

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. 13

The *Torres Strait Fisheries Management Instrument No. 13* (the 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 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 Trochus Fishery is a small, single-species—*Tectus niloticus* (previously *Trochus niloticus*)—commercial and subsistence fishery. The fishery is an important source of income for some Islanders, especially women and children. The level of participation in the fishery is relatively low at present, largely due to a decline in overseas market demand for trochus shells in button manufacture. The fishery however, was historically an important source of income for the region between 1920-1950 and more recently in the 1980's. The last reported fishery activity occurred in 2010.

Trochus is usually taken by hand while walking reeftops or freediving however. Fishers operate from dories/dinghies (aluminium or fibreglass boats under 6 meters) with a crew of 2 or 3. Reef top collection of trochus is also possible at low tide.

The Instrument replaces the *Torres Strait Fisheries Management Instrument No. 76* (the previous Instrument) which sunset on 1 April 2016. 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 taking, processing and carrying of trochus in the Torres Strait Trochus Fishery.

Consultation

The Instrument was sent to the Protected Zone Joint Authority (PZJA) Hand Collectable Working Group and all license holders for consideration. No comments were received.

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 sunset instrument efficiently achieved their objectives (OBPR ID: 20468). 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. 13.
- 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 2025 unless earlier revoked.
- Clause 4** 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 5** Provides that taking of trochus is prohibited.
- Clause 6** Provides that those who hold a trochus licence or are engaged in traditional fishing are exempt from the prohibition contained in Clause 5.
- Clause 7** Provides for gear restrictions, ie collect only by hand and without the use of any underwater breathing apparatus.
- Clause 8** Provides for size limits which apply to trochus taken.
- Clause 9** Provides an exemption to the size limits contained within Clause 8 for persons engaged in traditional fishing. This is in accordance with the terms of the Torres Strait Treaty.

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. 13

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

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The Instrument replaces the *Torres Strait Fisheries Management Instrument No. 76* (the previous Instrument) which sunset on 1 April 2016. The Instrument maintains the prohibitions of the previous Instrument.

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.