i> to fish in the Torres Strait Tropical Rock Lobster Fishery.
Clause 11	Prohibits the carriage or use of hookah (surface supplied air) gear by a person holding a commercial fishing licence granted under subsection 19(2) or endorsed under section 20 of the <i>Torres Strait Fisheries Act 1984</i> during the period 1 October to 31 January (inclusive).
Clause 12	Prohibits a person from processing or carrying tropical rock lobster meat that has been removed from any part of a tropical rock lobster in the area of the Torres Strait Tropical Rock Lobster Fishery.
Clause 13	Exempts a Traditional Inhabitant in the course of traditional fishing from the prohibition outlined in clause 12.
Clause 14	Prohibits a person from carrying diving equipment and tropical rock lobsters between the hours of 1900 and 0600 (Eastern Standard Time) in the area of the Torres Strait Tropical Rock Lobster Fishery.
Clause 15	Exempts a person from the prohibition outlined in clause 14 if all diving equipment in possession is stowed and secured or if an authorised officer has granted approval to carry diving equipment and tropical rock lobster between those hours.