EXPLANATORY STATEMENT

Issued by the Parliamentary Secretary for Agriculture, Fisheries and Forestry

*Fisheries Management Act 1991*

*Fisheries Management (Excepted Waters) Proclamation 2011*

Section 11 of the *Fisheries Management Act 1991* (the Act) provides that the Governor-General may make proclamations about waters that would be excepted from the jurisdiction of the Act.

The Proclamation excludes two maritime areas in the Torres Strait and the Australian Antarctic Territory. These two areas are administered by other legislation, the *Torres Strait Fisheries Act 1984* and the *Antarctic Marine Living Resources Conservation Act 1981* respectively.

The Proclamation relates to two of the maritime areas outlined in the 1992 Excepted Waters Proclamation; the other areas are now redundant or covered in the Seas and Submerged Lands (Limits of Continental Shelf in the Tasman Sea and South Pacific Ocean) Proclamation 2005. The 1992 Excepted Waters Proclamation was repealed by the *Legislative Instruments Act 2003* as it was not registered on Federal Register of Legislative Instruments before the closing date. The Proclamation is similar to the repealed 1992 Excepted Waters Proclamation.

**Consultation**

The preparation of the Proclamation included full consultation with the Australian Fisheries Management Authority, the Attorney-General’s Department and Geoscience Australia. Legal advice regarding the necessity of the Proclamation was also sought from the Australian Government Solicitor. The Office of Best Practice Regulation was consulted and a regulation impact statement is not required (2010/12111).

**The Proclamation**

Details of the Proclamation are set out below:

**Section 1** provides for the Proclamation to be cited as the *Fisheries Management (Excepted Waters) Proclamation 2011*.

**Section 2** provides that the Proclamation commenced on the day after it was registered on the Federal Register of Legislative Instruments.

**Section 3** provides the interpretation of technical terms in the Proclamation:

- **AGD66** means the Australian Geodetic Datum 1966, which is the reference point used for coordinate system in the 1992 Excepted Waters Proclamation;

- **nautical mile** means the international nautical mile, measuring 1852 metres;
- **Treaty** means the *Treaty between Australian and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters*, done at Sydney on 18 December 1978;

- **WGS84** means the World Geodetic System 1984, which is the reference measurement point for the coordinates defined in the Proclamation;

**Section 4** provides a description of the line, the graphic coordinates and the authority of the points.

**Subsection 4(1)** provides a description of the line delineated by the Protected Zone and Fisheries Jurisdiction Line defined under the Torres Strait Treaty in Annex 9 and 8 respectively.

**Subsection 4(2)** provides that Part 1 of Schedule 1 describes the geographic references in terms of WGS84 and specifies the data sets are an authoritative transformation between AGD66 and WGS84.

**Subsection 4 (3)** provides that the proclamation can be relied on as evidence in a legal proceeding.

**Section 5** provides a description of the excepted waters in the Australian Antarctic Territory.

**Section 6** provides a guide to reading the tabled geodetic data of Part 1 of Schedule 1, including the associated information with each point and the layout of columns and international treaty references within Schedule 1.

**Schedule 1 Part 1** are the specific geographic references for the Torres Strait.

**Schedule 1 Part 2** provides an illustrated diagram of the excepted waters in the Torres Strait. The purpose of the diagram is to provide a general illustration only. The diagram itself is not a certified map. Certified maps or charts of the area can be made available by contacting Geoscience Australia.