

## EXPLANATORY STATEMENT

Issued by the authority of the Torres Strait Protected Zone Joint Authority

*Torres Strait Fisheries Act 1984*

### **Torres Strait Fisheries Management Instrument No. 17**

The *Torres Strait Fisheries Management Instrument No. 17* (the Instrument) is a legislative instrument for the purposes of the *Legislation Act 2003*.

Subsection 16(1) of the *Torres Strait Fisheries Act 1984* (the Act) provides for the Minister to regulate fishing through an instrument registered on the Federal Register of Legislative Instruments. 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 is one of the more valuable commercial fisheries in the Torres Strait. The key species for the fishery are brown tiger prawns and blue endeavour prawns. Species that are also taken as by-product include red spot king prawns, Moreton Bay bugs, scallops and squid. This fishery is subject to management and catch sharing arrangements under the Torres Strait Treaty.

Fishers use the otter trawl method where two, three or four trawl nets are towed behind the fishing vessel. Fishing occurs in the eastern part of the Torres Strait at night and only during the fishing season (from 1 March to 1 December). To ensure the amount of prawns caught each year is sustainable the total number of fishing days is capped and the length of boats and the size of nets that fishers can use are restricted.

The Instrument replaces the *Torres Strait Fisheries Management Instrument No. 71* (the previous Instrument) which sunsets on 1 April 2017. The Instrument maintains the prohibitions of the previous Instrument.

#### **Details of the Instrument**

The Instrument includes all existing arrangements contained within the previous Instrument.

The Instrument prohibits the use or possession of otter trawl equipment in the Torres Strait Prawn Fishery under certain parameters.

The Instrument also revokes redundant instruments for the fishery as arrangements contained within are already contained in the Torres Strait Prawn Management Plan. These Instruments are the *Torres Strait Fisheries Management Notices No. 43, 56 and 57*.

#### **Consultation**

Consultation about the Instrument was undertaken with the Protected Zone Joint Authority (PZJA) Torres Strait Prawn Management Advisory Committee and all license holders. No comments were received.

Native title notification was undertaken in relation to this Instrument.

**Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011***

The PZJA assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative Instrument is compatible with human rights. The PZJA's Statement of Compatibility is attached.

**Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) advised that a Regulation Impact Statement was not required for the Instrument providing a letter from the agency head was provided certifying that the measures maintained from the sunseting Instrument efficiently achieved their objectives (**OBPR ID: 21506**). The letter is available for viewing on the OBPR website.

Details of the Instrument are set out below:

**Clause 1** Provides for the Instrument to be cited as the Torres Strait Fisheries Management Instrument No. 17.

**Clause 2** Provides that the Instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

**Clause 3** Provides that the Instrument is repealed on 31 December 2026 unless earlier revoked.

**Clause 4** Provides for the Instrument to apply in conjunction with other Instruments in force in the Torres Strait Prawn Fishery from time to time, The following Instruments are currently in force in the Torres Strait Prawn Fishery:

Prohibition on Taking Prawns and Carrying Equipment (Exclusion Zone);

Prohibition on Taking Prawns by Papua New Guinea Boats;

Prohibition on Taking Prawns (Time Allocation) and Amendment to FMN No 40;

Fisheries Management Instrument No. 10;

Fisheries Management Instrument No. 11;

Requirement for Use of Turtle Excluder Device;

Requirement for Use of Bycatch Reduction Devices; and

Torres Strait Fisheries (Restriction on Size of Boats).

- Clause 5** Provides for definitions of terms contained within the Instrument, and that a term used in the Instrument and in the Plan or Act has the same meaning in the Instrument as in the Plan or Act.
- Clause 6** Provides that use or possession of otter trawl equipment is prohibited under certain conditions.
- Clause 7** Provides for the method for measuring nets and meshes.
- Clause 8** Provides for the revocation of
- the previous Instrument that was due for sunseting on 1 April 2017, *Torres Strait Fisheries Management Notice No. 71*, and any existing licence or treaty endorsement granted under the revoked Instrument shall continue to operate as if it referred to this Instrument.
  - Other Instruments that were due for sunseting on 1 April 2017— *Torres Strait Fisheries Management Notice No.43* (prohibition on times for taking prawns); the *Torres Strait Fisheries Management Notice No. 56* (prohibition on taking Morton Bay Bugs) and the *Torres Strait Fisheries Management Notice No. 57* (prohibition on use of otter board gear for taking prawns)—as they are redundant as the requirements in these Instruments are already covered by the Torres Strait Prawn Fishery Management Plan.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Torres Strait Fisheries Management Instrument No. 15**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

Subsection 16(1) of the *Torres Strait Fisheries Act 1984* (the Act) provides for the Minister to regulate fishing through an instrument registered on the Federal Register of Legislative Instruments. 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 Instrument replaces the *Torres Strait Fisheries Management Notice No. 71* (the previous Instrument) which sunsets on 1 April 2017. The Instrument maintains the prohibitions of the previous Instrument.

The instrument also revokes Instruments that are redundant as the conditions contained are covered by the Torres Strait Prawn Fishery Management Plan: The *Torres Strait Fisheries Management Notice No.43* (prohibition on times for taking prawns); the *Torres Strait Fisheries Management Notice No. 56* (prohibition on taking Morton Bay Bugs) and the *Torres Strait Fisheries Management Notice No. 57* (prohibition on use of otter board gear for taking prawns)

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.