

EXPLANATORY STATEMENT

TORRES STRAIT FISHERIES MANAGEMENT INSTRUMENT NO. 5

Issued by the authority of the Protected Zone Joint Authority

Torres Strait Fisheries Act 1984

The Torres Strait Fisheries Management Instrument No 5 (FMI 5) 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. 5 – *Revocation of Fisheries Management Notices 19 and 61* seeks to have a number of Notices revoked as their content has been included in the *Torres Strait Prawn Fishery Management Plan 2009*.

Consultation

The revised arrangements contained in FMI 5 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 5.

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. 5.

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.19, dated 1 March 1988 and Fisheries Management Notice No. 61, dated 21 February 2002 are revoked.

The Fisheries Management Notice No.19 prohibited the incidental take and carrying of tropical rock lobster by prawn trawlers in the area of the fishery. This prohibition is now dealt with under part 5.4(3)(b) of the *Torres Strait Prawn Fishery Management Plan 2009*.

The Fisheries Management Notice No.61 prohibited shark fining and set a maximum limit for the taking, processing or carrying of sharks by prawn trawlers in the area of the TSPF. This prohibition is now dealt with under part 5.4(3)(a) of the *Torres Strait Prawn Fishery Management Plan 2009*.